China's Role in the World Trade Organization and the Doha Round of Multilateral Trade Negotiations

Second World Forum on China Studies
Shanghai, China
21-22 September 2006

Andrew L. Stoler
Executive Director
Institute for International Trade
The University of Adelaide

Introduction

Was China joining the WTO or was the WTO joining China? Many people asked that question in November 2001. The potential of China to become a powerful force in international trade was already in the back of other Members' negotiators' minds in 2001 when they signed off on the package of market access and protocol provisions that would guide China's participation in the WTO. Nobody believed that China would be an “ordinary” Member of the WTO like most other countries.

Nearly five years have passed since China completed the accession process and the Doha talks were launched. The Doha Round negotiations are in very serious trouble and may ultimately fail after numerous setbacks since mid-2003.

Total failure of the talks could seriously undermine the WTO that China worked so hard to join. China's export-led development is “insured” by its membership in the World Trade Organization and as such, China’s own future is intertwined with that of the multilateral system. The ultimate failure of the Doha Round and the undermining of the WTO would have serious negative consequences for China.

Under these circumstances, this seems to be an appropriate point at which to review China's participation in the system since joining. Has China been a “special” Member of the WTO or has the country behaved like most other Members? Has China been aggressive in Geneva as many worried she would be? In the Doha negotiations, to what degree have China's negotiating proposals been motivated by the internal dynamics of groups with which China has become associated? China seems clearly to have benefited from membership in the WTO. Have other Members of the Organization gained from Chinese WTO membership?

1 The author is a former Deputy Director-General of the World Trade Organization (1999-2002) and currently serves as a Senior Advisor to the Shanghai WTO Affairs Consultation Center
In my remarks, I will examine these key questions to assess China’s role in the WTO and the Doha Round.

**WTO Members’ Perceptions of China in the WTO**

After fifteen long years of negotiations, WTO Members enthusiastically welcomed China to the WTO “Club”. At the same time, few of the players were confident that they could predict the consequences for the Organization of Chinese membership. Existing Members’ discomfort with China in the WTO led them to establish a special ten-year review mechanism to track Chinese implementation.

WTO-based reviews of China in the system have been supplemented in some instances by nationally conducted reviews in key trading partners like the United States. In its 2003 report on the first two years of Chinese membership of the WTO, the USTR’s office noted that China had become the third largest trading partner of the United States and the sixth largest market for American exports. In those first two years, United States exports to China had grown by 66 percent at a time when United States exports to the rest of the world had fallen by 10 percent. American business representatives testifying at hearings held in connection with the report’s preparation generally said that business with China was good and getting better all the time.

That 2003 report had both good news and bad news. On the positive side, China had taken steps to correct systemic problems in tariff rate quota administration applied to bulk agricultural products, reduced capitalization requirements in a number of financial services sectors and liberalized financing of automobile purchases.

On the negative side, China was criticized for falling far short of the expected implementation of its commitments. The biggest 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 regulation.

China has now undergone the first of what will be its periodic Trade Policy Reviews (TPRs) under the WTO Trade Policy Review Mechanism (TPRM).

In the course of the February 2006 TPR, China was generally commended for economic reforms that had reduced poverty in the country, stimulated growth and foreign investment and made China a central player in the global economy. For example, the American delegation noted that United States companies and workers had become more competitive by virtue of their increased access to Chinese-produced inputs. Since China joined the WTO, China had become the fourth biggest export market for American products (up from ninth place) and United States exports to China had grown five times faster than to the rest of the world.²

The American representative in the TPRM meeting concluded his remarks by stating that the United States looked forward to further cooperative and constructive engagement with China, including through working with China to bring about a successful conclusion to the Doha Round in 2006. According to the United States, China’s early success as a WTO Member carried with it the responsibility to take a leadership role in the Doha negotiations.

² Minutes of the Chinese TPR meeting, paragraph 34.
The European Communities acknowledged that China had come a long way and made many reforms which had worked to the benefit of China and its partners. Since the accession of China into the WTO the European Communities had become China's largest trading partner. China is now the European Communities' second largest trading partner.

Like the United States, the Europeans said that China was expected to play an important and positive role in the Doha Round of negotiations, which were now in some trouble.

What conclusions can we draw from this? Four and a half years into China’s membership in the WTO, the April 2006 TPR of China seemed to show that China was increasingly accepted and recognized as a constructive member of the WTO “Club” that had benefited importantly since membership and was committed to the successful completion of the WTO’s troubled Doha Round of multilateral trade negotiations. WTO Members and China recognized that China was still in the process of implementing many of its WTO accession commitments. The road was not completely without difficulties and certain areas (transparency, IPR protection, and national treatment) continue to concern other Members of the WTO.

**China and WTO Dispute Settlement**

More than anything else, the dispute settlement system of the WTO sets the organization apart from other global institutions.

From a review of China's early experience with the WTO DSU, we can say that China is behaving well in dispute settlement and is generally playing the role of a good WTO citizen. There are cases we 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.

The Shanghai WTO Affairs Consultation Centre documented a case where Chinese officials took action on their own to correct a violation of China's WTO obligations without the matter going to dispute settlement under the DSU. The 2002 case involved the way in which Shanghai municipal government authorities managed the monthly license plate auctions for new vehicles.

The Center discovered that a monthly auction rule called for 3,000 license plates to be auctioned for domestically-produced automobiles compared to just 30 plates for imported cars. In addition, a floor price had been set at the auction for plates destined for imported cars while no such floor price was operative for domestic vehicles.

From a legal standpoint, the Center knew that these measures violated China’s national treatment obligations under the WTO and successfully entered into negotiations with the municipal government authorities and convinced the relevant decision-makers to discontinue the discriminatory treatment at the monthly auctions. Since October, 2002 the auctions have been conducted in conformity with China’s WTO obligations.

A second case, initiated slightly more than two years after China acceded to the WTO demonstrated how China reacted when formally challenged under the DSU. In this case, involving China’s tax treatment of integrated circuits (ICs), the United States charged that China was subjecting imported ICs to higher taxes than those applied to domestically-produced ICs.
China might have decided to contest this case under the DSU and insisted that the complaining countries pursue a full-blown legal challenge to the VAT regime for ICs. However, Chinese authorities probably realized that their case was not a strong one and rather than force an unnecessary period of litigation, Beijing entered into negotiations with the complaining WTO Members.

More recently, China has been the target of dispute settlement consultation requests from a large number of its trading partners in a dispute involving its treatment of automobiles and automobile parts.

While there was considerable speculation in early June that the United States, EC and Canada were on the verge of reaching a settlement with China, those countries have now made a formal request for a panel. If you know the facts of this case, it seems pretty apparent that China is in breach of its obligations and I hope that we can look forward to another constructive out of court settlement.

But 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 cases initiated by other countries. As a matter of general practice, China regularly signs on as a third party in WTO disputes. In some cases, this is because China sees that the cases involve “systemic” interests.

In others, it is clear that China has at least an indirect “China-specific” interest in the case. I will briefly review a number of cases to see which kind of disputes have attracted Chinese interest under the WTO.

Perhaps the dispute which has attracted the greatest Chinese energy to date was the 2002-2003 dispute brought by many WTO Members against the United States following the Americans’ decision to impose safeguard measures on a wide range of imported steel products.

The case brought by China and the other WTO Members was a good one with the panel concluding that the United States’ measures were inconsistent with a number of the WTO pre-requisites for imposition of a safeguard measure.

The steel safeguards case is exceptional 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.

China also understands how this part of the WTO “game” is played. In late 2004, for example, China sided with the United States (the complainant) and other third parties in a dispute with the European Communities concerning the EC’s administration of laws and regulations pertaining to the classification and valuation of products for customs purposes.

In another case, later in 2004, China joined a case brought by Japan against the United States centered on the U.S. “zeroing” policy in antidumping cases.

China is a major international trading country and the sheer volume of Chinese 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 action to those cases where

---

3 United States, Canada, European Communities, Japan, Australia and Mexico.
the merits of the dispute seem fairly evident and where others have as well been convinced enough of these merits to join the dispute action themselves.

At least to this point in time, China appears to be a constructive user of the WTO dispute settlement system.

**China in the WTO Doha Round**

Membership in the WTO has been good for China. China’s monthly manufactured exports have grown from $20 billion a month when China joined the WTO to $80 billion a month today. By comparison, India – which has been a member of the GATT-WTO system since 1947 – accounts for considerably less than one percent of global trade in goods and services.

After spending so much time and effort on joining the WTO, and with so much at stake in terms of the continuing insurance policy it has by virtue of the WTO rules, it would have been reasonable to expect that China would have played a leading role in the WTO Doha Round.

China, if it clearly articulated its views and made clear that others’ positive reactions to these views is important in Beijing, could exert tremendous influence in the Doha Round. But China’s behavior in the Round has been disappointingly reticent.

Some observers have attempted to explain this low profile as a strategic decision on the part of China. China, they argue, is still digesting earlier reforms and has no desire to enter into important new commitments that might be forced on it by negotiating partners in the context of the Doha Round.

Three months ago, China sponsored a proposal in the industrial market access negotiations that would allow it, and other recently acceded Members of the WTO to escape the brunt of liberalization and undertake less-deep reductions in industrial goods tariffs. To make matters worse, the proposal would permit recently acceded Members to exempt some percent of their tariff lines from any cuts at all.

On agricultural trade issues, China has allied itself with the members of the so-called G-20 group of developing countries. The most vocal spokesmen for this group are Brazil – which effectively leads the group – and India. India’s position in the negotiations is very protectionist. Brazil is trying to use the G-20 to re-build its position as a leader of the developing world.

China has different interests than Brazil and India and China is far more dependent on a successful WTO negotiation and the overall health of the system than are either Brazil and India. Recall our discussion yesterday when we learned that 64 percent of China’s GDP is now trade-related.

Neglecting the WTO negotiations or allowing them to founder under the “leadership” of Brazil and India will have serious negative repercussions for China if this undermines China’s WTO insurance policy. China needs to look out for China in the Doha Round.

**Concluding Thoughts**

It is clearly not an easy task to attempt to reach conclusions about the past five years and China’s participation in the global trading system. The WTO is complex, China is a huge and varied
country and there are hundreds of political and economic dynamics at work in the Doha Round negotiations.

Early fears were unjustified. China has not behaved in an overly aggressive manner since it joined the WTO and has been a reasonably active and constructive Member of the Organization. This is good news. China has used the WTO as an important external influence to bring about critical domestic reforms.

In dispute settlement, China has played a conservative and constructive game. China appears to have made a real effort to resolve disputes before they need to go to formal adjudication in the system. Hopefully the current auto parts dispute will also be settled successfully.

All of this sounds very good, but what good is it to China if the WTO system falls apart? China cannot afford to react casually to the collapse of the Doha negotiations. China should recognize that its own future prosperity depends upon this negotiation being a success and China must act accordingly. Thank you for your attention.

Andrew Stoler
Executive Director
Institute for International Trade
The University of Adelaide

As delivered in Shanghai on 22 September 2006