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 ВЫСШАЯ ШКОЛА ЭКОНОМИКИ  
НАЦИОНАЛЬНЫЙ ИССЛЕДОВАТЕЛЬСКИЙ УНИВЕРСИТЕТ

Т. 17 № 3 (2022)

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## Address

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17 Malaya Ordynka Ulitsa, 119017, Russia

Tel: +7 495 772-95-90 \*23147 and \*23150

E-mail: [iorj@hse.ru](mailto:iorj@hse.ru)

Web: <http://iorj.hse.ru/>

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Национальный исследовательский университет

«Высшая школа экономики»

Телефон: +7 495 772-95-90 \*23147 и \*23150

E-mail: [iorj@hse.ru](mailto:iorj@hse.ru)

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# China and the WTO: From Difficult Access to Partial Leadership<sup>1</sup>

J. Zhu, Y. Wei

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**Jiejun Zhu**—Professor, School of International Relations and Public Affairs, Fudan University; 220 Handan Road, Shanghai, 200433, China; zhujiejun@fudan.edu.cn

**Yuhang Wei**—Master Student, School of International Relations and Public Affairs, Fudan University; 220 Handan Road, Shanghai, 200433, China; 20210170046@fudan.edu.cn

## Abstract

*In this article, the interactions between China and the World Trade Organization (WTO) are explored; these can be divided into three different stages, ranging from difficult access to comprehensive adaptation and to partial leadership. Through the three stages, the conflict and resolution of the dilemmas of market economy status and developing country status was the driving force. In the difficult access period, the market economy dilemma embodied the optional safeguard measures and anti-dumping measures, and the developing country dilemma embodied the access to the market of finance, insurance, and telecommunication in the negotiation of China's entry to the General Agreement on Tariffs and Trade (GATT)/WTO. In the comprehensive adaptation period, China, in defense of its own market economy status, used WTO rules to counter America's demands on China, such as anti-dumping proceedings and the criticism regarding the "stagnation of China's reform," claiming special and differential treatment due to its status as a developing country. In the period of partial leadership, while still insisting that it was a developing country, China strategically advocated that developing countries should realize their national interests by adopting the new policy of "open for development," embodying its leadership in the emerging issues of WTO negotiations such as e-commerce and investment facilitation.*

**Keywords:** GATT, WTO, China, Market Economy Status, Developing Country Status

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## Introduction

The year 2021 marked the 20th anniversary of China's accession to the World Trade Organization (WTO). Exploring the historical evolution of China's engagement with the WTO is helpful and significant for thinking about the relationship between China's rise within the global governance system and how it participates in the reform and construction of that system [Yang, 2018].

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<sup>1</sup> This article was submitted on 24.04.2022.

First, the WTO is one of the most important of the international organizations that have influenced China's reform and opening up. The re-entry negotiation itself was part of this process. After its accession to the WTO, China rapidly grew to become the world's second-largest economy and the largest trader in goods. In the process, the WTO brought huge dividends to China's development. Second, China's accession to the WTO further enhanced the authority and effectiveness of the multilateral trading system. China has actively promoted negotiations on new issues in the WTO, maintained the effective operation of its dispute settlement mechanism, and fully supported the integration of developing countries into the multilateral trading system [Chinese State Council Information Office, 2018].

Why was China's WTO accession negotiation so difficult? How has China's role changed from comprehensive adaptation to partial leadership after its accession? In the existing research literature, most scholars focus on discussing the pros and cons of China's accession to the WTO, China's accession to the WTO negotiation model and strategy, the WTO and China's reform and opening up, and the WTO Doha round negotiation and China's strategic choice. There is less discussion of China's changing role in its interaction with the WTO [Lardy, 1999; Song, 2018; Zhang, 1999].

In this regard, this analysis examines the interaction between China and the WTO from a combined historical and theoretical perspective and identifies three stages in the evolution of China's relations with the WTO: from difficult accession to comprehensive adaptation and then to partial leadership. Dealing with the dilemmas of market economy status and developing country status has been the driving force of China's relationship with the WTO.

When determining whether a country is a market economy country, the position of the United States is that whether a country's resources are allocated through the market or rather by a government plan is the main standard to consider. However, China argues that every country uses both government plans and market mechanisms to allocate resources.<sup>2</sup> The key is to see whether it is from government plan to the market, or from market to government plan [Qin, 2010].

When judging whether a country is a developing country, the United States has proposed that several objective criteria should be set, for example, whether it is a member of the Group of 20 (G20) or the Organization for Economic Co-operation and Development (OECD), whether it is a high-income country as defined by the World Bank, and whether it is a country that accounts for more than 0.5% of world trade in goods, among others. However, China argues that development is a multidimensional process of change, and it is difficult to measure whether a country is a developing country by applying external criteria [Wang, 2021, pp. 42–62].

## China's Access to the WTO: Difficult Negotiation

Unfolding from 1986 to 2001, China's re-entry into GATT/WTO lasted 15 years and faced many difficulties. It generally went through three stages: the preparation stage, the contact stage, and the substantive negotiation stage. In the preparation and contact stages, China had status as both a market economy country and a developing country. However, at that time, the United States did not recognize China as a market economy country and then did not recognize China as a developing country, leading to deadlocks over China's re-entry GATT/WTO negotiations on two occasions. Finally, in substantive negotiations, China and the United States adopted a flexible and pragmatic attitude to find a compromise to resolve these two identity issues.

<sup>2</sup> Deng Xiaoping famously argued that socialism has markets and capitalism has plans [1993, p. 373].

### **Preparation Stage: 1986–89**

After reform and opening up in 1978, China resumed ties with GATT. In November 1982, China obtained status as an observer state in GATT and began to send observers to attend its meetings. On 10 July 1986, Qian Jiadong, Chinese ambassador to the United Nations (UN), applied to Arthur Dunkel, the director-general of GATT, for the restoration of the status of the People's Republic of China as a contracting party to the agreement [GATT, 1986]. The application put forward three principles for China's re-entry to GATT, marking the official start of the negotiation process.

In May 1948, China was a founding member of GATT, but due to political reasons, the Chinese government suspended China's activities therein. Thus, as a first principle, China's application was to reinstate its status as a signatory to GATT rather than to apply for membership in the agreement. Second, as a developing country, China expected to receive the same treatment as other developing countries. The issue of developing country status had both economic and political significance for China. Economically, China was still in the primary stage of development. Politically, China and other developing countries were jointly promoting the establishment of a new international political and economic order. Third, China was ready to bear the obligation of tariff reduction rather than import obligations. Historically, GATT adopted different obligation models for countries with different economic systems. For market economy countries, tariff reduction has been the main obligation, while for non-market economy countries, GATT has taken a certain proportion of the import quantity as its obligation. For example, as a planned economy, Poland entered GATT with an obligation to increase its imports with contracting countries by 7% per year. After the reform and opening up, China carried out extensive and profound reforms to its economic system and hoped to restore its contracting party status by assuming tariff reduction rather than import obligations.

The representatives of developing countries such as Pakistan, Senegal, Hungary, and Mexico welcomed the three principles proposed by the Chinese ambassador, while the representatives of western countries such as the United States, Europe, and Japan had reservations. American hubris was on display in the words of Ambassador Michael Samuels. He used formal diplomatic language to welcome China's application for re-entry to GATT but also argued that, while welcomed, this would be only the first step toward basing China's relations with its trading partners on market access. Paul Trân Van Thinh, the European ambassador, was more positive, calling China's application a significant event of great joy. The Japanese representative's remarks not only showed Japan's ambivalence on this issue, but also set the tone for the western countries to follow, that is, that political support should be offered, legal issues can be resolved, and economic negotiations need to be serious [Yi, 2007, p. 24].

In accordance with the application procedures, China formally submitted the Memorandum on China's Foreign Trade Regime to GATT in February 1987. In response, in March 1987, the GATT Council established a working party on China's status as a contracting party and held meetings in February, April, June, and September 1988 to review China's foreign trade regime. On this basis, the United States and other western powers put forward five requirements for China's foreign trade system. First, China's foreign trade system would need to be implemented uniformly throughout the country. Second, the transparency of the foreign trade system would have to be improved. Third, non-tariff measures inconsistent with GATT would have to be abolished. Fourth, a commitment to price reform to achieve the goal of market-determined prices would be required. Fifth, China would have to agree with the optional safeguard clauses.

Shen Jueren, then Vice Minister of Foreign Trade and Economic Cooperation of China, responded to these five requirements. First, on the unified implementation of the foreign trade regime, China promised to correct it once it was discovered. Second, regarding the transpar-



ency of the foreign trade system, China would undertake to publish all laws and regulations and non-confidential procedural statistics and to establish an external reporting system, excluding only enterprises with legitimate trade secrets and confidential information of public interest. Third, on the issue of non-tariff measures, China would accede to the GATT Tokyo Code for non-tariff measures consistent with GATT; for non-tariff measures inconsistent with GATT, China agreed to gradually rationalize its planning and foreign exchange management and to coordinate the use of tariff and non-tariff measures. Fourth, on price reform, China would commit to the direction of market-oriented price reform, but not to the specific timetable for such reform. Finally, regarding the optional safeguard clauses, China viewed this to be against China's opening up and reform policy, and thus, unacceptable [Shi, 2011, pp. 145–7].

The main controversy between China and the United States on the issue of China's re-entry was related to the optional safeguard clauses.<sup>3</sup> This controversy reflects the fact that the two sides had different views on whether China was a market economy. China believed that, although its economic system still bore traces of a planned economy, the general direction toward the market economy had been established in China. However, the U.S. believed that, although China's economic system had undergone reform, there was still a long way to go toward the real market economy system.

Against the background of different views on whether China was a market economy system and whether China should accept the optional safeguard clauses, a remarkable political storm occurred in Beijing at the turn of spring and summer of 1989, and the United States began to impose economic sanctions on China, leading to a major setback in China's negotiations for the re-entry of GATT.

### **Contact Stage: 1992–94**

On 18 January 1992, Deng Xiaoping visited Wuchang, Shenzhen, Zhuhai, and Shanghai and delivered the famous South Tour Speeches, in which he put forward an important view that the market economy is a means that can be used by both capitalism and socialism. On 9 June, Jiang Zemin delivered a speech at Party School of the Chinese Communist Party (CPC), entitled "Understand Deng Xiaoping's Important Statement and Make Economic Reform and Opening Up Faster and Better." He put forward that the goal of China's economic reform was to establish a socialist market economic system. On 12 October, the 14th CPC National Congress was held in Beijing, which formally declared this to be a reform goal.

The acceleration of the domestic reform process injected strong impetus into the negotiation of re-entry into GATT. On 21 October 1992, Tong Zhiguang, the vice minister of the Chinese Ministry of Foreign Trade and Economic Cooperation, led a delegation to attend the 11th meeting of the Working Party of China's Status. At the meeting, he proposed that China's goal for reform of its economic system was to build the socialist market economy and usher in a new stage of re-entry negotiations [Ibid., pp. 96–7]. In May 1993, the Chinese delegation submitted to the secretariat of GATT the Revision to Memorandum on China's Foreign Trade Regime, adding that the goal of China's economic reform was to establish a socialist market economy. Unfortunately, the representatives of western countries did not recognize China's market econ-

<sup>3</sup> The legal basis for the Optional Safeguard Clause is Article 19 of GATT, which essentially allows contracting parties to selectively apply emergency safeguard measures to the exports of one contracting party but not to apply the same safeguard measures to similar products of other contracting parties. The core contradiction lies in whether China had achieved complete market regulation of prices. If China accepted the request of the United States, then it would not be admitted to GATT as a market economy, and if China's exports to GATT contracting parties were found to be dumping, then GATT contracting parties could unilaterally take emergency safeguard measures against China's exports.

omy status and still insisted that China should accept the optional safeguard clauses. Dorothy Dvoskin, the American chief negotiator, made it clear that China's market economy was not a real market economy [Yi, 2007, p. 38].

More importantly, the Uruguay round of negotiations, which coincided with China's on re-entry into GATT, was now nearing its conclusion with a decision to upgrade GATT into the WTO. Therefore, the United States began to change its price to China and turned China's GATT entry ticket into a WTO entry ticket. In addition to the initial five requirements, the U.S. also proposed to increase market access requirements in new areas such as trade in service, intellectual property rights, investment, agricultural products, textiles, telecommunications, insurance, and securities. In this context, it would be important for China to assume the market access obligation as a developed or as a developing country. In other words, while the old issue of market economy status was not solved, a new issue of developing country status was added to China's negotiations for re-entering GATT.

By the end of 1994, China's negotiations became increasingly urgent. To become a founding member of the WTO, China launched a sprint to resume the negotiations. At home, China had introduced a few reforms to match the negotiations. In early 1994, China abolished the dual-track exchange rate and foreign exchange retention systems, abolished import licenses and quotas for 283 commodities, and began to implement the Interim Measures for Managing the Import Number of General Commodities and the Measures for Bidding Quotas for Export Commodities. The Standing Committee of the National People's Congress (NPC) also promulgated the Foreign Trade Law. In June, China removed another 208 non-tariff measures on imported goods. China adopted a series of reform measures to demonstrate its determination to conclude the negotiations by 1994.<sup>4</sup> However, the U.S. took advantage of China's desire for an early conclusion of the negotiations and forced China to make greater compromises and concessions on the market access issue [Ibid., p. 148].

Although the U.S. demands were beyond China's economic capacity at the time, China did not give up on negotiations and continued to seek consensus. In November, China continued its negotiations with the U.S. on market access and made concessions on tariffs, lowering the overall tariff level from 43.7% to 17%, including from 46.1% to 21.9% for agricultural products and from 42.8% to 16.3% for non-agricultural products. China also proposed a timetable for the elimination of most non-tariff measures [Shi, 2011, p. 180–4]. At the 7–11 December meetings, China pledged to partially liberalize state trade and agreed to increase the proportion of state-traded products handled by non-state enterprises. However, the United States continued to insist on its high price position and refused to compromise, which led to a failure to reach a consensus on many differences, and the Sino-U.S. market access negotiations finally broke down.

The failure of China's re-entry to GATT in 1994 was the result of America's overpricing of China, which was rooted in America's unwillingness to recognize China's status as both a market economy and a developing country. As a result, China failed to re-enter GATT by the end of 1994.

### ***Substantive Negotiation Stage: 1995–2001***

On 1 January 1995, the WTO was established and negotiations over China's re-entry into GATT were formally transformed into negotiations over accession to the WTO. On 25 October 1995, Chinese president Jiang Zemin and U.S. president William Jefferson Clinton met in New

<sup>4</sup> China had hoped to complete negotiations on the re-entry to GATT by the end of 1994 and to become a founding member of the WTO before 1 January 1995.

York and exchanged views on China's accession to the WTO for the first time. President Clinton said the United States was willing to take a positive attitude toward China's accession to the WTO and had drafted a working paper for further discussions with China in the hope of breaking the negotiation deadlock. On 8 November, U.S. trade representative Charlene Barshefsky visited China and provided an informal document on China's WTO accession, the Non-Paper on China's Accession to the WTO. The United States described the informal document as a road map for China's accession to the WTO, listing the 28 requirements it made of China. Wu Yi, then the Chinese minister of Foreign Trade and Economic Cooperation, pointed out in a meeting that although the U.S.' road map showed some flexibility, the U.S. was asking too much of China [Shi, 2011, pp. 193–6]. In fact, the debate over the road map proposed by the United States showed that the two sides still had significant differences on the issue of China's accession to the WTO. Afterward, the two sides had contact, but the progress of the negotiations was limited.

On 6 November 1998, President Clinton sent a letter to President Jiang Zemin saying that he was “deeply concerned about the growing trade deficit between our two countries. American companies continue to have difficulties in exporting goods, agricultural products, and services to China...the best way to solve this problem is to open up China's markets on a good, commercially sensible basis and reach an agreement on China's accession to WTO.” [Ibid., pp. 232–3]. Against this background, the negotiation process on China's accession to the WTO was significantly accelerated.

On 15 November 1999, China and the United States opened the 25th round of bilateral negotiations on the issue of China's accession to the WTO. Substantive issues were discussed in the negotiations, including the optional safeguard clause, anti-dumping clauses, permanent most-favored-nation treatment, agricultural subsidies, state-run trade, tariff concessions, non-tariff measures, securities, insurance, and telecommunications. They reached a historic agreement, the Market Access Agreement Between the People's Republic of China and the United States of America, which removed the most difficult political obstacle for China's entry into the WTO. On 10 November 2001, the 4th WTO Ministerial Conference, held in Doha, deliberated and adopted the Protocol on the Accession of the People's Republic of China and the Report of the Working Paper on the Accession of China. On 11 December, China formally joined the WTO, becoming its 143rd member. At this point, the 15-year long negotiations on China's re-entry into GATT and accession to the WTO came to an end.

In the re-entry GATT/accession to WTO negotiations, China's market economy status and developing country status were the two major issues and were reflected in each specific topic of the negotiations. Among them, on the issues of the optional safeguard causes, anti-dumping clauses, and permanent most-favored-nation treatment, China firmly opposed being treated by the U.S. as a non-market economy country and demanded that the U.S. abolish its discriminatory practices against China, while the U.S. stressed the need for a transition period to ensure that China truly established its market economy system. The final compromise was that the U.S. agreed to remove the optional safeguard clauses and the anti-dumping clause, in 2012 and 2016 respectively. On agricultural subsidies, state-run trade, tariff concessions, non-tariff measures, securities, insurance, and telecommunications market access, China's basic position was that, as a developing country, China would undertake the obligations corresponding to its level of development and open its market step by step, enjoying a certain transitional period, while the U.S. required China to open its market to the maximum extent within the shortest period of time. On a case-by-case basis, China ended up shouldering more obligations for opening up than most other developing countries.

## China as a Full Member of the WTO: Comprehensive Adaptation

After its accession to the WTO, China's role began to change from that of a difficult negotiator to that of a comprehensive participant. The issues of China's market economy status and developing country status have not been resolved but have taken on a new form. Therefore, China and the United States continue to fight over these issues within the framework of WTO.

The WTO mainly consists of three mechanisms, including the trade dispute settlement mechanism, the trade policy review mechanism, and the multilateral trade negotiation mechanism. After China's entry into the WTO, China tried to adapt to these three mechanisms comprehensively, and experienced a process from learning rules to adapting to rules, and then to using rules to fight. In the trade dispute settlement mechanism and trade policy review mechanism, China mainly dealt with the anti-dumping lawsuit and the so-called "China reform stagnation," and defended China's market economy status in the struggle; within the multilateral trade negotiations mechanism, China has mainly insisted on the principle of special and differential treatment for developing countries, thus defending its institutional rights as a developing country.

### ***Trade Dispute Settlement Mechanism***

On 1 January 1995, the WTO trade dispute settlement mechanism was formally put into operation. It mainly consists of six parts, namely, the consultation procedure, the mediation procedure, the arbitration procedure, the expert group procedure, the appeal procedure, and the enforcement procedure. The main executing organs are the expert group and appellate body. The dispute settlement mechanism is a kind of effective means to deal with international trade disputes by establishing a set of legally binding rules [Ni, Cheng, 2001, p. 44].

After China's accession to the WTO, the U.S. trade deficit with China continued to expand, leading to an increasing number of trade disputes between the U.S. and China. In May 2004 and April 2005, China promulgated the Auto Industry Policy and the Import Management Measures of Auto Parts, and the United States challenged both. In March 2006, the U.S. referred the case of Chinese auto parts to the WTO's panel and appellate body, asking the WTO to launch an anti-dumping investigation against China. It also stopped seeking bilateral understanding with China. As stipulated in the Protocol on the Accession of the People's Republic of China, the U.S. and other contracting countries would not cancel the anti-dumping investigation against China as a non-market economy country until 2016. Therefore, the U.S. and other contracting states could determine whether China was guilty of dumping in accordance with their domestic laws during the transition period. In December 2008, the WTO's appellate body ruled that China had violated the WTO's principle of national treatment.

In response to the lawsuit, China also actively used the trade dispute settlement mechanism to launch counter-attacks. In December 2008, China submitted to the WTO expert group the anti-dumping measures taken by the United States against China on standard steel tubes, rectangular steel tubes, composite woven bags, and off-road tires. In this lawsuit, China had not only hoped the United States would cancel the anti-dumping measures on these four products but also that the common problems faced by Chinese enterprises in the United States could be resolved. To this end, China did not focus on the facts of individual cases in the investigation, but rather on the legal standards and relevant investigation methods used by the U.S. and its attempts to systematically influence the anti-dumping investigation of Chinese products. In October 2010, the WTO expert panel issued a ruling report, which found that the anti-dumping

measures of the United States were inconsistent with WTO rules. China won the lawsuit, thus effectively safeguarding China's market economy status in the WTO [Zhao, 2011, pp. 133–4].

### ***Trade Policy Review Mechanism***

While the trade dispute settlement mechanism is legally binding, the trade policy review mechanism is non-legally binding and operates as a kind of mutual criticism following sophisticated procedures [Zheng, 2021, p. 203]. First, the WTO secretariat writes an independent review report. Second, the reviewed member state issues its response statement. Finally, other member states can comment and ask questions based on the review report and response statement and request the reviewed member state to answer more questions and provide additional information.

In 2006, China was reviewed according to the trade policy review mechanism. Initially, China's trade policy received positive comments from other member states. It was widely believed that China's reform and opening up were making steady progress, and acceleration of reform in China became the consensus of WTO member states. For example, in the review, China briefed other WTO members on the details of its market economy reform and its progress in fulfilling its WTO commitments, which was well-received by all parties involved in the review. "China has made significant progress in implementing its WTO commitments and fulfilling its WTO membership obligations, and China has redefined the global trading system," U.S. ambassador to the WTO, Peter Allgeier, said in his speech [Ibid., pp. 207–8]. However, negative comments increased after 2010. In 2012, for example, the United States put forward the notion of China's so-called "reform stagnation," criticizing China's very limited market reform in the financial, telecommunications, insurance, and other sectors.

Facing these criticisms, China rejected the U.S.' accusations. For example, Yu Jianhua, then head of China's permanent mission to the WTO, pointed out that China had not stopped the pace of domestic reform and opening up [Ibid., p. 203]. At the same time, China had adopted a series of market-oriented economic reforms, such as changes to the Catalog of Industries for Guiding Foreign Direct Investment, restructuring the state-owned capital investment and operating companies, and greatly reducing the barriers to entry of foreign investment in the industry, further strengthening China's market economy status in WTO.

### ***Multilateral Trade Negotiation Mechanism***

The multilateral trade negotiation mechanism is the third pillar of the WTO framework. In 2001, the WTO launched a new round of multilateral trade negotiations in Doha, Qatar, to encourage WTO member countries to reduce trade barriers and promote growth in the developing countries—for this reason, the Doha round is also known as the development round. The negotiating parties were mainly divided into developed and developing countries: developed countries wanted to further open the markets of developing countries, asking them to reduce tariffs and apply more restrictions on their non-tariff measures. Developing countries demanded that developed countries reduce their agricultural subsidies and keep their promise of special and differential treatment for developing countries [Wang, Mu, 2010, p. 59].

In the Doha round negotiations, China firmly stood in the camp of developing countries and defended the special and differential treatment for developing countries [Jiang, 2011, p. 46]. The Declaration on the Trips Agreement and Public Health authorized the trade and development committee to review the special and differential treatment provisions in the WTO with a view to strengthening the relevant provisions and making them more precise, effective, and operational. However, the mandate triggered a sharp confrontation between the developed and

developing countries and also between China and the United States over China's identity as a developing country. The United States believed that China was no longer a developing country and argued that this claim was responsible for the stagnation of the round [Qi, Fan, 2019, p. 95]. China argued that it was still a developing country economically and politically. Economically, China's per capita gross domestic product (GDP), economic structure, and development quality were still comparatively low. Politically, China had always sided with the developing countries in the governance of global trade [Ministry of Commerce of the PRC, 2019].

Overall, China quickly adapted to the three pillars of the WTO, namely, the trade dispute settlement mechanism, the trade policy review mechanism, and the multilateral trade negotiation mechanism. In terms of trade dispute settlement, China actively responded to the anti-dumping lawsuits brought by the U.S. and initiated anti-dumping lawsuits against the U.S. using legal weapons to safeguard its market economy status. Regarding the trade policy review mechanism, China not only forcefully refuted the reform stagnation theory proposed by the U.S. but also actively promoted market reform at home, which further consolidated China's market economy status. In multilateral trade negotiations, China firmly supported the developing countries in the Doha round and upheld the special and differential treatment that China is entitled to as a developing country.

## China and WTO Negotiations in New Areas: Partial Leadership

While fully adapting to the existing WTO rules, China has also begun to participate in the rule-making process in new issue areas, such as e-commerce and investment facilitation. China is proposing a new way of development through openness to realize developing countries' interests that is in sharp contrast to the traditional approach of development through protectionism.

### ***E-Commerce***

In January 2019, 76 WTO members signed the joint ministerial statement in Davos, officially launching the WTO's e-commerce negotiation process. In this context, some developing countries, such as India, refused to participate in the negotiations, claiming that developing countries face a digital divide and find it difficult to benefit from e-commerce. At the same time, it is believed that participating in the WTO e-commerce negotiations would squeeze the policy space of developing countries, which is a traditional, conservative idea of pursuing development with protectionism.

Different from other developing countries, China actively participates in the WTO's e-commerce negotiations. According to the United Nations Conference on Trade and Development (UNCTAD), in 2017, the total size of China's e-commerce market reached \$1.93 trillion, ranking third in the world. The retail sales of business-to-consumer (B2C) e-commerce reached \$1.06 trillion, ranking first in the world. Alipay and WeChat have 300 million and 70 million overseas users respectively, and Tiktok has been downloaded more than 1 billion times [UNCTAD, 2017].

China has become one of the three leading parties in the current WTO e-commerce negotiations, together with the United States and the European Union (EU), two western developed economies [Ding, 2021, pp. 176–87]. The United States wants to establish liberalization-oriented rules with a concern to promote the free flow of data across borders. The European Union, while not pressing for cross-border data flows, has traditionally valued the protection of individual privacy as a priority. Therefore, it advocates the establishment of differentiated data protection regimes for personal data and non-personal data in the WTO e-commerce negotia-

tions. While adhering to its own identity and status as a developing country, China has played an important leading role in the WTO e-commerce negotiations based on its strong e-commerce advantages. China proposes that the WTO e-commerce negotiations should be development-oriented, consider the actual difficulties and regulatory needs of developing countries, and focus on facilitating cross-border trade in goods.<sup>5</sup>

### ***Investment Facilitation***

Investment facilitation is another important issue on which China can play a leadership role in WTO negotiations. Traditionally, when it comes to international investment, developed countries are foreign investors, while developing countries are foreign investment recipients. Therefore, developing countries are cautious of investment liberalization.

Different from other developing countries, China has become both a large recipient of foreign direct investment and a large investor overseas. In this context, China directly initiated and led WTO negotiations on investment facilitation, proposing that developing countries should not only actively participate in the negotiations on investment facilitation, but should also actively promote their own investment facilitation and take the new path of “pursuing development” through openness [Zhou, 2021, pp. 158–75].

In October 2016, China took the lead to set the agenda of investment facilitation in the WTO. In April 2017, China proposed the establishment of the Friends of Investment Facilitation for Development (FIFD) in Geneva. The FIFD is an informal dialogue platform, combining investment, trade, and development, with a mandate to not raise the level of investment liberalization and to enhance transparency and predictability in the investment process in order to help developing countries achieve their own economic and social development goals.

On 18 May 2017, the China-promoted FIFD reached a conciliatory statement with India and other developing countries. It prompted both sides to announce the start of the negotiation process on investment facilitation, subject to their different positions, thus introducing the term “investment facilitation” to the agenda of the WTO General Council for the first time. In December 2017, on the sidelines of the 11th WTO Ministerial Conference, Zhong Shan, Chinese minister of commerce, convened a trade ministers meeting on investment facilitation and issued a joint ministerial statement on the subject [WTO, 2017].

On 18 July 2019, a WTO meeting on investment facilitation was held in Geneva. Under China’s leadership, participating members agreed that the meeting would move to a substantive discussion stage of text-based consultations. The meeting fully discussed the elements of investment facilitation, proposed relevant measures that might be covered by the framework of future multilateral rules, and finally produced a 140-page document [WTO, 2019]. On 5 November 2019, a small WTO ministerial meeting was held in Shanghai at the second China

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<sup>5</sup> E-commerce is just one aspect of the WTO’s reform agenda. The difference between China and the United States lies in their views on the direction of WTO reform. As a beneficiary of the existing multilateral trading system, China believes that the authority of the WTO should be further strengthened, market opening should be continuously promoted, the interests of developing countries should be sought, and the principle of consensus should be adhered to. To this end, China has actively promoted negotiations on e-commerce, investment facilitation, fishery subsidies, and other issues to safeguard the authority of the WTO. On the other hand, the United States believes that China’s development within the WTO framework damages its economic interests and hopes to bypass the WTO by building an exclusive economic system through bilateral or small-scale multilateral cooperation with other countries through its own economic strength, such as Indo-Pacific Economic Framework (IPEF). As such, the United States has continuously obstructed the normal operation of the dispute settlement mechanism in the WTO. In 2019, it also requested that the WTO abolish the principle of most-favoured-nation treatment, the principle of non-discrimination, the multilateral framework of rule-making, and the special and differential treatment enjoyed by developing countries in the WTO.

International Import Expo (CIIE). More than 200 delegates attended the meeting, including 33 ministers from the EU, Russia, India, and other member countries, and issued a joint ministerial statement, which has injected new impetus into the 12th WTO Ministerial Conference on investment facilitation.

To sum up, China is playing a partial leadership role in the WTO's rule-making process in some new issue areas, such as e-commerce and investment facilitation. Unlike other developing countries, China proposes that developing countries should pursue development through opening up rather than through protectionism.

## Conclusion

This article discussed the interaction between China and the WTO and China's transition from difficult integration to comprehensive adaptation and then to partial leadership. The conflict and resolution of the dilemmas of market economy status and developing country status have been the driving forces of the evolution of China's identity change in the WTO.

During the difficult integration stage, the market economy status was reflected in the optional safeguard clauses in the process of re-entry to GATT/accession to the WTO. The developing country status was reflected in the market access obligations in the fields of finance, insurance, and telecommunications. In comprehensive adaptation, China began to use WTO rules to respond to anti-dumping cases brought by the United States and the so-called "China reform stagnation," defending China's market economy status and its institutional rights as a developing country. In the partial leadership stage, China has strategically adopted a new way of realizing the interests of developing countries by pursuing development through openness and has begun to play a leading role in new WTO issue areas such as e-commerce and investment facilitation.

The evolution of the relationship between China and the WTO has implications for China's participation in the reform of the global governance system in the current era. First, domestic reform is the basis of China's leadership in global governance. When China's domestic economic system is very different from others, China will face discriminatory measures such as the optional safeguard clause. When China's domestic reform goal of establishing a market economy is clearly stated, the pressure on China in international negotiations will be greatly reduced. Second, China should stick to its identity as the largest developing country in the world. China needs to share a common destiny with other developing countries, which is the coalition for China to participate in the reform of the global governance system; however, China's national interests are changing and sometimes inconsistent with the interests of other developing countries. Thus, China needs to adopt a flexible approach to be a bridge-builder between the developed and developing countries.

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