Working Paper
No: 2007/06

FIVE YEARS OF CHINA IN WTO
An Assessment

T P Bhat

ISID

April 2007

ISID
Working Paper
2007/06

FIVE YEARS OF CHINA IN WTO
An Assessment

T P Bhat

Institute for Studies in Industrial Development
4, Institutional Area, Vasant Kunj, New Delhi - 110 070
Phone: +91 11 2689 1111; *Fax:* +91 11 2612 2448
E-mail: <info@vidur.delhi.nic.in> *Website:* <http://isid.org.in>

April 2007

CONTENTS

FIVE YEARS OF CHINA IN WTO
An Assessment

*T P Bhat**

[**Abstract:** *China joined the World Trade Organization (WTO) towards the end of 2001 after 15 years of hard bargained negotiations. It also coincided with the launching of the Doha Round Trade negotiations. Joining the WTO, China made a large number of commitments to be accomplished within five years. Some of these commitments have a far reaching impact on the global trading system as well as on the Chinese economy itself. The issues such as China's participation in the WTO dispute settlement mechanism and Doha Round Trade negotiations were critical in shaping the overall destiny of the WTO. The rapid growth of China's external trade did make an impact on world trade. The WTO membership helped China to spearhead further economic reform to move towards a market economy. The paper assesses China's accomplishment in fulfilling the commitments and describes its role in the WTO.*

1. Introduction

On 11th December 2001 China became a member of the WTO (World Trade Organization) with its accession to the global trade governing body. It joined the WTO after over 15 years of hard bargained negotiations. Many people have asked, was China joining the WTO or was WTO joining China? China's potential to become a powerful force in international trade was already in the minds of the WTO members. No one believed that China would be an ordinary member of the WTO like many other countries. Five years have passed since China completed the accession process and new developments have taken place on the WTO front. Most important development was the launching of the Doha Development Trade Round which coincides with China's entry into the WTO. The Doha Round negotiations are now a stalemate. The failure of negotiations could seriously undermine the WTO that China worked so hard to join. China's export led development is insured by its membership in the WTO and as such, China's own future is intertwined with that of the multilateral trading system. A failure of the Doha Round and undermining of the WTO would have serious negative consequences for China. It is in this context that China is keen to break the present impasse.

* Professor at the Institute. E-mail: tpbhat@vidur.delhi.nic.in

The WTO membership offers large benefits for China, particularly in expanding trade, spearheading further economic reform, attracting higher levels of foreign investment and fostering the rule of law. On the domestic front, WTO membership has thrust significant responsibilities and challenges on the Chinese leadership. Abroad, it has fundamentally redefined China's relationship with other countries, specifically with the US and the EU—its most important export markets. China has also accorded considerable attention to its relation with its neighbors in Asian region and initiated number of bilateral and regional trade and investment agreements.

Why does China need the WTO? China's explosive economic expansion over the past two decades or so is a known success story. Vigorous reform efforts and a growth rate averaging over 10 per cent annually have created a vast array of new job and investment avenues, making China an "economic powerhouse". During its five years in the WTO, China has emerged as one of the world's leading importer of goods, registering a 23.7 per cent annual import growth. The export growth has been still higher and it was at an annual rate of 24.2 per cent in the same period. China's exports are estimated to be $969 billion and imports $792 billion in 2006 with a staggering surplus trade balance of $177 billion. China ranks third in the world in import and export volume. It has an 8.00 per cent share in the world market, compared with 3.9 per cent five years ago.[1] The inflow of foreign investment has risen from $46.8 billion in 2001 to $86.5 billion in 2006.[2] The foreign exchange reserves reached $1081 billion in 2006. It has jumped more than three times during the last five years. According to the World Bank, about 13 per cent of the world's economic growth and 21 per cent of global trade growth may be attributed to the working of the Chinese economy.[3] It attracted more than $1 billion FDI per week since it joined the WTO. These are some of the most glaring positive indications.

The effect of China's transformation from an inward-looking, planned economy to a more market-oriented trading powerhouse has reverberated throughout the global economy, influencing everything from consumer choice to investment flows. However, this rapid growth has not been cost free. For example, the study by the World Bank economists found that the poorest 10 per cent of China's population have actually seen their real income decline, with a 2.4 per cent drop in the two years to 2003. Average income for China's richest 10 per cent rose by more than 16 per cent over the same period. This has cast a harsh light on some of the structural weaknesses of China's economic system, particularly in

---

1 China Daily, January 09, 2007, www.chinadaily.com.cn/bizchina/2006-12/20/content_76741.htm

2 Economist Intelligence Unit, London, Press Release, September 05, 2005. Figures for 2006 are an estimate.

3 China View, January 27, 2007.

agriculture, finance and state-owned enterprises. The dilemma for China has been, and will continue to be, how best to keep the dual momentum of economic growth and structural reform going. For if one were to stall, the other might very well stumble, potentially unleashing a whole new set of economic challenges and difficulties.

On many counts, WTO membership is China's best option for sustaining the pace of economic growth and reform. As the world economy has become more complex and interconnected, China's participation in it according to the rules of the international trade has become much more critical. As a WTO member China will be able to participate in the formulation of rules that govern international trade and investment. Similarly, it will be able to defend its trade interest using the WTO dispute settlement system. Chinese exporters will benefit from the certainty that their trading partners must obey WTO rules. This means that WTO members will not be able to discriminate against Chinese products in their home markets. WTO membership will make China even more attractive to foreign investors. It will lead to more high paying jobs, more government tax receipts and more technology transfers. China's WTO commitments will facilitate increased competition in every sector of the economy. Chinese consumers will be the direct beneficiaries as competition encourages larger ranges of choices, lower prices and higher quality. Competition will foster gains in efficiency and productivity which will in turn strengthen Chinese economy over time and enhance the ability of Chinese firms to compete with the best multinationals in any market.

2. China's Commitments and Compliances

The commitments China has made are extensive and complex in the history of GATT or for that matter the WTO. To gain a comprehensive understanding of the commitments, one could pore over some 1000 pages of China's Protocol, Working Party Report, and Schedules of Commitments on Goods and Services. China's WTO commitments span eight areas and are broad in scope. They range from China's pledges for how it will reform its trade regime in accordance with the WTO's principles and rules to specific market access commitments for goods and services. A number of these trade regime and market access commitments are phased in over several years. There are 685 commitments in China's Protocol and Working Party Report that cover China's trade regime. Further, these trade regime commitments are of seven types, ranging from specific to general in terms of what China must do. These accession agreements also include market access commitments for goods, including commitments to eliminate or reduce tariffs on more than 7000 agricultural and industrial products, as well as to eliminate other trade barriers on about 600 of these products.[4] In addition, China made commitments to allow greater market access in 9 of 12 general services sectors including banking, insurance and telecommunications. However, some limitations, including those that require joint ventures with Chinese partners in some sectors or restrict the amount of foreign investment, will continue. The 685 trade regime commitments in all eight areas of Protocol and Working Party Report are given in Table-1.

The number of commitments in any one of the areas listed should not to be considered as the measure of an area's overall importance within the accession of an agreement. The number of commitments can be an indicator of the scope and complexity of an area. For example, about one-third of the commitments identified were in the areas of import regulation—a broad area that includes commitments regarding Chin's assessment of tariffs, taxes and other charges on foreign goods and commitments on reducing or eliminating other barriers to China's market. The types of commitments that China made regarding the administration of its trade regime vary widely. Some commitments require a specific action such as reporting of particular information to the WTO, while others are more general in nature, such as those affirming China's adherence to WTO principles.

As a part of its WTO accession agreement, China committed to reducing or eliminating a variety of market access barriers to foreign products. Although China reduced its overall average tariff over the past decade, certain sensitive products such as agricultural commodities and automobiles continue to face high tariffs, as well as other trade distorting measures. China made specific commitments on tariff rates for more than 7000 products covering all imports as well as commitments on other trade distorting practices such as state trading and quotas affecting more than 900 products.[5] Reduction or removal of these barriers will provide greater market access to China. However, relatively high tariffs or other trade distorting measures will remain on some products. China has agreed to reduce tariffs on several sensitive items and eliminate tariffs complete on some products such as information technology goods. A few products will face still higher tariffs. About half of China's 7000 tariffs will continue to be reduced over a phase-in period which lasts up to 2010. However, most of these tariff reductions have been completed by the end of 2005 (tariff reductions has been done on more than 5000 tariff lines by the end of 2005). China began reducing tariff rates in the early 1990s when the average tariff rate was above 40 per cent. By 1999, the year that China's negotiations on tariffs ended, China had reduced the

[4] United States General Accounting Office, Report to Congressional Committees, World Trade Organization: Analysis of China's commitments to Other Members, October 2002.

[5] State trading involves providing certain state-run entities the rights to import or export products. Quotas are quantitative restrictions on imports or exports that limit amount of a product that can be traded.

Table-1
Eight General Areas and number of China's Trade Regime Commitments in Each Area

Area	*Description of Area*	*No. of Commitments*
Trade Framework	Includes uniform application of trade measures, transparency, judicial review, non-discrimination and revisions to relate laws and regulations.	82
Import Regulation	Includes border measures affecting imports such as customs duties, other taxes and charges, non-tariff measures such as quantitative restrictions; regulatory measures such as standards for determining the value of imports (customs valuation); and technical barriers to trade such as packaging, marketing and labeling requirements.	227
Export Regulation	Includes border measures affecting exports including licensing requirements, export duties and other taxes and charges.	9
Trading rights and Industrial policies	Includes China's restrictions on the right to import or export products (trading rights), limitations on trading to certain entities (state trading), and industrial policies such as price controls, subsidies and regulations on state-owned enterprises, investment requirements, and restrictions affecting foreign exchange.	117
Agriculture	Includes border measures and other policies that affect the agriculture sector such as customs duties, tariff rate quotas, export subsidies, domestic support and measures restricting imports for health and environmental reasons (sanitary and phytosanitary measures).	101
Services	Includes regulations and restrictions affecting trade in services and operations of services suppliers in China, including commitments on non-discrimination and market access for particular service sectors.	45
Intellectual property rights	Includes laws and regulations providing for the protection and enforcement of intellectual property rights such as copy rights, trade marks and patents.	34
Safeguards and trade remedies	Includes additional protection of products faced with market disruption caused by surges in imports from China, the ability to use alternate methodology in antidumping and countervailing duty cases and review of China's trade practices through a special WTO review mechanism.	70
Total		**685**

Note: These 685 trade regime commitments exclude market access commitments but include commitments identified in other annexes. Additionally, these 685 commitments do not include 20 general commitments that describe, among other things, the relationship between the protocol and the working party report and other multilateral WTO agreements.

Source: US General Accounting Office, Report to the Congressional Committees, World Trade Organization: Analysis of China's commitments to Other Members, October 2002.

average tariff applied to imports to about 17 per cent. Upon joining the WTO in 2001, China agreed to an average tariff of about 14 per cent. Further tariff reduction has been carried out year by year and now the average tariff has come down to 9.4 per cent on manufactured goods and 14.5 per cent on agricultural products (for details see Table-2).

Table-2
Tariff Reduction after China's Accession to the WTO

Selected Items	*Tariff Levels before Accession (%)*	*Tariff Level after WTO Accession (%)*	*Rate of Reduction (%)*
Industrial Tariff	24.6	9.4 (2005)	61.8
IT Products	13.3	0 (2005)	100.0
Agricultural Products	31.5	14.5 (2004)	54.0
Agriculture Equipment	11.54	5.7 (2002)	50.6
Auto Package	80–100	25 (2006)	72.2
Construction Equipment	13.6	6.4 (2004)	52.9
Civil Aircraft	14.7	8.0 (2002)	45.6
Cosmetics	45.0	10 to 15 (2004–05)	72.2
Furniture	22.0	0 (2005)	100.0
Medical Equipment	9.9	4.7 (2003)	52.5
Paper	14.2	5.5 (2005)	61.3
Pharmaceuticals	9.6	4.2 (2003)	56.3
Scientific Equipment	12.3	6.5 (2003)	47.2
Steel	10.3	6.1 (2003)	40.8
Textiles and Apparel	25.4	11.7 (2005)	53.9

Note: Agricultural Equipment includes SITC 721; Auto Package includes SITC 781–784; Civil Aircraft includes SITC 792; Cosmetic includes SITC 553; Furniture includes SITC 821; Medical Equipment includes SITC 872; Paper includes SITC 64; Pharmaceuticals includes SITC 541; Steel includes SITC 673, 674, 678, and 679; Textiles and apparel includes SITC 65 and 84.

Source: MOFTEC (Ministry of Foreign Trade and Technology of China).

In addition, China agreed to bind all tariff rates at the levels agreed upon in its accession agreement. That means that China may not charge a tariff rate higher than the amount it agreed to, except under special circumstances. Therefore, the average tariff rate that China applies in the future may be even lower. For some products and sectors, China has committed to large tariff reductions. For example, tariffs on certain types of automobiles and alcohols have fallen more than 35 percentage points by 2006.[6] On agricultural products,

[6] China committed on accession to tariff rates of 61.7 per cent on certain types of automobiles, falling to 25 per cent by July 2006; of 46.7 per cent on certain types of alcohols upon accession,

the average tariff is scheduled to fall to about 15 per cent in 2010, while for non-agricultural products; the average tariff is scheduled to fall to about 9 per cent in 2010. Tariffs on about 300 information technology such as computers and semiconductors were eliminated by 2005.[7]

The average tariffs of various industry groups for the year 2001 and expected fall in 2010 is given below in Table-3.

Table-3
Average Chinese Tariff Rates by Industry category 2001 and 2010 (per cent)

Industry Groups	*2001*	*2010*
1. Prepared foods, beverages, spirits and tobacco	25.5	18.1
2. Textiles, apparel, leather and footwear	19.8	12.1
3. Autos, other vehicles and parts	19.7	11.9
4. Miscellaneous manufacturing	17.3	13.6
5. Animal and plant products	17.2	13.2
6. Glassware, precious metals, stones and jewellery	14.5	12.4
7. Machinery, electronics and high-tech apparatus	11.1	8.1
8. Wood and paper products	9.6	5.3
9.Chemicals, plastics and minerals	8.7	7.1
10. Base metals and articles of base metals	7.9	7.1
Overall Average	13.6	9.8

Source: GOA Analysis of China's WTO accession agreement.

Several types of products will remain subject to high Chinese tariff rates following the phase in period for tariffs, which lasts until 2010. The highest duties (50 to 65 per cent) are on agricultural products subject to tariff quotas.[8] Also, a wide variety of other products will face high tariff rates such as certain types of manufactured tobacco (65 per cent), photographic film and paper (35 to 47 per cent), jewelry (35 per cent) and water heaters (35 per cent). Table-4 lists products subject to tariff rates 35 per cent or more.

falling to 10 per cent by 2005; and of 42 per cent on beer upon accession, falling to zero by 2004.

7 Twelve products (out of 317) identified as information technology products in China's schedule will have tariffs reduced to between 2 and 12 per cent by 2005, but not eliminated. The average tariff rate for all information technology products is scheduled to fall from 6.5 to 0.3 per cent.

8 These are out of quota tariff rates. Tariff rate quotas charge two different tariff rates. A low rate is applied to certain "in-quota" amount of the product. The remaining "out of quota" amount faces a higher tariff rate.

Table-4
Products for which China's Bound Tariff Rates will be 35 per cent or Higher in 2010

Product Description	*Tariffs in 2001 (per cent)*	*Tariffs in 2010 (per cent)*
Wheat (subject to TRQs)	74	65
Corn (subject to TRQs)	74	65
Rice (subject to TRQs)	74	65
Barley	65	65
Vermouth	65	65
Manufactured tobacco and substitutes	65	65
Cane or beet sugar(subject to TRQs)	55 to 71.6	50
NPK chemical fertilizer (covered by TRQ)	50	50
Diammonium chemical fertilizer (covered by TRQ)	50	50
Urea (covered by TRQ)	50	50
Photographic film	55.7	47
Motorcycles	52.3 to 53.8	45
Corn and rice flours (subject to TRQs)	64	40
Cotton (subject to TRQs)	61.6	40
Fermented beverages	60.5	40
Photographic film	53.3	40
Motorcycles	51.7	40
Ethyl alcohol	40	40
Wool (subject to TRQs)	38	38
Beverage bases and flavored waters	44 to 50	35
Photographic paper	45	35
Jewelry and imitation jewelry	36.7 to 42.5	35
Gas water heaters	35	35
Electric heaters, hair dryers, toaster and coffee makers	35	35
Television cameras and video cameras	35	35

Note: Certain products are covered by multiple tariff lines, which are based on different characteristics of individual products. For example in the above given table motor cycles and photographic film are covered by multiple tariff lines and appear multiple times.

Source: GAO Analysis of China's WTO accession agreement.

China agreed to eliminate some trade distorting measures that limit the imports of nearly 600 products, including certain types of automobiles, transport equipment and high-tech apparatus. Non-tariff barriers such as quotas and licensing may restrict market access and most of them were removed in 2005. These have been carried out before the due date. However, China's accession agreements allow it to retain other measures on more than 300 products. For example, certain types of grains, fertilizers and other products will be subject to tariff-rate quotas and state trading for imports.[9] Table-5 lists certain trade distorting measures and their phase out schedule.

Table-5
Types of Trade Distorting Measures and their Phasing out period

Type of Trade Distorting Measures	*Products Affected by Measures*	*Phase out Schedule*
Designated Trading	Natural rubber, timber, plywood, wool, acrylic, and steel	Removed in 2004
Export Duties	Fish products, base metal (lead, zinc, aluminum, tungsten), mineral products	Not removed
Export subsidies	None (China committed to eliminate all export subsidies upon accession)	Eliminated upon accession
Government guidance pricing	Grains (wheat, rice, corn and soybeans), vegetable oils (soybean, rape, colza, and mustard), processed oil, fertilizer (urea), silkworm cocoons, and cotton.	Not removed
Licensing and quotas	Automobiles, motor cycles, parts	Removed in 2005
Price controls	Tobacco, edible salt, natural gas and pharmaceuticals.	Not removed
State Trading (imports)	Grains (wheat, corn, and rice), vegetable oils (soybean, palm, rape seed, colza, and mustard oil), sugar, tobacco, crude oil, processed oil, chemical fertilizers, and cotton	Not removed
State Trading (exports)	Tea, rice, corns, soybeans, tungsten ore, ammonium paratungstates, tungstate products, coal, crude oil, processed oil, silk, cotton, woven fabrics, antimony products and silver.	Not removed
Tariff-rate quotas	Wheat, corn, rice, soybean oil, palm oil, rape seed oil, sugar, wool, cotton, wool tops, and fertilizer	Quota amount and private trading share increase over some period, but tariff rate quota removed only on vegetable oils.
Tendering	Transport equipment and high-tech apparatus.	Removed in 2004.

Source: GAO Analysis of China's WTO accession agreement, 2002 and China Daily of various issues.

Of the 10 types of trade-distorting measures addressed by China's accession agreement, 7 affect imports into China and 3 affect China's exports. China has agreed to remove some of

[9] However, China committed to eliminate state trading monopolies on certain products by allocating an increasing share of quotas to private traders.

these practices after a phase out period, while others will remain in place. First, half of the import measures, including non-tariff measures such as licensing, quotas, tendering and designated trading have been eliminated in 2005. Second, other half of the import measures will remain (tariff-rate quotas, government guidance pricing, price controls and state trading). Finally for exports, export subsidies are eliminated upon accession, while export duties and state trading will remain for some time.

First, over a 4 year phase out period (up to 2005), China has completely eliminated certain non-tariff restrictions, including licensing restrictions, quotas, and tendering practices on imports. Licensing, which requires that companies obtain government approval and submit documentation before importing under quotas, which are quantitative restrictions on imports, have been widely used by China in the past to restrict trade. The tendering process requires that private citizens or enterprises obtain government approval before making major purchases. Second, certain trade-distorting measures will remain on some imports. China will maintain tariff-rate quotas on several important agricultural products, including certain types of wheat, corn, rice, soybean oil, palm oil, rape seed oil, sugar, wool and cotton. Tariff-rate quotas allow a certain amount of products to enter the market at a low tariff rate (generally less than 10 per cent). Any additional amount of imports (out of quota amount) faces high Chinese tariff rate (generally 40 per cent or higher). China has increased the quotas and eliminated quotas on vegetable oil in 2005. Over the years, it has increased the share of private trades and reduced the share of state trading enterprises. China will also maintain tariff-rate quotas for some non-agricultural products, namely fertilizers and wool tops. Generally, WTO obligations do not allow tariff-rate quotas on non-agricultural products.

Besides tariff-rate quotas, other measures affecting imports will also remain. For instance, state trading, a practice that provides the right to import certain products primarily to state run entities, will not be eliminated. In addition, China will maintain price control and government guidance pricing on certain domestically sensitive products. These measures, which require prices to be fixed or to fluctuate within a certain range, will affect certain types of tobacco, edible salt, natural gas, pharmaceuticals, grains, vegetable oil, processed oil, fertilizer (urea), and cotton. China has gradually liberalized prices, and it claims that only 5 per cent of products are subject to price controls, in order to ensure adequate domestic supply and to keep prices within an affordable range. China's accession agreement restricts certain practices affecting its exports. These practices may distort trade by promoting exports to third-country markets in which they compete with other WTO member's goods, or by restricting exports in order to provide more inexpensive inputs to domestic production. China committed as part of its accession agreement to eliminate export subsidies for both agricultural and non-agricultural products. Under the WTO agreement on Subsidies and Countervailing Measures, subsidies that require the recipient producer either to meet certain export targets or to use certain domestic products rather than imports are prohibited, and China agreed to abide by this obligation upon accession.[10] For agricultural products, WTO members are able to maintain export subsidies under certain conditions, but China agreed to eliminate their use, as well. Although committed to eliminate export subsidies, China will maintain state-trading practices on 134 export products and will apply an export duty between 20 and 50 per cent on 84 products. Export policies such as these can distort trade by providing cheaper inputs for domestic production (by limiting exports) or by affecting the prices of the product in the international markets.

China's services commitments are broad in scope and provide increased access across a number of industries, with some specific limitations. The WTO classifies services into 12 general sectors and 154 sub-sectors. China made commitments to open 9 of the 12 general sectors and 88 of the 154 sub-sectors, including insurance, banking, distribution, telecommunications and professional services. For example, prior to accession, foreign insurer's access to China's market had been restricted through selective licensing processes, and foreign insurers were allowed to provide only certain services in a limited number of cities. China's WTO commitments relax or remove many of these restrictions, over a 5 year phase in period. According to US-China Business Council sources, the foreign invested insurers no longer need to cede to the China Reinsurance Corporation, a portion on the lines of the primary risk for nonlife, personal accident and health insurance. The China Insurance Regulatory Commission (CIRC) also lowered the minimum required total asset level for an insurance brokerage license from $300 million to $200 million; the lower asset requirement took effect in December 2005[11]. Similarly, foreign telecommunications service providers were restricted from China's market. Within 6 years following an accession, foreign providers are allowed to offer broad array of telecommunication services with no geographical restrictions, but only through joint ventures with Chinese partners. This task was accomplished by end of 2006. Table-6 shows the number of sectors where China made commitments.

---

[10] Domestic subsidies (those not tied directly to trade) are permitted under WTO provisions; however, if they are shown to have trade-distorting effects, WTO members can request their removal or in some cases impose countervailing duties on Chinese exports that benefit from the subsidy.

[11] The China Business Review, September-October, 2006.

Table-6
Number of WTO services sectors where China made commitments

General WTO services sector	*No. of sub-sectors included in WTO general sector*	*No. of sub-sectors included in China's commitments*
Business	46	26
Communication	24	17
Construction	5	5
Distribution	5	5
Education	5	5
Environmental	4	4
Financial	17	13
Health related and social	4	0
Tourism and travel related	4	2
Recreation, culture and sporting	5	0
Transport	35	11
Others	-	-
Total	154	88

Source: GAO Analysis of China's WTO accession agreement.

Although China made market access commitments in 88 services sub-sectors, access to most of these sub-sectors has remained subject to limitations. Under the WTO rules, members may decide which sectors to include in their services schedule and may specify what limitations on access and national treatment will be applied. There are no WTO requirements to grant access to all services sectors, and in fact, no member allows unrestricted access to all sectors and sub-sectors. Like other WTO members, China has a services schedule that describes commitments in specified services sectors and lists the types of limitations on access and national treatment within those sectors. Some of the limitations are horizontal, that is, the limitations apply generally to all services sectors in the schedule unless otherwise specified. Horizontal limitations include, for example, restrictions on the establishment of branches, on the profit-making activities of representative offices, and on the length of the time permitted for the use of land in China. However, most limitations listed in China's services schedule describe the limitations on the specified services sectors that China committed to open. For example, access to several services sectors is opened only in designated cities or geographic regions, and only for a specific scope and type of operation. Other limitations require foreign service providers to partner with any Chinese entity of their choice in order to gain access, or to limit the participation of foreign capital in an investment. And other limitations include exceptions to national treatment that requires that foreign service providers meet specific professional qualifications or subject to themselves to licensing procedures that differ from those required of domestic suppliers. In many sectors, some of the limitations are phased out over a specified time period, by and large by 2005. Table-7 lists 8 types of limitations identified in China's services schedule.

Table-7
Eight Types of Limitations in China's WTO Schedule

Limitation Type	*Description*	*Example of Limitation Type*
Cross-border	Limitation on providing a service across national borders. In some cases, the services may be provided only by establishing a commercial presence in China.	Whole distribution services are not permitted to be provided across borders.
Form	Limitation on the legal form of establishment, such as those requiring that services should be provided through a joint venture with a Chinese partner.	Foreign providers of software implementation services may establish in China only in the form of a joint venture.
Equity	Limitation on the amount or share of foreign equity in a service operation.	Within 2 years following accession, foreign investment in certain type of telecommunications services shall be no more than 50 per cent.
Geographic	Limitation on the specific geographic locations in which service providers are allowed to operate.	Certain foreign banking services are restricted to designated cities. These restrictions are phased out over time.
Nationality	Limitation on national treatment based on the residency or nationality of a service provider.	Legal service representatives shall be resident in China for no less than 6 months each year.
Number	Limitation on the number of foreign service providers or quantity of output or operations.	Number of foreign-invested medical and dental service operations subject to quantitative limits based on China's needs.
Scope	Limitation on the scope of business that may restrict certain types of services with in a sector or restrict the type of client to whom services may be provided.	Commitments on courier services exclude services specifically reserved by Chinese postal authorities by law.
Qualifications	Limitations on national treatment through qualifications, standards or licensing requirements.	Licensing requirement for foreign insurance provides require more than 30 years establishment experience in a WTO member country.

Source: GAO Analysis of China's WTO accession agreement, 2002.

Of the eight limitation types, the most common types of limitations that will remain in China's services sectors are those on the legal form of establishment (45 per cent) and the scope of business (35 per cent). For example, foreign businesses seeking to provide most types of professional services (sub-sector within the business services sectors) will still be required to operate through joint ventures or other types of partnerships with a Chinese entity. Similarly, certain limitations on the scope of business allowed in the insurance sub-sectors (included within the financial service sector) will remain, and they preclude foreign insurers from providing certain types of vehicle insurance. Although China initially places geographical limitations and it will be phased out, as a result, limitations of that type will be the least prevalent in China's services sectors. For example, geographical limitations on foreign providers of basic telecommunications services are to be phased out 6 years after accession (by 2007), and foreign banks will be allowed to conduct local currency business without geographic restrictions within 5 years of accession (by 2006). Recently, China opened up the banking sector to foreign competition. Now, it allows foreign funded banks to conduct Renminbi business for Chinese citizens in line with its WTO commitments. It removed regional and other restrictions on foreign funded banks, treating them at par with the Chinese banks. Foreign funded banks can now sell insurance products just like domestic banks and government will apply the same standards covering registered capital, operating funds, information disclosure, and other measures to both domestic and foreign banks. Now, China allows 111 foreign financial institutions to offer Renminbi services to foreign and Chinese enterprises in 25 cities. The assets of foreign funded banks in China totaled $105.1 billion in September, 2005, accounting for 1.9 per cent of banking institutions in China[12].

China has opened up its security market as commitment to the WTO. China Securities Regulatory Commission (CSRC) had ratified 8 joint venture security companies and 24 venture fund management companies. The share proportion of foreign capital was 49 per cent in 11 of the fund management companies. Now, 58 foreign security institutions can operate B-share stocks in Shanghai and Shenzhen stock exchanges. Over the last five years, China has taken many measures to open up its capital market which has resulted in rising foreign investment. The qualified foreign institutional investors (QFIIs) have overtaken securities dealers as the second largest investor group in the Renminbi-dominated A-share market, second only to security funds. Now, the QFIIs own an equity value of more than $3 billion in 214 listed companies[13]. There are a few more steps that China has taken in the recent years. It allowed wholly foreign-owned enterprises (WFOEs) in advertising services when the Regulations on Management of Foreign-Invested Advertising Companies were

[12] China Daily, December 12, 2006, China.org.cn

[13] China Daily, December 12, 2006.

issued and it became effective in December 2005. It allowed WFOE to carry freight forwarding agency services and applied national treatment to capitalization requirements for foreign-invested freight forwarders[14].

Phase in periods for China's commitments vary across eight broad areas of the agreement. In two areas, export regulations and intellectual property rights all commitments were implemented upon China's accession to the WTO. In other areas, the longest phase in periods is for trade regime commitments relating to safeguard and trade remedy provisions. For example, commitments allowing WTO members to use alternative methodologies when applying antidumping provisions to Chinese imports last for 15 years (until 2016). The phased in period for other commitments that relate to Chinese administration of its trade regime are phased in by 2010. Additionally, China's market access commitments to reduce tariffs are scheduled to be fully phased in by 2010, but tariff reductions on most products and the elimination of other trade distorting measures were completed by 2005. Most market access commitments for services are phased in by 2007 (for details see Table-8).

The potential for China's WTO accession agreement to open its market to foreign goods and services cannot be assessed by examining only individual commitments. China's commitments in various areas are interrelated and together affect all business activities in China. For example, China's commitments may allow a particular foreign product to be exported to China, but extended time frames for implementing commitments on trading rights may require that the product be sold to a Chinese business or state trading enterprise before it can enter the country. Once the product is in China, still other commitments then determine whether foreigners have the ability to distribute the product within China or provide other product related services, perhaps requiring that these be supplied through a partnership with a Chinese firm. Other commitments seek to improve foreigner's ability to protect patents, copyrights and trademarks associated with selling a product in China. A review of China's WTO commitments shows these interrelationships work together to strengthen the general business climate but others may result in some delays and limitations on foreigner's ability to operate competitively in China's markets with regard to certain products or services.

[14] The China Business Review. Online, www.chinabusinessreview.com/public/0601/overmyer.html

Table-8
Summary of Key Phase in Dates for China's WTO Commitments, 2001–2016

Area	*Years*	*Action taken*
Trade framework	2002	Nondiscrimination legal changes completed.
Trading rights and industrial policies	2004	Right to trade liberalized and completed
Services	2004	Insurance liberalized.
	2006	Distribution and banking rules liberalized
	2007	Telecommunication and remaining sectors liberalized. Action pending.
Agriculture	2006	Agricultural TRQ liberalized. Action taken
	2010	Agricultural tariff reductions completed.
Import regulation	2003	Technical barriers to trade process changes completed
	2005	NTM's eliminated
	2006	Industrial TRQ liberalized
	2010	Tariff reductions to be completed
Safeguards and other trade remedies	2008	Textile safeguard ends
	2011	Transitional review mechanism ends
	2013	Product-specific safeguard ends
	2016	Antidumping methodology ends

Note: 1. No commitments in the areas of export regulation and IPR have phase in periods.
2. Commitment to liberalize agricultural TRQs and various services sectors are scheduled to be phased in by the date's shown, but other restrictions on these sectors that China did not commit to removing may remain in place.

China made a number of commitments that relate to conforming the overall structure of its trade regime to WTO rules, and the interrelationship among these commitments could contribute to an improved environment for foreign business. A clear example is found with respect to improvement of Chinese rule of law. Specifically, these structural, or trade framework commitments include principles of transparency; nondiscrimination; judicial review; and consistent application of laws, regulations and other measures. Each of these is closely interrelated with several other sections of the accession agreement. For example, although the protocol lists several general commitments requiring China to improve the overall transparency of its trade regime, specific commitments on transparency are described throughout the agreement to address WTO member's concerns. All these are intended to improve China's business environment. Similarly, the combined effects of several other types of commitments could lead to improvements in the overall business environment. Particularly, China's commitment to reduce subsidies, reform state owned enterprises and decrease the role of state trading can contribute to the development of a more market-oriented environment in China.

Most of the 685 commitments were to take effect upon China's accession to the WTO. However, a number of interrelated commitments phase in over time. Trading rights for most products phased out by 2005. Under the tariff-rate quota system, a specified quantity of imports is allowed in at a low tariff rate. China committed to reserving a portion of this low tariff quota for importation through non-state trading enterprises (this includes foreign companies). However, the number of private companies that can directly import the low tariff quantity was limited till the end of 2005 because the trading rights were not fully phased out. China's commitments on trading rights and its services commitments allowing the foreign companies to set up distribution in China was phased out in 2004. Thus, China's commitments to remove most restrictions on wholesale, retail, franchising, and other form of distribution are similar to the 3 year phase out of the restrictions on trading rights. As a result, the opportunity for foreign enterprises to integrate import, export, and distribution systems for most important products were fully realized by the end of 2004.[15] Interrelated commitments pertaining to specific market access barriers to goods such as tariff and non-tariff measures have delayed the opportunities to export to China. For example, China has agreed to remove barriers in the automobiles and parts, which is traditionally a highly protected industry. The restrictions were phased out by the end of July 2006. Tariffs, which ranged between 80 and 100 per cent before the accession fell to 25 per cent by July 2006. Despite the improved access to this sector, some restrictions are till in place. Automobiles, however, are subject to quota and licensing restrictions still the end of 2005. Now, it has been removed. Table-9 shows the products that are subject to multiple trade restrictive measures.

China was able to carry the opening up of its services sector successfully by the end of 2006. Now the foreign companies and governments are increasingly looking at more subtle barriers to trade and pressing China to open its markets more widely than its WTO entry agreement requires in an attempt to foster a more competitive level playing field for all companies in China. For example, China's banking sector commitments do not require the government to allow foreign acquisitions of PRC banks. Raising the caps on foreign holdings of Chinese banks to allow foreign-majority ownership, however, is key goal of foreign banks and the government. Similarly, the foreign government, more specifically the US government wants China to allow foreign-majority ownership in the service segment. Telecom service providers are also seeking market access beyond the scope required by China's WTO accession protocol. In the industries that China's WTO commitments purportedly open completely too foreign-invested firms, companies sometimes find that

[15] Certain products are excluded from China's commitments on trading rights and are reserved for importation and exportation by state trading enterprises. It includes certain grains, vegetable oils, fertilizer (urea), crude oil and other products.

China's laws and regulations meet the technical requirements of its WTO agreement but keep foreign-invested companies at a significant disadvantage to their domestic competitors. For example, China makes use of technical standards, food safety regulations, licensing requirements and professional qualifications, among the other non-tariff barriers, as evidence of China's efforts to limit foreign access to its market even as it implements WTO-mandated openings. Whether the foreign governments will be able to convince China to go beyond what is required by its WTO entry agreement and embrace market openings with fewer qualifications is, at best, uncertain. So far China has shown reluctance to such market openings and many Chinese government officials view those market openings as one-sided concessions to trading partners and not as mutually beneficial.

Table-9
Selected products and services subject to multiple trade restrictions

Products and service sectors	*Restrictions and trade-distorting measures, with phase-out schedule*
Automobiles and parts	Wide range of rates, but tariffs on certain automobile parts falling from over 50 per cent (2001) to 25 per cent (2006). Quotas and licenses removed in 2005. Restrictions on distribution (gradual removal of restrictions effected by 2006; however, most of them were removed by 2004. Restrictions on third-party auto liability insurance and driver and operator liability for buses and other commercial vehicles (not removed).
Chemical fertilizers	Tariff rate quota (increased quota through 2006, but not removed). In quota tariff rate of 4 per cent; out-of-quota rate of 50 per cent. State trading (imports; not removed). Government guidance pricing on urea (not removed). Foreign distribution excluded (not removed).
Corn, cotton and rice	In-quota tariff rates between 1 and 10 per cent; out-of-quota rates between 10 and 65 per cent. Tariff rate quota (increased quota through 2004; not removed). State trading (imports and exports; not removed). Government guidance pricing (not removed).
Natural rubber	20 per cent tariff rates. Quotas and licenses (removed in 2004). Designated trading (removed in 2004).
Processed oils (gasoline, kerosene, diesel)	Tariff between 6 and 9 per cent upon accession. Quotas and licenses removed in 2004. State trading (imports and exports; not removed). Government guidance on pricing (not removed). Foreign distribution excluded (removed in 2004 for retailing and 2006 for wholesale and commission agents services.
Sugar	Tariff-rate-quota (increased quota through 2004; but not removed).

contd...

Products and service sectors	Restrictions and trade-distorting measures, with phase-out schedule
	In quota-tariff-rate falling from 20 to 15 per cent by 2004; out of quota rate of 50 per cent. State trading (imports).
Tobacco	Final tariff rate range from 65 to 10 per cent on variety of tobacco products. Most of the tariff reductions are phased out in 2004. State trading (imports; not removed). Price controls (not removed). Foreign distribution excluded (not removed).
Vegetable oils (soy bean, palm, rape seed)	Tariff-rate-quota (increased quota still 2004; removed in 2006). In-quota tariff rate of 9 per cent; out of quota rate of 63.3 per cent, falling to 9 per cent in 2006. State trading (imports; not removed). Government guidance pricing on soy bean and rape seed oil (not removed).
Wheat	Tariff-rate quota (increase in quota still 2004, but not removed). In quota tariff rates between 1 and 10 per cent, final out of quota rates of 65 per cent. State trading (imports; not removed). Government guidance on pricing on certain wheat products (not removed).
Wool and wool tops	Tariff rate quota (increased quota still 2004, but not removed). In quota tariff rates of 1 per cent (wool) and 3 per cent (wool tops); out of quota rates of 38 per cent. Designated trading (removed in 2004).
Legal services	Restrictions on the scope of business, form of establishment, participation of foreign capital, and national treatment/ nationality/ residency and qualification requirements (not removed). Government guidance on pricing (not removed).
Life insurance services	Restrictions on scope of business, form of establishment, participation of foreign capital, cross-border trade, and national treatment-licensing requirements (not removed).
Telecommunication services	Restrictions on forms of establishment, participation of foreign capital and cross-border trade (not removed). Government pricing (not removed).

Source: GAO Analysis of China's WTO accession agreement and China Daily.

In the second half of 2005, China took preliminary steps that may lead to its eventual accession to the WTO Government Procurement Agreement (GPA). GPA signatories agree to allow companies from GPA countries roughly equal access to government procurement contracts as domestic firms. China agreed during its WTO entry negotiations to begin the process of joining the GPA as soon as possible. Serious discussion on the subject did not take place until mid 2006. However, when the US and the EU officials began to press China to move forward on GPA accession, China proposed rules on government procurement of software. These rules would have introduced high barriers on international software providers who were seeking to sell software to the Chinese government. The observers expect more government procurement regulations to be issued over the next few years, so getting China to sign the GPA has become a key priority for the US and the EU. China begins technical consultations with WTO members regarding GPA accession. China has no timetable for signing the GPA. The Chinese domestic industries and key government ministries view government procurement as a tool to promote domestic firms and therefore oppose China signing the GPA. Currently, China is assessing the merits and demerits of signing the GPA.

3. Evaluation

China has scrapped or revised over 3000 laws and regulations to ensure their conformity with WTO disciplines. It has enhanced the transparency of its overall trade and economic regime, abolishing quantitative restrictions on trade in goods and improving tariff-rate quota administration and import licensing systems. The Chinese government has rebuilt its legal regime for the protection and enforcement of intellectual property rights. China has become one of the world's most liberalized import regimes. Though China, like many other countries, has benefited from the multilateral trading system in the past five years, this does not mean WTO has been the main factor in its economic growth. China's implementation of commitments came under some criticism, particularly from the US and the EU in the areas of industrial subsidies and enforcement of intellectual property rights. They alleged that China's notification of subsidies was incomplete, failing to include all support programs or to contain information on support provided by local and regional authorities to many sectors. The US, Japan and the EU expressed great concern over infringements and weak enforcement of intellectual property rights legislation. Other main grievances pertain to limits on services that foreign-owned banks are allowed to offer, restrictions on the sales of some farm goods, and a lax government attitude towards the counterfeiting of software, videos, and pharmaceuticals. It is also alleged that China has managed to keep its currency exchange rate artificially low to makes its exports more competitive. The US the EU are pressurizing China to appreciate its currency value *vis-à-vis* the dollar and the euro. So far China has not positively reacted.

By and large, the business enterprises the world over, specifically from the US and the EU are satisfied with the implementation of the Chinese commitments to the WTO. In view of the EU businessman, China scores 8 out of 10 for its effort to comply with the WTO commitments. These are largely measured in terms of expansion of exports, investment flows into China and doing business in the Chinese domestic market. The US-China Business Council survey for the year 2006 says that 82 per cent of the respondents said China has done a "fair" or "good" job in implementing its WTO obligations. 4 per cent respondents found China's WTO implementation efforts to be "excellent", while 5 per cent rated the efforts as "poor"[16]. Survey respondents viewed trading and distribution rights-import and sell products in China directly without working through local intermediaries—as the most important implemented WTO commitment. Respondents cited China's various market sector openings, tariff reductions, easing of restrictions on foreign ownership and investment as other successfully implemented WTO commitments. Currently, over 70 per cent of foreign direct investment going into 100 per cent owned by foreign investors, as opposed to joint ventures.

On the negative side, the survey respondents observed that continuing inadequacy of IPR enforcement is the most serious shortfall in meeting its WTO obligations. Like all WTO members, China is required to provide legal protection against IPR infringement and levy penalties that are sufficient to deter future violations. The ineffectiveness of IPR enforcement stems in part from China's reliance on administrative authorities, which are able to impose very low penalties to enforce IPR laws, instead of relying on the court system, in which civil suits and criminal prosecutions could impose higher penalties on IPR infringers. China's court handled only 385 IPR related cases in 2004. In contrast, local copyright administration resolved nearly 9500 copyright infringement cases, Local administration of industry and commerce handled nearly 52,000 trademark violations and local patent administration dealt with roughly 10,000 patent infringement cases. The government agencies generally impose low penalties and this serves as only a minimal deterrent to future infringements. There is hardly much improvement in the violation of IPR in China.

Limited transparency creates uncertainty and confusion in the companies. Most of the problems in obtaining licenses are exacerbated by the opacity of China's regulatory bodies. Application of several direct sellers remains pending, with little or no transparency in the government approval process. Companies seeking licenses to engage in direct selling (sales away from a fixed location) have encountered licensing obstacles made more difficult by the lack of transparency. Regulatory changes to authorize direct selling came about one year after the WTO-mandated deadline, which appears to contradict international norms. However, some effort has been made to enhance transparency. For example, in the areas of

[16] The US-China Business Council (2006), China's Implementation of its WTO Commitments, September 28.

antimonopoly law, revision of patent law, measures governing the establishment of direct sales and revision of rules on buyouts of public trading companies.

China's technical, safety, product standards and procedures for establishing these standards and ensuring product's compliance with them continue to be a concern for foreign companies. China is seeking to encourage development of domestically owned technical standards in an effort to reduce dependence on foreign technology. It is natural that China as a large producer of and market for a wide range of goods should take the lead role in establishing new international technical standards. In doing so, China should abide by its obligations under the WTO agreement on Technical Barriers to Trade (TBT) to adopt a standard based solely on scientific criteria and not as a tool of trade or industrial policy. In some instances, China's "homegrown" technical standards appear designed to assist domestic companies at the expense of international competitors. China is implementing new standards governing hazardous substances in electronic products, energy efficiency and others. Most concerns in this regard focus on limited transparency in the process of drafting standards and possible uneven enforcement for domestic and international companies. Medical devices manufactures are particularly concerned about testing requirements. China partly addressed this issue, declaring that devices would be subject to just one test rather than two. But concerns remain, since two regulators will still need to certify and device compliances. The companies wanting to obtain the China Compulsory Certification (CCC) for their products continue to face delay due to restrictions China places on foreign standards organizations to conduct CCC inspections and audits.

4. Dispute Settlement and China

The dispute settlement system of the WTO sets the organization apart from other global institutions. China is behaving well in dispute settlement and playing the role of a good WTO citizen. There are cases one can document when Chinese officials unilaterally fixed problems that might have been the subject of a dispute settlement action. In other cases China has generally resolved the problem when challenged—before the dispute proceeded to formal litigation. On the other side, China has used the DSU to its own advantage when confronted with WTO-inconsistent practices of other members. At times the Chinese officials take corrective actions to rectify the WTO inconsistent policy implementations. For example, in 2002 Shanghai government municipal authorities auctioned monthly licence of motor vehicle plates to domestically produced automobiles. They auctioned 3000 licenses to domestic vehicles and 30 only to imported vehicles. Besides, a floor price had been set at auction for plates destined for imported vehicles while no such price was operative for domestic vehicles. From a legal standpoint, these measures violated China's national treatment obligations under the WTO; the government intervened to discontinue the discriminatory treatment at the auctions. The second case demonstrated how China reacted when formally challenged under the DSU. It involves China's treatment of integrated circuits (ICs). The US charged that China was subjecting imported ICs to higher taxes than those applied to domestically-produced ICs. Instead of contesting the case under the DSU and challenge the VAT regime for ICs, it entered into negotiations with the complaining WTO members. Of late, China has been the target of dispute settlement consultation request from a large number of its trading partners in a dispute involving its treatment of automobiles and automobile parts.[17]

China is characterized as a Non-Market Economy (NME) for 15 years after its accession to the WTO. This controversial provision came from the bilateral trade agreement between China and the US. The US had been treating China as a NME for a long time, although the practice was not endorsed explicitly in law until China's accession agreement, Market Economy Status (MES) and NME status are central to legal criteria used in antidumping investigations. The problem with NME status is that importing country will take advantage of the chance not to look to cost of production and sales in NME country and choose arbitrarily a surrogate country in which the costs and local prices are much higher than in the NME country. The antidumping rules are too vague for this practice to be prevented under the DSU. The biases of the NME procedure for cases of alleged dumping involving Chinese exports to the US and the EU, has been, between 1995 and 1998, 3 to 14 per cent for the US and 20 to 24 per cent for the EU[18]. The Chinese officials deny that it is a NME. They opine that 98 per cent of China's commodities are priced according to market demand and supply. Enterprises operate independently, without the control of government[19]. According to Report on Development of China's Market Economy 2003, China is about 69 per cent a market economy measured by the internationally accepted standard[20]. However, there are no universal standards of MES and different countries have different standards. The EU and the US are the major trading partners of China and the frequent users of antidumping measures against China, their approaches to this question are the most important. China has been the victim of heavy-handed politics in this regard.

---

[17] Disputes are with the US, the EU, Japan, Australia and Mexico.

[18] Patrick Messerlin, "China in the WTO: Antidumping and Safeguards, in Deepak Bhattasali, Shantong LI and Will Martin (2004) China and the WTO-Accession, Policy Reform and Poverty Reduction Strategies, World Bank.

[19] Chris Gelken, "When is a market economy not a market economy?" http://www.atimes.com/atimes/printN.html

[20] Report on the Development of China's Market Economy 2003, The Economic and Resources Management Research Institute at Beijing Normal University.

Since 2003, China adopted series strategies to get the recognition of the MES for itself. It undertook diplomatic action to persuade its trading partners to accept it as market economy, particularly the US and the EU. China also demanded the exercise of the rights that it did have under its protocol of accession to the WTO. This meant China looked to a change in the basic WTO agreement. This would also serve to prevent WTO members being treated as non-economy countries. That is to recognize the idea of NME status appeared in particular special agreements, especially the NME clause in the antidumping agreement. The implications of NME for China are both economic and political. It has been estimated that for an average of every seven antidumping cases worldwide, one involves Chinese products, making China one of the countries subject to the most antidumping investigations, as well as the biggest victim of antidumping and other trading remedy measures[21]. China is one of the smallest users of trade remedy measures. By the end of 2004, there were only 34 antidumping charges and one safeguard measure. However, China is quickly learning the political convenience of antidumping measures[22]. By and large, China is adopting a pre-emptive diplomatic course to avoid trade conflict. It has been persuading trading partners to treat it as a market economy. So far, China has had some success. A total of 37 countries have recognized China's MES. However, most the countries are not China's major trading partners.

China found some recourse to antidumping. It decided to impose antidumping import duties on certain optical fibres made in the US, Japan, and Republic of Korea[23]. This action was taken to protect the Chinese industries under the WTO regime. The NME status placed China at considerable disadvantage in antidumping actions but they are still relatively marginal in the overall context of the amount of Chinese trade affected by such actions. As compared to the total export volume, the amount of export volume subjected to the antidumping investigation is very small. In 2003, China's export volume was $438.37 billion. There were 19 countries and regions that launched 59 antidumping measures against China, the total involving $2.2 billion and accounting for about 051 per cent of the total export. In Chinese eyes, the economically marginal character of the antidumping actions does not take away from their huge political importance. So the important meaning of NME is political. China sees that the NME status denies the achievements and status quo of China's establishment of a market economy and thus tarnishes its international image.

21 Market Economy Status: Will Article 15 cost another 15 years? People's Daily, June 28, 2004.

22 Kerr and Lopparcher, "Antidumping in the Doha Negotiations–Fairy Tales at the WTO", Journal of World Trade, 2004, Vol. 38(2).

23 China imposes antidumping duties on fibres, January 04, 2005, http://english.people.com.cn/200501/04/print20050104169542.html

China participated in the WTO dispute settlement body (DSB) as a third party. There are advantages in the third party procedure when there are multiple complaints in a case. It can broaden base of the attack. The multilateral pressure may also affect consultations and bring pressure upon the alleged violator. However, there are numerous disadvantages in being a third party and one might expect that no experienced and powerful state would have recourse to the third party role. It will be cut out of the confidential information hearings. However, a third party does not need to spend effort in bringing a complaint to a panel and it can present its own view. It will enjoy the benefits of a successful result for the plaintiff on an MFN basis. Japan despite its huge power and experience choose so often to come in as a third party. China in essence chose the same path. In the first five years of its membership of the WTO, China has participated actively in the third party option. At least more than 20 cases China participated as a third party. China is making an effort to amend the rights of third parties in the DSU negotiations.

Rapidly increasing trade volume of China has created problem in the areas trade disputes, which are rising. The latest report from the WTO says that China is the world's most frequent subject of antidumping inquiries. It is now on the receiving end of one third of the world's trade disputes, up from 15 per cent in 2001 when it first joined the WTO. Despite a global decline in trade investigations, China was investigated 32 times in the first half of 2006, nine times more than in the same period last year. The target commodities of antidumping complaints are mainly in the light industry, chemicals, textiles and leather products. While developed countries such as the US, the EU and Japan have kept up pressure on China, developing countries too initiated nearly 60 per cent of the total antidumping charges. However, China does not see trade disputes as a huge factor in trade deals. Export trade increases by 30 per cent per year and products hit by antidumping charges only amount to 5 per cent of total export products[24]. The Chinese government encourages enterprises to face disputes actively and protect their interests by using the weapons of the WTO, meaning the rules and regulations to protect against unfair antidumping charges. China has also initiated 110 antidumping investigations and one safeguard measure, which made up a total of $9 billion during the last five years. The amount of countervailing cases started by China ranks second in the world.

China has not only been a defendant under the WTO system, but has also availed itself of the opportunity to challenge measures by other WTO members, either directly as a complainant or less directly as a third party in a case initiated by other countries. As a matter of general practice, China regularly signs on as a third party in WTO disputes. This is because China sees that the cases involve systemic interests. It may be of interest to look

[24] China Daily, January 15, 2007.

into the kind of disputes that attracted Chinese interest under the WTO. Perhaps the dispute which has attracted the Chinese energy to date was the 2002–03 dispute brought by many WTO members against the US following their decision to impose safeguard measures on a wide range of imported steel products. The WTO panel concluded the US measures were inconsistent with WTO rules on safeguard measures. The steel safeguard measures were important for China. So far in other areas where China has complained under the DSU about other WTO members actions it has done so as a third party. In 2004, for example China sided with the US (complainant) and other third parties in a dispute with the EU concerning the EUs administration of laws and regulations pertaining to the classification and valuation of products for customs purposes. In another case in the same year, China joined a case brought by Japan against the US on the US "zeroing" policy in antidumping cases. China is major trading economy and sheer volume of its exports is bound to guarantee that China will see it in its interest to stand up for its rights. China is doing this in the WTO but its approach is notably conservative. So far it has limited its action to those cases where the merits of the dispute seem fairly evident and where others have as well been convinced of these merits, joining the dispute action themselves. At this point of time, China appears to be a constructive user of the WTO dispute settlement system.

5. China in Doha Round

When China joined the WTO in December 2001, its monthly manufactured exports were worth $20 billion, now it is worth $80 billion. China has a considerable stake in the WTO system because of the market access it secures from the WTO rules and regulations.[25] However, it has remained rather lukewarm to the ongoing WTO negotiations. At best, it can be said that China is disappointingly reticent. The low profile of China appears strategic in the face of its commitments made to the WTO. China is still digesting earlier reforms and has no desire to enter into new commitments that might be forced on it by the negotiating partners in the context of the Doha Round. On agricultural trade issue, China has aligned itself with the members of Group of 20 of developing countries. The vocal members of this Group are Brazil and India. The negotiating position of India is relatively protectionist. Brazil is trying to use the G-20 to rebuild its position as a leader of the developing world. China has different interests than Brazil and India and it is far more dependent on a successful WTO negotiation and overall health of the system than are either Brazil or India. The WTO is critical to China because 64 per cent of the GDP is earned by trade. China is not in a position to afford the failure of the Doha Round at any cost. It would not allow Brazil and India to have their own way in determining the success or

[25] Morrison Wayne M. " China's Economic Conditions", CRS Report for Congress, July 12, 2006.

failure of the Round. China needs to look out for China in the Doha Round. Therefore, its position may change in final negotiations.

Currently, there is an impasse in the Doha Round Trade Negotiation on account of disagreement in slashing agricultural subsidies in the US and the EU. Both the US and the EU are persuading China to exert its influence on the resumption of the Doha Round. China is different from other developing countries; it is not reliant on agriculture for its economic growth and export earnings. It has a small stake in agricultural negotiations of the Doha Round. Besides China is both a developing country and a trade giant. This unique status makes China to become a right candidate to give a push to the current round. To revive the trade talk China can press the US and the EU to compromise and in the meantime, it can coordinate the options of the developing countries to achieve a balance of interests among the WTO members. So far China has not yet assumed the role of an honest broker. However, it has taken keen interest in G-20 dialogue within and outside the WTO.

6. Perception of China in the WTO

China was greeted on its entry into the WTO 'Club' by a large number of members, both from developed and developing countries. At the same time, few of the members were confident that they could predict the consequences for the organization of Chinese membership. The existing members discomfort with China's entry in the WTO led them to establish a special ten-year review mechanism to track Chinese implementation of its WTO commitments. The WTO-based reviews of China have been supplemented in some instances by nationally conducted reviews by key trading partners like the US and the EU. They assess their trade performances and the problems encountered. The US and the EU both have experienced high growth rate in exports and imports from China. China Review Report for the year 2003 had both good news and bad news. On the positive side, China has taken steps to correct systemic problems. For example, the China state Council has abolished 12 administrative regulations and revised more than 40 laws and regulations. These regulations covered insurance, telecommunications, technology imports, textile quota of exports, animal feed, and pesticides, antidumping and safeguards and financial organizations among the other sectors. Further, it has abolished tariff-rate quota administration applied to a bulk of agricultural products, reduced capitalization requirements in a number of financial services sectors and liberalizing of automobile purchases. On the negative side, China was criticized for falling far short of the expected implementation of its commitments. The problems were those relating to trade in agricultural products, services, enforcement of intellectual property rights and transparency of the Chinese system of trade controls and regulations.

China has undergone the first of its periodic Trade Policy Reviews (TPRs) under the WTO Trade Policy Review Mechanism (TPRM). The report generally commends China for economic reforms that has reduced poverty, stimulated growth, enhanced foreign investment and made China a central player in the global economy. Many of the US and the EU companies have become more competitive by virtue of their increased access to Chinese-produced inputs. What conclusions can we draw from these results? Five years into China's membership in the WTO, it seems that it has been increasingly accepted and recognized as a constructive member of the WTO. The WTO members expect China to play an important role in the successful conclusion of the Doha Round. However, it is recognized that China has still a problem in implementing certain commitments that it has made to the WTO. These will be in the areas of transparency, IPR protection and national treatment.

7. Concluding Observations

China's accession to the WTO represents a major step in China's recent reform efforts. China's accession agreement is most comprehensive of any acceding WTO member to date. It includes some commitments that exceed the underlying obligations of all WTO members, particularly with regard to the protective safeguards and trade remedies that WTO members can apply to Chinese exports that injure their home markets. China's accession agreement describes the broad scope of its WTO commitments across eight areas, as well as many types of commitments China made, which range from specific, discrete actions to general pledges. The five year period of China in WTO suggests that the complexity of the agreement and the ways in which the interrelationship between some individual commitments have strengthened the general business environment in China by fostering a more transparent, consistent and market-oriented trade regime for business. Some commitments are phased in and will take effect during 2007 to 2010 period; these could limit access of markets to business. The breadth and complexity of China's commitments indicates the challenges facing China in fulfilling its WTO obligations. China has accomplished this to a large extent.

China has not behaved in an overly aggressive manner since it joined the WTO and has been an active and constructive member of the WTO. Early fears were unjustified. China has used the WTO as an important external influence to bring about critical domestic reforms. In dispute settlement, China played a constructive role. It has made a real effort to resolve disputes before they need to go to formal adjudication in the system. Though China aligned with Group of 20, it cannot afford to ignore its vital national interest. China is making efforts for the successful conclusion of the Doha Round. Five years in WTO has enabled China to push up its foreign trade and enhance foreign direct investment to a phenomenal level. The size of the economy has nearly doubled, with an annual output surpassing $2 trillion in 2006. Overall trade as a percentage of the gross domestic product has risen from 44 per cent in 2001 to 72 per cent at the end of 2006. It indicates a high openness of the economy. The world's most populace nation is now the fourth largest economy and third largest exporter. As on today, China's economy is in many ways more open than Japan's was during its rise in the 1980s. Compared with India, China's openness is visible at street level. For example, Wal-Mart Stores outlets are fixtures in every major Chinese city. The US discount retailer now has 66 stores in China and building more, but it has yet to open a single outlet in India. China has made great efforts to implement its obligations in the WTO.

Now, the main concern for China is to reform its State Owned Enterprises (SOEs), making banking system more responsive to market forces, increase the flexibility of its exchange rate policy, and assist workers who lose their jobs due to economic reform. Global Insight, an economic forecasting firm, projects that China's real GDP will average 7.8 per cent over the next 10 years, indicating that China could double the size of its economy in less than 10 years.[26] The Economist Intelligence Unit projects that China will become the world's largest exporter by 2010 and the world's largest economy by 2020. These depend upon Chinese integration into the global economy for which WTO membership is pivotal.

China entered the WTO being aware of that the members are anxious about its rise to be a world power. Its strategy is a peaceful rise. The participation is marked consciously by its image of itself as a responsible developing country, anxious to participate without disturbing its neighbours. Another part of its identity is perhaps half-unconscious. Its own cultural heritage, particularly with respect to law, means that its attitude to compulsory legal settlement of disputes is not wholly enthusiastic. Equally its lack of expertise in legal training means that it will not feel too confident about taking the lead in the panel disputes. Hence China has not been engaging in aggressive confrontations with other countries in panel disputes. It has been endeavoring to avoid direct confrontation with other trading partners. Five years of China is marked with greater compliance of its huge WTO commitments, cautious approach in using its rights and avoiding confrontation with trading partners.

[26] Global Insight, China: Interim Forecast Analysis: Economic Growth, December 15, 2005.

References

Adhikari, Ramesh and Yang, Yongzheng (2002), "What will WTO Membership mean for China and it's Trading Partners?", *Finance and Development*, Vol. 39, No. 3.

Anderson, K. and Peng, C.Y. (1998), "Feeding and Fueling China in the 21st Century", *World Development*, 26(8), pp. 1413–1429.

Bajpai, N. and Dasgupta, N. (2004), "Multinational Companies and Foreign Direct Investment in China and India", CGSD Working paper No. 2.

Bhattasali, Deepak, Li Shantong and Martin Will (Eds) (2004), "China and the WTO: Accession, Policy Reform and Poverty Reduction Strategies", the IBRD/World Bank, Washington D.C.

Bottelier, Pieter (1999), China's Economic Transition on the Significance of WTO Membership, Center for Research on Economic Development and Policy Reform, Stanford University.

Haunng, Yasheng (2002), *Selling China: Foreign Direct Investment during the Reform Era*, Cambridge University Press.

Ianchovichina, E. and Martin, Will (2001), "Trade Liberalization in China's Accession to WTO", *Journal of Economic Integration,* 16(4), pp. 421–445.

KPMG (2003), China Automotive and Components Part Market, Hong Kong, August.

Lardy, N. (Ed) (2002), Integrating China in the Global Economy, Washington D.C. Brooking Institution Press.

Lardy, N. (1994), China in the World Economy, Institute for International Economics, Washington D.C.

Mckensey Quaterly, China Statistics Yearbooks, 2000–2004, Beijing, China statistics press.

Organization for Economic Cooperation and Development (2002), "China in the World Economy: The Domestic Policy Challenges", OECD, Paris.

Perkins, Tony and Steven Shaw, (2000), "China and the WTO: What will really change?", *Mckensey Quarterly,* No. 2.

The Economist (2005), A Survey of India and China, March 05.

World Bank (2001), "Finance for Growth: Policy Choices in a Volatile World", World Bank Policy Research Report, World Bank and Oxford University Press.

List of ISID Working Papers

WP2007/05 Expanding Productive Employment Opportunities: Role and Potential of the Micro and Small Enterprises Sector, *Partha Pratim Sahu*.

WP2007/04 Growth of Indian Multinationals in the World Economy: Implications for Development, *Jaya Prakash Pradhan*.

WP2007/03 Tata Steel's Romance with Orissa: Minerals-based Underdevelopment Federal Politics in India, *Jaya Prakash Pradhan*.

WP2007/02 New Policy Regime and Small Pharmaceutical Firms in India, *Jaya Prakash Pradhan*.

WP2007/01 Subcontracting in India's Small Manufacturing Enterprises: Problems and Prospects, *Partha Pratim Sahu*.

WP2006/11 Quality of Foreign Direct Investment, Knowledge Spillovers and Host Country Productivity: A Framework of Analysis, *Jaya Prakash Pradhan*.

WP2006/10 The Indian Stock Market in 2005–06: An Examination of Two Major Events, *K S Chalapati Rao and K V K Ranganathan*.

WP2006/09 Ownership Pattern of the Indian Corporate Sector: Implications for Corporate Governance, *K S Chalapati Rao and Atulan Guha*.

WP2006/08 Export-orientation of Foreign Manufacturing affiliates in India: Factors, Tendencies and Implications, *Jaya Prakash Pradhan, Keshab Das and Mahua Paul*.

WP2006/07 Overseas Acquisition Versus Greenfield Foreign Investment: Which Internationalization Strategy is better for Indian Pharmaceutical Enterprises? *Jaya Prakash Pradhan and Abhinav Alakshendra*.

WP2006/06 Some features of Migration and Labour Mobility in the Leather Accessories Manufacture in India: A Study of the Informal Sector Industry in Dharavi, Mumbai, *Jesim Pais*.

WP2006/05 Global Competitiveness of Indian Pharmaceutical Industry: Trends and Strategies, *Jaya Prakash Pradhan*.

WP2006/04 Tourism Employment: An Analysis of Foreign Tourism in India, *Jesim Pais*.

WP2006/03 Adoption of Improved Technology in India's Small-scale Industries: Evidences from a Field Survey, *Partha Pratim Sahu*.

WP2006/02 Strengthening Intellectual Property Rights Globally: Impact on India's Pharmaceutical Exports, *Jaya Prakash Pradhan*.

WP2006/01 Towards Understanding the State-wise Distribution of Foreign Direct Investments in the Post-Liberalisation Period, *K S Chalapati Rao* and *M R Murthy*.

WP2005/03* Indian Stock Market: 2004–05—Some Issues, *K S Chalapati Rao* and *K V K Ranganathan*.

WP2005/02* Workers in a Globalising World: Some Perspectives from India, *T S Papola*.

WP2005/01 Emerging Structure of Indian Economy: Implications of Growing Inter-sectoral Imbalances, *T S Papola*.

WP2004/13 Economic History of Tobacco Production in India, *S K Goyal*, *Pratap C Biswal* and *K V K Ranganathan*.

WP2004/12 Potential Impact of Supply-side Actions, *S K Goyal*, *Pratap C Biswal* and *K V K Ranganathan*.

WP2004/11* Is Growth Sans Industrialisation Substainable? ISID Foundation Day Lecture, *G S Bhalla*.

WP2004/10 Labour: Down and Out, *T S Papola* and *A N Sharma*.

WP2004/09* Foreign Trade Policy: Content and Coverage, *T P Bhat*.

WP2004/08* National Trade Policy: What it Implies? *T P Bhat*.

WP2004/07* WTO Negotiations Back on Track, *T P Bhat*.

WP2004/06* Chinese Perspective of Bilateral Trade with India, *T P Bhat*.

WP2004/05* A Challenge for Social Scientist, *S K Goyal*.

WP2004/04* Foreign Portfolio Investments and the Indian Stock Market Boom of 2003–04: A Note, *K S Chalapati Rao*.

WP2004/03* Wavelet Analysis of the Bombay Stock Exchange Index, *Pratap C Biswal*, *B Kammaiah* and *Prasanta K Panigrahi*.

WP2004/02 Company Size and Effective Corporate Tax Rate: A Study on Indian Private Manufacturing Companies, *Atulan Guha*.

WP2004/01* Anti-dumping—Containment and Reform, *T P Bhat*.

WP2003/10* Government Procurement Agreement: Negotiating Position for India, *T P Bhat*.

WP2003/09* Heralding of Asian Giant Trade Block, *T P Bhat*.

WP2003/08* China the Victim of Anti-dumping Action, *T P Bhat*.

WP2003/07* Cost of Public Holidays, *T P Bhat*.

WP2003/06* India and China on New Horizon, *T P Bhat*.

WP2003/05 Asymmetrics in Interest Rate Sensitivity of Capital Flows: Some Empirical Evidences, *Atulan Guha*.

WP2003/04* Collapse of Cancum Meet, *T P Bhat*.

* Already Published. Most of the working papers are downloadable from the institute's website: http://isidev.nic.in/ or http://isid.org.in/

About the ISID

The Institute for Studies in Industrial Development (ISID), successor to the Corporate Studies Group (CSG), is a national-level policy research organization in the public domain and is affiliated to the Indian Council of Social Science Research (ICSSR). Developing on the initial strength of studying India's industrial regulations, ISID has gained varied expertise in the analysis of the issues thrown up by the changing policy environment. The Institute's research and academic activities are organized under the following broad thematic areas:

Industrial Development: Complementarity and performance of different sectors (public, private, FDI, cooperative, SMEs, etc.); trends, structures and performance of Indian industries in the context of globalisation; locational aspects of industry in the context of balanced regional development.

Corporate Sector: Ownership structures; finance; mergers and acquisitions; efficacy of regulatory systems and other means of policy intervention; trends and changes in the Indian corporate sector in the background of global developments in corporate governance, integration and competitiveness.

Trade, Investment and Technology: Trade policy reforms, WTO, composition and direction of trade, import intensity of exports, regional and bilateral trade, foreign investment, technology imports, R&D and patents.

Employment, Labour and Social Sector: Growth and structure of employment; impact of economic reforms and globalisation; trade and employment, labour regulation, social protection, health, education, etc.

Media Studies: Use of modern multimedia techniques for effective, wider and focused dissemination of social science research and promote public debates.

ISID has developed databases on various aspects of the Indian economy, particularly concerning industry and the corporate sector. It has created On-line Indexes of Indian Social Science Journals (OLI) and Press Clippings on diverse social science subjects. These have been widely acclaimed as valuable sources of information for researchers studying India's socio-economic development.

Institute for Studies in Industrial Development
4, Institutional Area, Vasant Kunj, New Delhi - 110 070, India
Phone: +91 11 2689 1111; *Fax:* +91 11 2612 2448
E-mail: info@vidur.delhi.nic.in; *Website:* <http://isid.org.in>

ISID