China’s Post-WTO Transformation

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Introduction

Let me start today by thanking all of my friends at the Shanghai WTO Affairs Consultation Centre for inviting me to once again participate in one of the Centre’s annual conferences. This is a particularly momentous occasion on which we collectively celebrate the tenth anniversary of China’s accession to the World Trade Organization. I was personally present in Doha when the deal was celebrated and I have been proudly associated with the work of this Centre from the beginning. It really is a great honour for me to be here with you today.

Ten years after accession but a quarter of a century in total since China started the process of negotiating its membership in the WTO, there are now not too many of us left who remember what China’s economy and participation in international trade looked like in 1987. Younger people who have grown up in the past two decades would not be able to relate at all to pre-WTO China.

I am sure that most Chinese business people in 2011 and most of the business people outside of China who trade with this country would wonder what you were talking about if you were to recall some of the issues that figured prominently in the accession negotiations. Who today could imagine that Chinese authorities in the pre-WTO period placed strict limits on the very right to engage in international trade? How many remember that Chinese authorities were so non-transparent that when the working party first met, Chinese international trade statistics were considered to be a state secret?

China’s membership in the WTO was a watershed event for China and for the other members of the WTO. The accession process that culminated in 2001 took fifteen years and fundamentally changed the way China interacted with its trading partners. It also introduced many very significant reforms inside China, ranging from increased transparency of rules and regulations to uniform application of Chinese trade policy across China’s regions and greatly enhanced competition in many sectors inside China. Membership in the WTO also protects China against discrimination by its trading partners and safeguards Chinese access to overseas markets. A useful way to think about China’s WTO Membership is to think of it as a big insurance policy that guarantees China that its partners will remain open to Chinese goods, services and investment.
China’s transformation: a tectonic shift

China has changed so much over the past ten years that it is hard to measure the degree of change unless we briefly go back to the historical record of the WTO accession working party. What kind of issues did China’s trading partners care about?

Pre-WTO Chinese laws, regulations and other trade measures were applied differently in different parts of the country. This made doing business very confusing and inherently unpredictable. It also opened up tremendous opportunities for corruption that took advantage of traders’ uncertainty in the market.

Transparency was a problem. Even where rules and regulations were published – and sometimes they were not – it was difficult for traders to become acquainted with the rules because they were hard to find. Where an application for a license or some other permit was called for, there were no clear rules about how long the authorities would take to respond to the applicant.

Earlier, I made reference to the trading rights issue. When the working party was finishing up its work, the right to import and export goods from China was restricted to some 35,000 Chinese enterprises. Foreign-invested enterprises had the right to trade but this was restricted to the importation for production purposes and exportation, according to the enterprise’s scope for business.

A number of WTO members complained in the working party that judicial review procedures where they existed in China were inadequate and did not guarantee independence of the review body. Rights of appeal were seen as too limited to guarantee fair treatment.

Discriminatory treatment in other areas was also seen as a problem by working party members who demanded non-discriminatory treatment in respect of the prices and availability of goods and services supplied by national and sub-national authorities and public or state enterprises, in areas including transportation, energy, basic telecommunications, other utilities and factors of production.

Of course, apart from these special factors – many of which were unique to China and its transforming economy, WTO Members made important demands of China to liberalise trade in agriculture, merchandise, services and investment policies.

WTO membership meant change for China on a very large scale. More than thirty Chinese central ministries and departments were directed to change 2,300 laws and regulations – eliminating many of them – and 100,000 local laws and regulations at the provincial and autonomous region level.

China undertook to make large cuts in tariffs on over 7,000 tariff lines and bound all tariffs. Trade policy since accession has been administered in a uniform way across all Chinese regions. The right to engage in international trade is now open to everyone – Chinese and foreign. China granted improved access to its market for a wide range of services providers and opened up many services sectors to foreign competition and investment.

All of these reforms and liberalizing measures were good for Chinese trading partners but even more importantly, they were good for the Chinese economy and its development. China’s growth and economic development have been facilitated by the country’s participation in the multilateral trading system where, with just a few exceptions, Chinese exporters now enjoy the right to non-discriminatory treatment in international markets.
China transformed – intellectual property protection

One area where tremendous progress has been realised since China acceded to the WTO in 2001 is that of protection of intellectual property rights. Last year, here in Shanghai, I had the privilege of participating in the Centre’s conference marking 15 years of experience with the WTO’s Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement).

My notes from last year’s conference are very instructive. The protection of intellectual property rights in China has assumed ever greater importance since China’s membership in the WTO and some statistics show just how important the protection of IP is for Chinese companies both at home and in their overseas markets. The growth of Chinese exports with a significant intellectual property rights component has gone from 260 billion yuan several years ago to more than 700 billion yuan in 2009. More than 40 intellectual property institutes have been established in China and domestic applications for intellectual property rights protection now significantly outnumber foreign applications.

Special intellectual property rights courts have been established within the Chinese judicial system and their workload has increased dramatically in recent years. The number of intellectual property-related civil cases before the courts was 5,265 in 2001, 10,000 in 2004, 20,000 in 2008 and 30,625 in 2009. Fifty-eight percent of cases involved copyright infringement, 26 percent dealt with trademark disputes and 16 percent involved patent infringements.

The importance given to effective intellectual property rights protection can also be seen by a comparison of Chinese firms’ applications for protection with those of a number of other countries. In the following areas of intellectual property – namely patents, trademarks and industrial design – I compare the activity of China in 2008 with that of the United States, Germany, Japan and Australia.

In 2008, China’s Patent Office processed about 290,000 patent applications, 67 percent of which were filed by resident Chinese companies. This compares with 456,000 applications processed by American authorities, only 51 percent of which were filed by US firms and 26,346 applications processed in Australia where just 11 percent were filed by Australian companies.

In the field of trademarks, China led the world in 2008, with 669,088 trademark applications, 88 percent of which were made by Chinese firms. The number of applications filed in China was 2.3 times the number filed that year in the USA and 5.6 times the number filed in Japan.

China also led the world in 2008 with Industrial Design applications. 312,904 applications were processed that year, 95 percent of which were from resident Chinese companies. In contrast, only 56 percent of American trademark applications were from US firms and 45 percent of Australian applications were from local firms. In total, the number of trademark applications processed by China in 2008 was more than 11 times the number processed in the USA.

China in WTO: Insurance against protectionism

China remains one the largest recipients of foreign direct investment and attracts about $105 billion in foreign direct investment each year, which is mainly destined for the export manufacturing sector. By some estimates, foreign-invested enterprises account for more than 50 percent of China’s foreign trade and around 80 percent of its processing trade.

As Professor John Lee has recently pointed out in an Australian newspaper article\(^1\), at least half – and perhaps as much as two thirds – of China’s trade with East and Southeast Asia is processing trade, with two-thirds of all finished products going to the United States and Europe. This means that the

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\(^1\)Rising China has limited Influence, The Australian, 12 October 2011, page 12.
western consumer is, and will remain, far more important for regional economies than Asian consumers. For China, it means that until such time as economic growth in the country is more based on domestic consumption that it is today, economic growth still depends importantly on access to foreign markets.

In 2009, China’s exports fell by 16% and its imports fell by 11%, reflecting the high import-intensity of its manufactured export sector. Real GDP growth declined from 9.6% in 2008 to a year-on-year rate of 6.2% in the first quarter of 2009, the lowest rate in more than a decade.

The GFC showed dramatically the value of WTO membership for China as a sort of “insurance policy” to protect its economic development. So far, WTO protection has been effective but whether this will still be the case if we have a second global financial crisis is not assured – particularly if the death of the Doha Round has the effect of reducing Members’ attachment to the WTO system.

The report issued by the WTO on October 25th – addressed to G-20 trade measures in the May to October 2011 period – is cause for concern. Notwithstanding the pledges made by G-20 member economies, the report notes “there is a growing perception that trade protectionism is gaining ground in some parts of the world as a political reaction to current local economic difficulties – difficulties that trade restrictions are very poorly equipped to resolve, such as the case of currency fluctuations and macroeconomic imbalances. There are various signs of a revival in the use of industrial policy to promote national champions and of import substitution measures to back up that policy.”

The report by WTO also indicated that “the pace of implementation of new trade restrictions by G-20 economies has not decelerated over the past six months. The number of restrictive measures (and those that have the potential to restrict or distort trade) introduced since the beginning of May 2011 has declined slightly to 108 down from 122 recorded during the preceding six months.” The good news is that not all G-20 economies took trade restrictive measures, and some took the welcome step of introducing new measures to facilitate trade by, for example, reducing import tariffs. Still, around half of the total measures recorded over this period can be considered as trade restrictive.

G-20 members’ tendency to take new import restrictive measures in the current uncertain economic climate has not slowed down. According to the WTO report, “new import restrictive measures taken during May to mid-October 2011 cover around 0.6% of total G-20 imports, which is the same share recorded during the previous six months. Restrictive measures affected mainly machinery and mechanical appliances, articles of iron and steel, electrical machinery and equipment, organic chemicals, plastics, and man-made staple fibres.”

What is really worrying – and needs to concern all of us here today – is that most of the trade restrictive measures introduced since the beginning of the WTO’s trade monitoring exercise are still applicable. Out of a total of 674 measures that can be considered as restricting or potentially restricting trade taken since October 2008, 19% have been eliminated.

At the time of the last monitoring report in May 2011, around 18% of the 550 restrictive measures had been removed. As a result, the cumulative share of world trade affected by new trade restrictions since the start of the financial crisis continues to rise – and now affects to over 2 percent of global imports and exports.

At this stage, I have to point out that the risk to the global economy of protectionist actions does not appear to be principally from actions taken by the most developed members of the WTO. Of the 108 new trade measures taken during the period covered by the report, 22 measures were European Union members.

measures, 7 of which (32%) were more trade restrictive. Just 13 measures were American measures, 4 of which were more trade restrictive.

On the other hand, Brazil was responsible for 28 new trade measures, 12 of which (43%) were more trade restrictive, and India took 20 new trade measures, half of which were more trade restrictive. China itself introduced 8 measures, five of which could be said to be more trade restrictive.

As the WTO report warns, “the global economy has entered a dangerous, uncertain phase after the encouraging signals of recovery seen at the end of 2010 and the beginning of 2011. Downside risks and uncertainties for the global economy are now growing: global activity is slowing down, economic performance continues to be uneven across countries, high debt levels and financial volatility are rising, high unemployment levels persist in many countries, and confidence has fallen sharply recently.” World trade has grown more slowly than expected in recent months and the forecast for world export growth in 2011 has been revised down to just 5.8 percent.

Against this rather gloomy background, we should be glad that the situation with respect to protectionism is not far worse than it is. WTO rules and obligations have had a lot to do with this and there can be no doubt that China continues to greatly benefit from the “insurance policy” of membership in the Organization.

WTO’s transformation of China – good or bad?

So we know that over the time that it has so far been a member of the World Trade Organization, China and the Chinese economy have been reformed and transformed in countless ways. We also know that China has experienced very significant economic development over the past ten years. Some economists would caution against drawing conclusions that cannot be proved in terms of cause and effect, but I think that in the case of China, it would be foolish to try to pretend that WTO membership did not play an important role in what has happened here over the past ten years.

In 1999, the representative of China told the WTO working party that Chinese GDP that year totalled US$ 990 billion. In 2011, China’s estimated GDP is US$6,989 billion – a seven-fold increase in a very short time that roughly corresponds to China’s membership in WTO.

The working party was told by the representative of China that, in 1998, GDP per capita in the country was roughly $260 per year for rural Chinese and $655 per year for urban Chinese. 2011 GDP per capita is estimated at an average across China of $5,184 – but higher at $8,394 if calculated on a PPP basis. Membership in the WTO and the insurance policy it provides for China’s economic growth has helped to lift hundreds of millions of Chinese out of poverty.

And here is another interesting statistic. Chinese exports in 1998 accounted for 3.4 percent of total global exports. At the end of 2009, China had grown exports to the point where they accounted for 6.5 percent of all world exports. And here, it is interesting to contrast this with India – which has been a member of GATT and WTO since 1948 and today accounts for just 1.1 percent of global export trade.

Conclusion

WTO Director General Pascal Lamy was reported recently as remarking during a visit to Sichuan Province that China has delivered an “A+” performance since joining the WTO. Although I am a strong supporter of China in the WTO, I am not sure that I would give China as high a grade as that marked by Mr. Lamy. China has – at times – not been able to resist trade actions inconsistent with its obligations under WTO. The WTO dispute concerned with Chinese restrictions on exports of rare earths is a good example of where China strayed from the path.
That said, China’s overall behaviour in the WTO has been better than most – particularly when compared with some other advanced developing countries like Brazil, Argentina and India.

It has been a remarkable ten years for China and the world. Whether your viewpoint is from within China or from one of China’s trading partners, we cannot escape the conclusion that membership in the WTO has transformed China and transformed the world economy. The transformation has been a good thing for all of us.

Thank you for your attention.