

From Rule Takers to Rule Makers:



The Growing Role of Chinese in Global Governance

Editors:
Scott Kennedy
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Co-published by
Research Center for Chinese Politics and Business (RCCPB)
International Centre for Trade and Sustainable Development (ICTSD)

*From Rule Takers to Rule Makers:
The Growing Role of Chinese in Global Governance*

Edited by

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International Centre for Trade and Sustainable Development

Research Center for Chinese Politics & Business, Indiana University
International Centre for Trade & Sustainable Development
September 2012

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Editors: Scott Kennedy and Shuaihua Cheng

Production Editor: Andrea Chen

Printer: Shanghai Longyu Printing Technology Co., Ltd, Shanghai, China

First Printing: September 2012

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Preface

The present volume has its origins in the RCCPB's Initiative on China and Global Governance. Launched in 2010 with the generous support of the Henry Luce Foundation, the purpose of the initiative is to more fully understand the extent and significance of Chinese involvement in the major areas of economic global governance and promote greater engagement and cooperation among governments, industry, other stakeholders, and scholars from the US, China, Europe and elsewhere. Our hope is that the resulting research, conferences, publications and outreach would build our empirical and theoretical knowledge, improve the capacity of Chinese, American, and other actors to be constructive participants in global governance, and create a stronger foundation for Chinese and others to cooperatively address problems fundamental to the well-being of people around the world.

With that purpose, the RCCPB recruited the world's leading experts on global governance to examine how effectively Chinese in and out of government are learning and using the rules of the game of the international system. Through extensive new field research, participants in the initiative have explored Chinese involvement in a wide variety of regimes, including those involving trade, finance, investment, foreign aid, climate change, labor standards, and intellectual property rights. Starting in the fall of 2011 the RCCPB began issuing working papers written by the initiative's scholars, and to date 25 have been circulated widely in electronic and hard copy formats. These scholarly papers, once revised, are being published in a variety of formats, some together in an edited volume and others individually in academic journals. In order to promote wider dissemination of the initiative's findings, 12 of initiative's papers have been consolidated into briefer commentaries and are presented here. We have removed academic jargon and statistical models, and highlighted the policy relevance of our research. We hope that these findings help stimulate discussions amongst policymakers in government and international organizations as well as among stakeholders in industry and nongovernmental organizations.

Although we have not mandated that the initiative's participants reach a consensus on all aspects of Chinese engagement in global governance, we have tried to encourage three principles to guide investigation and analysis. The first is to recognize that China is a large, complex nation. Its government is composed of multiple national and local agencies that often do not agree with each other or fully coordinate their activities. Moreover, Chinese companies, nongovernmental organizations, and other stakeholders have competing interest and are more active than ever domestically and internationally. Hence, there is a need to avoid oversimplification by talking about "China's" views and actions, singular, and instead talk about the views and actions of Chinese, plural. The title of this volume was explicitly chosen to emphasize this point.

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Second, although there is great interest in the extent to which Chinese participants in global governance comply with their international commitments, our initiative is focused instead on how effectively Chinese participate and the extent to which Chinese participation helps promote cooperation and solving issues facing the global community. We leave the lawyerly judgments to others in favor of investigating how well Chinese are pursuing their interests and whether greater Chinese involvement is making it easier or harder to address big problems.

And third, we have encouraged initiative participants to not take the existing norms and rules of the global governance architecture as sacrosanct. Chinese participation in international regimes raises concerns about Chinese behavior, but it also highlights potential weaknesses in the status quo. This perspective may open us to the charge of being normative, but in fact, we are trying to avoid sneaking norms of deference to the status quo into our work. We collectively take a more open-ended view of both Chinese participants and the regimes. As is usual practice, we want to remind readers that the views expressed in respective articles are those of the authors and do not necessarily reflect the opinion of their organizations, donors or editors.

* * *

The creation and successful implementation of an initiative such as this requires the extensive involvement of many individuals and organizations.

This initiative would not have been possible without the generous support of the Henry Luce Foundation and the vision of the Director of its Asia Program, Helena Kolenda, and her assistant, Li Ling. Indiana University has also provided financial and administrative support far above what any university-based center could possibly expect. We also appreciate the financial contributions of several Chinese and American companies who helped fund the initiative's conferences, including China Dianjian Valves, Cornerstone Information Systems, Shenhua Group, Sichuan Xiangwanli Co., and Silkroad Group. Caixin Media has been a highly valued media partner.

The research initiative at its core has depended on the insights, skill, and energy of 40 scholars from the United States, China, Europe, Japan, and Australia. The quality of their work is on display in the following pages. They each have been even better colleagues and partners in this collective enterprise.

Initial findings from our projects were presented at two conferences, the first in Beijing in October 2011 that centered on trade issues, the second in Bloomington, Indiana, in March 2012 that focused on the other aspects of global governance. We are grateful to the commentators and other participants for their thoughtful feedback. We are also deeply appreciative of IU's Workshop in Political Theory and Policy Analysis for hosting the March 2012 conference. Its Director Michael McGinnis ensured that the conference ran smoothly, and we benefited

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from the keynote address of the Workshop's co-founder Elinor Ostrom. We were deeply saddened by the news of the passing of Elinor and Vincent Ostrom just a few months after the conference.

Throughout the initiative and during the conferences in particular, we have depended heavily on the efforts of our two strategic partners, the Beijing-based China Institute for WTO Studies at the University of International Business and Economics, and the International Centre for Trade and Sustainable Development, located in Geneva, Switzerland. The WTO Institute has hosted the RCCPB's Beijing office over the course of the initiative, and this has greatly facilitated research and outreach activities. ICTSD has been a guiding light and is a model of best practices in how to carry out top-notch scholarship and policy engagement. Its Chief Executive Ricardo Meléndez-Ortiz and the head of the Asia and China programs, Shuaihua Cheng, have been intellectual and organizational partners throughout the process. It is an honor to co-edit this volume with Shuaihua and to be able to present many of its findings at the 2012 Bridges China Dialogue in Geneva.

The staff of the RCCPB, the WTO Institute, and ICTSD have been incredibly diligent, and they deserve much of the credit for the initiative's accomplishments. Andrea Chen, the RCCPB's Communications Director, did an excellent job as production editor of this volume, designing the cover, laying out the chapters, and overseeing the printing. Erica Kendall has helped manage multiple aspects of the program, Lily He oversaw organization of the October 2011 Beijing conference, and Edwin Way and Gauss Chu provided excellent research support. All of them are true professionals.

The question of where global governance is headed will remain central in this 21st century. The world is confronted not only with ancient problems such as poverty, war and disease, but also new challenges such as climate change and the widening gap between rich and poor. We wish that this humble exercise will serve as a cup of tea to invite our readers to join the conversation and to share your thoughts on what shall be our common future and how we can get there.

Scott Kennedy
September 2012
Beijing

Shuaihua Cheng
September 2012
Geneva

China in Global Governance: What Kind of Status Quo Power?

Scott Kennedy

Is China a rigid status-quo power?

THE QUESTION is usually not asked this way, but it should be. Instead, observers usually ask whether China is an *anti*-status quo power. The typical question is inspired by standard international relations theory. Realists argue that there is an existing international governance architecture that China did not have a hand in creating, and that as China becomes relatively more powerful, it would naturally seek to alter, perhaps fundamentally, existing international institutions and create new ones. Neoliberals explain *the direction* of change China would supposedly pursue by focusing on how China's authoritarian regime is unlikely uncomfortable with a multi-stakeholder system characterized by a more liberal multilateral order guided by open markets, a concern for the rights of individuals, and a more flexible attitude toward state sovereignty. Both realists and neoliberals tend to believe that China has been a "rule-taker," but it is becoming a "rule-maker" who is promoting new norms and rules of the game that fit its national interests. A more powerful China, the thinking goes, is likely to promote a statist and more hierarchical brand of international governance that is inconsistent with the open, multilateral governance architecture that has emerged and developed since the end of World War II under American and European guidance.

The most obvious problem with the conventional question is the record. During the Mao Era (1949-1978), China was fundamentally opposed to the global architecture, derided as a puppet of the capitalist West. But since the 1980's, China has gradually integrated itself into the various regimes that comprise the international system. This trend is broad and deep, though more advanced in economic regimes than those related to human rights and security. In short, as Ren Xiao rightly argues, so far the Chinese government has not acted like a rising power opposed to existing international norms and institutions. Skeptics respond to this fact by asserting that China is still too weak to challenge existing regimes, but that once it becomes more powerful, it will inevitably make to remold the world according to its genuine preferences. Hence, such realists see Chinese compliance and engagement of the

current international order as temporary.

There are strong reasons why Chinese global engagement is not as ephemeral as some believe. An entrenched Chinese commitment to the status quo is explicable along a number of lines.

- First, although China did not invent the current system, it is, perhaps by chance, in many ways consistent with China's interests. No one would disagree with the fact that China has been able to substantially increase its economic and military power within the context of the current order.
- Second, those with more economic and political power in China have benefitted from Chinese engagement in the current international system. As long as they run China or are favored by the ruling elite, the country ought to continue to favor the status quo.
- Third, China has become enmeshed in the international order in several ways that make disengagement or outright opposition difficult. Many Chinese companies have become integrated into global production networks, and their livelihood depends on maintaining and expanding such linkages. The Chinese government has also formally pledged to abide by a long list of agreements and treaties, and breaking such agreements would be far from costless. Moreover, China's bureaucratic structure creates opportunities and spaces that support engagement. There are specific parts of the bureaucracy responsible for engagement, and their interests would be challenged by a fundamental change in China's posture. Moreover, the fragmented nature of the bureaucracy, both horizontally and vertically, creates domestic political space for pro-international system actors, both in and out of government, to engage even when their preferences are not widely shared by others.
- Fourth, skeptics may overstate the normative distance between China and the current international system. In reality, extended and extensive participation in international processes may socialize Chinese toward accepting the operating procedures and deeper norms of the system. In economic affairs, where international engagement is highly intensive and involves a wide range of actors – central officials, local officials, companies, industry associations, lawyers, accountants, non-governmental organizations, and experts – such socialization can be utterly transformative and lasting.

There are good reasons to believe that all four dynamics are shaping how Chinese engage the globe. Moreover, measuring the relative effect of any one factor is challenging, not the least because they operationally

may be entangled with one another. There likely are both domestic and international factors at play, driven simultaneously by political, economic, and social logics.

Regardless of which factors matter, the broader conclusion that China has accepted and operates within the rules of the international system is usually treated as a welcome outcome. It is consistent with former American Treasury Secretary Robert Zoellick's call in 2004 for China to be a "responsible stakeholder." This "soothing scenario," to paraphrase James Mann, is undergirded by a normative preference for prevailing institutions and norms. The more Chinese behavior approaches these standards the better. Moreover, whatever gap exists between Chinese behavior and this "good" international system is the responsibility of China's stubborn and antiquated domestic political system and broader social values.

I do not intentionally want to challenge the view that many of the international system's features are laudable and worthy of adoption by Chinese and others. However, we should not blindly accept the international system *en toto* as being perfect. Far from it, there are many elements of international institutions and norms that are problematic and do not serve the interests of broader society, North or South. These elements of the global architecture need to be changed. For this to occur, Chinese state and non-state actors will need to play major roles. Hence, Ren Xiao, in his chapter on China and the G20, asks the right question, in wondering if China is "a reform-minded status-quo power." My fear, based on my own research and that of the participants in the RCCPB's "Initiative on China and Global Governance" is not that China has been or will be an anti-status quo power, but that it won't be, that it is so wedded to the status quo that China will forestall important reforms that are desperately needed.

The world needs China to be an anti-status quo power, to be willing to shake up the system in a way that would be broadly more beneficial to societies, North and South, and to the planet. This is not code for hoping that China will become a radical revisionist power and challenge the basic legitimacy of the World Trade Organization (WTO), the International Monetary Fund (IMF), the World Health Organization (WHO), and other institutions. We need reforms not only that reduce the gap between rich and poor and help the underprivileged, but we also need to continue to generate economic wealth. Solutions that focus on old-style redistribution are likely worse than the status quo. Instead, we need innovative reforms that break old molds and chart a new course for how problems are addressed. Chinese ingenuity and leadership can help chart unprecedented reform.

But based on past experience and current trends, it seems unlikely that Chinese will as a whole move in this direction. This volume explains why. There has been substantial “learning” over time, but there have been persistent differences across different areas of global governance institutions. This pattern is shaped by key features of China’s domestic political economy and the distinctive way that these features intersect global governance institutions.

I want to emphasize up front that the views expressed in this introductory chapter are mine and mine alone. I draw heavily on the findings of my colleagues in the other chapters, but there is not a consensus among our group on these issues. In that regard, this is not your standard introductory chapter that summarizes the rest of the volume, but it instead offers a provocative argument meant to spur discussion.

Global governance is not a dinner party

Global governance is defined as the rules, procedures, and norms that guide the interaction between states and non-state transnational actors. This broad definition is more realistic than narrower ones that focus on specific kinds of institutions or goals. Some observers equate global governance with broad, state-based multilateral institutions such as the WTO or IMF. But as Jonathan Koppell shows, global governance comes in all shapes and sizes.¹ Some are sovereign-based in which states are members, some are composed of both state and non-state actors, and others are purely private in which members are individuals or non-state groups (such as companies or NGOs). Relevant examples from the world of standards would be the International Organisation for Standardization (ISO), the International Telecommunication Union (ITU), and the Internet Engineering Task Force (IETF). The ISO’s membership includes only states, the ITU has 193 countries and over 700 private-sector entities as members, while the IETF is composed of individuals from companies and research organizations. Some global governance institutions have full global membership, while others are clubs in which there is a barrier to entry in terms of size, economic wealth, political alliance, or commercial allegiance. In some cases, voting is based on the one-member, one-vote rule; in others, voting is weighted, sometimes drastically in favor of a small proportion of members. And in some areas, the rules “have teeth” and are meant to hold

¹ Jonathan G. S. Koppell, *World Rule: Accountability, Legitimacy, and the Design of Global Governance* (Chicago: University of Chicago Press, 2010).

members accountable, while in others there are general guidelines that are offered as suggestions in which members are free to follow or ignore. The WTO has clear rules and procedures, and decisions of the panels and the Appellate Body are binding on members. By contrast, the Santiago Principles encourage transparency and other “positive” behavior by sovereign wealth funds, but place no true constraints on the sector.

Just as global governance comes in many shapes and sizes, the goals of such institutions are equally varied. Most Chinese writings on the subject of global governance emphasize the purpose of cooperation and problem-solving. True, in many contexts, participants are striving for cooperation and solving commonly faced problems. However, in many instances, global governance is about regulating competition among participants who are pursuing their narrow self-interest. Even in what seem likely purely problem-solving forums, participants’ negotiating positions and willingness to sign on the dotted line is typically shaped by how the agreements will distribute benefits and responsibilities. And whether the stated purpose is solving common problems or regulating competition, the individual participants typically prefer rules that privilege their interests and attempt to use the existing rules to their advantage. Global governance is not a dinner party or the Boy Scouts; it is often closer akin to sports competitions such as football, rugby, and basketball, where players try to bend the rules as much as possible to their advantage.² International trade lawyers are often more akin to tricky ambulance chasers than the venerable Perry Mason. Even the referees are not always neutral observers. In bilateral trade remedy cases, judgments are handed down by the national authorities of the industry seeking protection from imports. Standards consortia are often run by companies who want their proprietary technology adopted into the standard that everyone pays them a fee to use.

Given the inherently competitive nature of global governance, exerting power and influence is a central part of the process. As Barnett and Duval show, power comes in many forms.³ A participant may be skilled at persuading other members or governing authorities to adopt their position

² “A revolution is not a dinner party, or writing an essay, or painting a picture, or doing embroidery; it cannot be so refined, so leisurely and gentle, so temperate, kind, courteous, restrained and magnanimous. A revolution is an insurrection, an act of violence by which one class overthrows another.” Quoted from Mao Zedong, “Report on an Investigation of the Peasant Movement in Hunan” (1927).

³ Michael Barnett and Raymond Duval, *Power and Global Governance* (Cambridge: Cambridge University Press, 2005).

in specific cases; a participant may be effective in establishing norms that are adopted more broadly and almost without notice guide the behavior of everyone; and participants may simply be so important, economically or politically, that others naturally gravitate toward their positions.

As a result of the competitive nature of global governance, it should be no surprise that international rules and norms do not consistently promote liberalization, equity, equal treatment, and transparency. Yes, the current multilateral trading and financial systems are largely liberal and offer opportunity for rich and poor alike. The WTO is one of the most impressive organizations I have ever come across. But these and other institutions are not *uniformly* liberal and transparent. Most of the rules are made by lawyers, and lawyers apply all of their lawyerly skills to global governance institutions. In the WTO, members are generally supposed to reduce tariff and non-tariff barriers and provide national treatment to domestic and foreign business alike. The WTO allows members to institute tariffs and other penalties when faced with foreign products that are “dumped” or subsidized by foreign governments; but the standards for proving dumping and subsidies are so low as to be laughable. The mere hint of dumping or subsidies is enough to justify higher tariffs. And the WTO’s various agreements allow for tariff and non-tariff barriers in order for members to protect the environment, public health, and national security. These seem like reasonable exceptions, but they typically become large loopholes through which one could drive large trucks, steam engines, and cargo ships.

This is the real world of global governance the Chinese government, companies, and non-state actors face. It has many laudable qualities, but many that are in need of serious repair. The status quo is far from perfect.

China and global governance: at the service of industrial policy

Chinese involvement in economic global governance regimes is far from uniform, but it is heavily affected by China’s political economy. Broadly speaking, the Chinese government approaches global governance through the lens of China’s own development priorities. The use of industrial policy to promote economic growth has been a defining characteristic of Chinese economic policy. This has had two consequences. First, Chinese have focused more of their attention on global governance regimes that are most directly related to promoting economic growth and serving the interests of industry. There is a bias toward “producer-oriented” re-

gimes as opposed to “consumer-oriented” regimes. (See Table 1) Chinese have moved further up the learning curve of the former compared to the latter. For example, Chinese are quite active in the WTO Doha Round negotiations and in the use of trade remedies law. By contrast, China is generally more passive and reactive in governance of labor, climate change, and competition policy. Promotion of these latter areas typically means constraining industry, something China seeks to avoid.

Table 1: Types of Economic Regimes
(Representative Sample)

Regime Designed to Serve

Producers

- Trade Remedies
 - Antidumping
 - Safeguards
 - Countervailing duties
- Technical Standards
- Intellectual Property Rights
- Government Procurement
- Commodities Trading
- Foreign Exchange Valuation

Consumers

- Food Safety
- Product Safety
- Acid Rain
- Labor Rights
- Competition Policy
- Credit Ratings
- Carbon Emissions
- Sovereign wealth funds

Hence, the second consequence is that Chinese involvement in consumer-oriented regimes is still viewed through an industry-first lens, and every effort is made to push the rules in the regimes to serve the interests of industry, not consumers or investors. For example, transnational mergers and acquisitions are often reviewed by national authorities to ensure that a deal does not lead to unfair monopoly power or threaten the target country’s national security. China’s first preference would be to apply these rules in ways that facilitate Chinese transnational M&A activity but create obstacles to foreign acquisitions of valuable Chinese assets. When it is difficult to promote industry through a regime, Chinese tend to become relatively inactive and opposed to strengthening the regime’s authority over commerce and industry.

In addition to this industry-first approach, the Chinese government prefers to operate through sovereign-based organizations in which

the members are states, not private actors. China is much more hesitant to support private governance mechanisms and usually is unwilling to recognize their decisions as constituting authoritative international agreements. This is understandable since China is a large country and can more easily throw its weight around in state-based fora where it is the largest actor. In addition, the Chinese state is extremely hesitant to grant authority to non-government organizations domestically for fear that they could be detrimental to maintaining the rule of the Chinese Communist Party (CCP). As the chapter by Roger and Hale shows, most NGOs in China are GONGO's, government-organized non-governmental organizations.

In situations internationally where private governance predominates, it is not unheard of for China to attempt to "sovereignize" the governance structure by replacing private actors with state ones. For example, from the mid-1980's to 2004, international iron ore trade was governed by annual negotiations between the world's leading iron ore providers (BHP Billiton, Rio Tinto, and Vale) and Nippon Steel. The two sides negotiated a benchmark price that set the standard for iron ore prices for the rest of the year. In 2005, as China became the world's leading still producer and consumer of iron ore, Shanghai-based Baoshan Iron & Steel took the lead in representing the global steel industry in these negotiations. But as Baoshan ran into troubles in these talks, often settling for a very high iron ore price, the Chinese government began to take a more direct interest in the negotiations; in 2008 the government-oriented China Iron & Steel Industry Association took over the negotiations, and behind the scenes Chinese officials tried to engage Australian and Brazilian officials on the negotiations. When negotiations fell through in the summer of 2009, the Chinese government responded by arresting four employees of Rio Tinto, in what could only be called a very interesting and sovereignizing negotiating tactic.⁴

China's default position shows a predisposition to support regimes that facilitate the needs of industry and state-based institutions, but it is moderated by two factors. The first is globalization of Chinese industry and society. Many parts of Chinese industry have become embedded in international production networks, and their preferences and interests are heavily defined by their business relationships. Hence, many Chinese companies are in favor of reduced government intervention and economic lib-

⁴ The tactic failed miserably, as the iron ore companies decided soon after to abandon the annual contract negotiations and instead in April 2010 began to unilaterally announce quarterly prices for iron ore over which there were no negotiations.

eralization, policies that favor both their foreign partners and themselves. And the different parts of Chinese society, from experts to professionals, have increasingly direct interaction with foreign counterparts, and their norms and identity are partly bound up in these transnational communities. Although China's political system is authoritarian and hierarchical, it is also highly fragmented. Different parts of the bureaucracy at the national and local level may pursue their own interests that differ from the default preference of the top leadership. Moreover, business lobbying and expert consultation can occasionally shape government policies in ways that are more open to liberal solutions that give an important seat at the table to non-state actors. For example, Huawei and ZTE play an incredibly important and direct role in setting international telecommunications standards in the ITU and several purely private-based industry consortia, including the IETF and 3GPP. Chinese authorities relaxed their opposition to private governance because doing so facilitated the needs of industry.

In sum, China is oriented toward industry and state-based governance, but the evolving nature of Chinese engagement with the global economy and the landscape of China's own political system create opportunities for other approaches and outcomes.

China is a stubborn status-quo power

Although there are some areas of global governance where Chinese advocate reforms, such as in the area of financial regulation, by and large Chinese are comfortable with and advocates of the status quo. The default position is to oppose fundamental reforms to global governance rules and norms. Below is a brief review of Chinese behavior and positions across a variety of regimes.

Trade. As the papers presented at our conference in October 2011 in Beijing show, China has become a leading participant in the world of trade remedies. It not only is the most common target of antidumping cases, it is one of the leading initiators of such cases as well. Similarly, China has become incredibly active at the WTO. It is a frequent user of the dispute settlement system, as a complainant, respondent, and third party. Chinese diplomats are highly active in all of the WTO's committees, and since 2008 China has been one of the core parties negotiating the Doha Round. China's success rate in trade remedies cases has been on the rise, and its diplomatic team is widely praised for its professionalism and skill.

Praise for skill, though, does mean China's activity and positions should be welcomed. As an active user of antidumping and other trade

remedies laws, China promotes a system that distorts trade flows and is particularly disadvantageous to smaller trading countries. As research by myself and Edwin Way show (paper in progress), imposition of antidumping duties against foreigners exporting to China has not led to improvements in Chinese industry performance; instead, imports are merely shifted to other foreign countries, and Chinese consumers pay higher prices. The death of the Doha Round is not singularly due to Chinese intransigence, but if China genuinely made concluding of Doha a top priority, it could isolate India and help break the deadlock. China and other leading WTO members have all decided they are unwilling to compromise sufficiently. The death of negotiations does not represent a huge loss to China. After all, it is growing faster than every other country on the planet, and it has had some success pursuing regional free trade agreements that benefit certain segments of the Chinese economy. But the round's deadlock is a genuine setback for less developed countries, and they will have a harder time moving up the development ladder as a result.

Climate Change. China's position on climate change has not remained stagnant. It has shifted from opposing international collaboration to actively participating in the United Nations-based climate change negotiations. China has embraced the language of sustainable development and made reducing its own carbon emissions and increasing the energy efficiency of industry top priorities. Nevertheless, to this day China is still a staunch defender of the principle of "common but differentiated responsibilities" and is unwilling to accept hard, quantitative caps on its carbon emissions. China has joined the United States, Russia and many others in opposing the European Union's carbon trading scheme for air flights in and out of the EU. As Hale and Roger show, Chinese NGOs have increased their participation in transnational climate governance (TCG), but their involvement is highly shaped by Chinese government preferences, and in no area of climate change governance are Chinese NGOs leaders. Monkelbaan and Melendez-Ortiz make an excellent case for a "sustainable energy trade agreement" SETA, but they also show that Chinese acceptance of such a framework faces many hurdles.

Intellectual Property Rights and Standards. Despite extensive Chinese theft of IP, the Chinese government and leading Chinese companies are increasingly advocates of the global IPR regime. With Chinese government support, Chinese industry has been filing copyrights, patents, and trademarks at an extremely rapid rate, both at home and abroad. Huawei has surpassed IBM and other Western companies to become the world's

most prolific patent filer.

This shift in approach can be seen as a welcome turn and is consistent with the broader trend of IP protection increasing as a country's wealth rises. Nevertheless, the global IPR regime is in need of substantial reforms. Broadly speaking, the balance in rights between innovators and users has shifted substantially in favor of the former over the past few decades; although "stealing" is not to be commended, the definition of what constitutes fair use as opposed to stealing is unfair; in addition, the price of IP owners can charge is quite high, and the length of the period of monopoly rights of their IP may be too long. Because Chinese have been so focused on patenting up in order to gain leverage and rents, as with trade remedies, Chinese are not advocates of substantial reform.

Commodity markets. As suggested above, China has not been an advocate of reform for trade in commodities. While the iron ore traders favored abandoning the benchmark system in favor of a pricing scheme with more frequent updates and less negotiation, China favored maintenance of essentially a private cartel in which prices were negotiated secretly by a small number of actors. Although the system was abandoned in 2010 by the iron ore firms, the Chinese government, the CSIA, and several firms have been calling for the system's revival. Similarly, China prefers the current system of trade for rare earths in which it can arbitrarily intervene in the market to control the production and export of this commodity in order to benefit Chinese rare earth companies and downstream domestic users of rare earths. China's intransigence resulted in a political firestorm with Japan in 2010 and most recently a new WTO case brought against it by the US, European Union, and Japan. Such commodities are extremely important to countries around the globe, and a more transparent system that governed production and trade would be a big improvement over the status quo.

International Finance. If there is one area where one would expect China to be a strong advocate of reform, it would be international finance. The 1998 Asian financial crisis and 2008 global financial crisis were both major blows to China's economy. As Ren Xiao writes in his chapter, there has been extensive discussion and negotiation of reforms related to the global monetary system, currencies, valuation of risk, and the authority of international financial institutions. In none of these areas is China an advocate of substantial reform. China wants the G20 and IMF to have more authority, but that seems more like consolidation of the status quo

than serious reform. China's main goal here is to increase its own influence over governance of finance, not necessarily any specific substantive reform. China has not supported implementation of a Rubin Tax to limit speculative financial investments or increase authority over tax havens. Nor does it prefer to reduce the role of credit rating agencies in assessment of capital adequacy for banks or in the valuation of risk for corporate debt, domestic or international.

In March 2009, People's Bank of China Governor Zhou Xiaochuan issued a paper questioning the continued viability of a dollar-based global monetary system and suggested that greater use be made of an international currency, perhaps the IMF-created special drawing rights (SDR). Although this would be a very substantial reform, it only represented his own thinking, and China does not advocate changing the global monetary system any time soon. Although, China has come to promote internationalization of the Renminbi, there are huge obstacles to expansion of the RMB's role in international trade and finance. The main obstacle is China's domestic financial system, in which interest rates are tightly controlled and state-owned banks dominate financial intermediation, because this system is meant to serve the government's industrial policy priorities. Hence, Chinese leadership to reform the global financial architecture is unlikely until China's own development strategy fundamentally changes.

Conclusion: Prospects for Chinese-led reform

Given this pattern, my expectation is that China will in most areas of global governance continue to defend the status quo in broad terms, but in some areas be advocates of modest, incremental reforms. Substantial change in which Chinese take on a far more reformist, progressive role in global governance, will likely be dependent on three major changes. First, China's domestic political economy would need to be less oriented toward rapid economic growth and production, and shift more toward supporting social services, advancing the environment, and protecting the interests of workers. There are already moves in this direction, but these areas would need to be a higher domestic priority for China to pursue these goals more assertively at the international level.

Second, there would need to be greater encouragement domestically for NGOs and other stakeholders in society to have a more independent and activist role. Otherwise, it is unlikely that China could be a leader in non-state based organizations. These constraints also shape

how effective Chinese diplomats are in state-based organizations such as the WTO and IMF.

Finally, there would need to be a greater willingness among the dominant leaders of the current international system to be more open to discussing extensive and deep reforms across global governance institutions and to be new institutions where at present there are very few rules. In many areas governance is quite “thin” and needs to be developed. Governments, stakeholders, and international diplomats could all play a role in this effort. The responsibility for having Chinese play a more constructive role in global governance is not the task of Chinese alone. We all have a role and stake in this endeavor.

China in the WTO

James Scott and Rorden Wilkinson

WE BELIEVE it is critical to get to the heart of the factors that shape China's international trade relations and its engagement with the multilateral trading system. In contrast to many analysts, we start from the premise that international institutions like the World Trade Organization (WTO) play much more of a role in shaping the behavior of member states than is often acknowledged. We see international institutions as what are rather awkwardly known as "mediating variables" — that is, as sets of rules, norms and decision-making procedures that have an impact on state behavior by shaping and constraining what states do in a given issue area. This means that the behavior of states is shaped partially by their participation in a particular institution. Membership in the WTO exerts a particularly strong effect on China's commercial diplomacy for three clear reasons. Trade is a key driver of China's economic growth. Trade is a highly institutionalized realm of international relations with myriad bilateral, regional and global arrangements anchored by WTO rules that combine to shape a great deal of international trade. And China underwent a demanding application process and concomitant learning process that has sharply affected how it behaves in the WTO.

We believe that the WTO has heavily shaped China's commercial diplomacy. China is not unique among member states in that its international commercial relations are shaped by membership in the WTO — the commercial policies of all WTO members are shaped in some way by their membership in the institution — but the manner in which China joined the institution and the environment in which its membership has unfolded have nonetheless exerted unique effects and have produced a unique form of diplomacy.

We begin the discussion by first setting out the context in which China's commercial diplomacy unfolds. We do this by drawing out the key features of China's accession experience. Thereafter, we show how this experience has shaped the first 10 years of China's membership. Here we focus on two distinct phases of China's commercial diplomacy, largely the pre-and post-2008 eras. We conclude with a series of policy suggestions that relate both to China and to the WTO.

China and the WTO

China was one of the original contracting parties to the GATT, but the Taiwan-based Kuomintang government withdrew in 1949 following the Communist revolution. In 1986, the PRC sought to rejoin the GATT by taking up its original seat rather than going through a formal accession process. This proved unacceptable to the GATT contracting parties, and China was forced to go through a full-blown accession process.

Until Russia's accession in December 2011, China's accession process had been the most protracted in GATT/WTO history, taking 15 years to complete. It was complicated by the transition in 1995 from the GATT to the WTO and the need to negotiate bilateral concessions on a new range of areas, notably services, non-tariff measures and intellectual property rights, with the United States and European Union, among others. By the time the process was complete some 60% of goods entered China duty free, mostly as components to be assembled and re-exported as finished goods.

For all the euphoria that accompanied China's entry into the WTO, the final accession protocol was highly onerous. In principle, China was entitled to accede as a developing country. China's attempts to do so were, however, blocked, and China was required to give concessions that far exceeded the obligations of other developing countries. Indeed, in some areas China's obligations went beyond those of developed countries, for example in being required to eliminate all agricultural export subsidies.

Yet it was not just what was asked of China during the negotiation of its "accession ticket" that would later play such a role in shaping its commercial diplomacy. The design of the GATT/WTO also exerted significant effects. The lack of clear rules governing accession, for instance, ensured that existing members (particularly the most powerful) were able to demand of China provisions that would otherwise not have been forthcoming.

A key legacy of the accession process is worth highlighting as it has had an important bearing on China's trade diplomacy. The large reductions in tariffs that were made at accession have restricted China's negotiating space in the current Doha round (the Doha Development Agenda—DDA) of negotiations. China's bound rates (averaging 10%) and applied rates (averaging 9.6%) are very close, ensuring that any deal made in the DDA would "bite" immediately into applied tariffs. This is unlike most other developing countries, the majority of whom have a large amount of

“water” (that is, the gap between the rate at which each tariff is applied and the ceiling at which it is bound) in their tariff schedules. Unsurprisingly, it sought, in the early stages of the DDA to carve out a new category of “recently acceded members” (RAMs) in an effort to resist taking on further liberalization. But this has had serious international consequences, to which China has had to respond. China’s stance on the issue of RAMs, for instance, has generated much negative commentary and has been deemed tantamount to a refusal to participate in the DDA. This has ensured that the PRC has had to respond to such accusations (and the negative images upon which they feed). In addition to being better understood within the context of the institutional framework embodied by the WTO and the way in which this shapes the interaction among members, China’s stance on new trade concessions also needs to be understood as encouraging a particular kind of diplomatic behavior engendered by a complex of global political and institutional factors. Nonetheless, what is clear is that the way the WTO and the PRC came together, and the experience of and outcomes generated by the accession process, had a marked impact on China’s trade diplomacy. The next two sections explore how, from this basis, China’s diplomacy has evolved over the course of its first decade of WTO membership.

China’s WTO Diplomacy: The First Seven Years

China’s participation in the WTO can be split into two periods. In the early years (2001-2008) China generally kept what looked from the outside to be a “low profile,” but this belied substantial quiet activism, including the building of the largest trade mission to the WTO and a steep learning process. This pursuit of a low profile comes from China’s reticence towards taking a lead on any issue or attempt to rewrite the rules in any way. A notable exception to this is over the Transitional Review Mechanism (TRM). China took a particular stance on the review mechanism put in place to monitor the implementation of its accession agreements. The TRM was highly unpopular within China and caused considerable resentment since it singled China out for special treatment. China in turn resisted its requirements, complying with the letter of the law on the TRM issue, but no more. Since the TRM articles were unclear about whether China needed to make a formal written response to questions raised, the Chinese delegation chose only to respond orally and not to provide any text.

The TRM aside, China maintained a relatively low profile compared with other large developing countries, particularly India and Brazil,

during the immediate post-accession years. It would be a mistake, however, to assume that China was not actively engaged. In 2003 China made the third largest number of written submissions to the WTO. China joined the G20 coalition that was created around the Cancún ministerial conference, though it has offered only support, rather than leadership, to the coalition.

China's initial period of relative quietude was to be expected given the necessity of undergoing a process of institutional learning and adaptation. It was also to be expected that as China became more familiar with WTO practices it would take on a more active role. It is this move to a more active phase that has prompted suggestions in the literature that China has become more aggressive and begun to show more obviously its real intentions. It is to this more active period that we now turn.

China's WTO Diplomacy Since 2008: A More Aggressive China?

Many commentators suggest that 2008 marked a watershed during which China's commercial diplomacy moved from being relatively passive to one that was more active, and for some, aggressive in orientation. We find that while there has certainly been a step change in China's profile, this is more the result of growing confidence engendered by the experience of membership and responses to various institutional realities. Moreover, we note a continued willingness on China's part to be conciliatory where possible in negotiations.

We explore two examples that illustrate how the WTO has contributed to shaping Chinese diplomacy in this period that have given rise to the perception of China becoming more assertive but which are better attributed to the dynamics of institutional participation: the WTO's negotiation process and the July 2008 mini-ministerial, and the issue of how to treat recently acceded members (RAMs).

The negotiation process and the 2008 mini-ministerial

Negotiations in the Doha round are generally held to have peaked in the post-Hong Kong Ministerial Conference (2005) period. From 2006 through 2007 the core negotiating group was the G6, comprising the United States, the European Union, Japan, India, Brazil and Australia. When this group failed to find a compromise, the core was reduced further in 2007 to the G4 when Japan and Australia were sidelined. However, the DDA came closest to an agreement at a mini-ministerial meeting held July 21-28, 2008, at which point the round collapsed. The mini-ministerial involved the G6 countries, joined for the first time by China. Before this, China had

participated in the standard negotiating group meetings but had not in the elite small group, the so-called “green room” sessions. It is unsurprising, then, that upon entry into a core negotiating group, China should appear to have adopted a more active and assertive role. Yet this more assertive stance did not translate into a more disruptive role as some have argued, nor did it bring about the collapse of the DDA. Indeed, a more detailed examination of the role played by China in the negotiations suggests that claims of a move to greater assertiveness are unfounded.

The July 2008 mini-ministerial collapsed over the issue of the Special Safeguard Mechanism (SSM), an element of the agriculture agreement that would provide developing countries with the capacity to raise tariffs if they are faced with a surge in imports that threaten the livelihoods of rural producers. The principal division was between the United States (which wanted higher thresholds before the SSM could be used and lower permitted tariff increases) and India (which wanted a more generous mechanism). China was blamed for intransigence and standing with India against a deal, both by the US delegates and by the media. However, our research suggests that China did not simply support India’s position. Rather, China attempted to broker a deal between the positions of India and the United States. When these two would not make concessions, China made it known that it would accept any compromise that the United States and India came to and left them to it. When no such compromise was forthcoming the talks broke down in acrimony. As such, the collapse is less attributable to China than to India and the United States. This is not to say that China’s position was not, and does not remain, an obstacle to finding agreement. Like the United States, there were issues (such as non-agricultural market access, NAMA) that it was more concerned with and may have proven unwilling to compromise over.

The Issue of Recently Acceded Members (RAMs)

As noted above, the concessions extracted from China during accession were highly onerous. Furthermore, China’s accession was formally completed at the Doha ministerial conference itself, that is, simultaneously with the launch of the DDA. The DDA was given a completion date of no later than January 1, 2005. Had the DDA proceeded to this timeline, China would have found itself required to implement DDA liberalization while still implementing the later stages of its original accession protocol. Reflecting this, China’s early position emphasized the importance of granting RAMs less demanding commitments.

China received little support for its position on RAMs, and the issue became less important as the negotiations repeatedly missed deadlines. But rather than insisting on abstaining from the negotiations, China showed flexibility in its position. In effect, China modified its position accepting that it would have to implement the full extent of agreed tariff cuts, albeit with a longer implementation period. Its position is that it will contribute tariff cuts to the round in line with all other developing countries, from bound tariff rates that are substantially lower than other developing countries, with only a three-year extended implementation period. It is important to note that not only did China modify its position, but this is an area in which China has become *more* amenable to compromise in recent years rather than less.

Conclusion

Several lessons and policies can be drawn from the above analysis. We have highlighted the need to appreciate the institutional context in which trade diplomacy takes place and the effects that institutions have on trade diplomacy. The heightened tensions that characterize current trade politics can only be dissolved through greater understanding of what factors shape trade negotiations. Here we have highlighted some of the ways in which China's experiences within the WTO have led China towards particular behavioral patterns. When China acceded in 2001, the WTO, though only six years old, had more than 50 years of institutional history structuring how its diplomacy takes place. China's ability to influence these practices and procedures was, and is, highly circumscribed.

The effects of the accession were highly pertinent in shaping China's negotiating position in these early years. China initially resisted the demands for further liberalization in the DDA, using the concept of the RAM. Though the RAM issue has receded, the accession process continues to be important to understanding the problems within the DDA through having placed China in a unique position among developing countries in having almost no water in its tariffs. This has played a role in China's initial reluctance to accept any further liberalization on top of that already brought about by accession.

Somewhat paradoxically, the high degree of liberalization demanded by the European Union and United States as payment for entering the WTO may have helped to prevent further market opening agreements and lead the DDA to an impasse. This highlights the problematic lack of clear rules and guidelines concerning accession to the WTO. The acces-

sion procedure should be changed to make it more equitable and less open to abuse by the major powers. This will ultimately make the WTO more able to deliver its central function of delivering trade agreements.

China's inclusion in 2008 into the core negotiating group was necessary. It is simply too important to the trade system to be excluded. Though eliciting some critical appraisals at the time, China appears not to have played the assertive, obstructive role attributed to it. If the WTO's future negotiations – whether that comprises the DDA or an alternative – are to be successful, China's position within that core group must be recognized and the other major players must adjust to the changes that entails. In addition, though the concerns China felt about taking on further liberalization immediately following accession have abated, China continues to be constrained by the accession agreement and finds itself in a unique position among developing countries. If the DDA impasse is to be overcome, this must be recognized and given due consideration.

China's Status and Influence in the Multilateral Trading System¹

Wang Xiaodong

IN DECEMBER 2001, after 15 years of hard negotiations, China became the 143rd full member of the WTO. Over the past decade, China has seized opportunities for development and basically realized initial strategic goals, which built the foundation of long-term development. China obtained permanent MFN treatment from the United States, a relatively fair and stable international trading environment, and the right to participate in the WTO dispute settlement and rules-making processes. Above all, the accession to the WTO helped dramatically promote domestic reform and opening up and stimulate the economy.

Given this transformation, how should we see the function and influence of China in the multilateral trading system? Firstly, we should analyze the current situation of China's trade and its international background, which will help to understand China's selection of positions in WTO negotiations and the path of its policy development.

Changes in China's International Trade Position

In 2010 China's total exports reached \$1.57 trillion, six times their value when China acceded to the WTO in 2001, making China the world's largest commodity exporter and the second largest importer. Its proportion of world trade rose from 4.3% in 2000 to the current 12%. China is the largest trading partner of Japan, Korea, Australia, and Brazil, and it is the largest importer of goods from least developed countries. China's commodity exports and imports have been increasing at 20% per year during the last decade, which is twice the world average. With the expansion of economic output and trade, China's status in the WTO has significantly improved. Since July 2008, China has become one of the most important members in WTO Doha Round negotiations. We see China's participation in the entire decision making process, with the international community expecting more from China.

¹ All views expressed in this paper are those of the author alone and do not represent the stance of the WTO Secretariat. The paper was originally written in Chinese and translated by Xu Fan, University of International Business and Economics.

But China's trade development faces many challenges. For example, China is the target of a lot of trade protectionist measures. According to WTO data, in 2009 there were 77 bilateral antidumping measures instituted against China. The number of anti-subsidy cases against China was 13, far beyond other nations. In addition, WTO dispute cases involving China are also growing rapidly. Over the past six years, members initiated about 20 cases. With the growing competitiveness of products, more negative reports of the quality of China's products and policies related to industry, trade, and foreign exchange emerged. Thus, many developed and developing countries regard China as a hostile competitor to keep an eye on. On October 4, 2011, the United States Senate passed the "2011 Currency Exchange Rate Surveillance Reform Bill," intending to impose punitive tariffs on imported products caused by a misaligned exchange rate. Obviously, it is aimed at China. It is clear that although China has made great development, the sustainability of continued rapid expansion of growth and trade is uncertain.

Over the past decade, China's economic and trade power have been developing rapidly. At the same time, the world trading environment and patterns have also changed. The most obvious change is reflected in the balance of power between the WTO's developed and developing members.

First, the proportion of trade between the two groups has changed. From 1990 to 2010, developed countries' proportion of total world trade fell from 75% to 59%, while that of the developing countries increased from 23% to 38%. In 2011, the WTO predicted global trade was expected to grow at 5.8%, with an 8.5% growth rate for developing countries. The growth in trade among China, India, and Brazil has helped them represent developing members and enhance their impact in the WTO, challenging the traditional leadership of the United States, Europe, Japan and other developed members. The new balance of power to some extent has resulted in difficulties in global trade governance and decision-making, especially in the Doha Round negotiations. Requirements by major developed countries, such as the expectation that they assume more obligations, are not uncommon, while at the same time developing countries insist on assuming "common but differentiated responsibilities."

Second, the form of trade barriers in international trade has changed. Non-tariff measures like technical standards, quarantining animals and plants, rules of origin, and anti-dumping and anti-subsidies measures have replaced tariffs and quantitative restrictions to become the most

important international trade barriers.

Third, the accelerating development of bilateral free trade agreements and regional trade integration has become a big challenge for the multilateral trading system. In 1990 there were only 70 effective global free trade arrangements, while in 2010 there were 300. WTO members have an average of 13 FTA arrangements. 60% of EU trade and 50% of American trade is with regional or free trade partners. FTA arrangements deal not only with tariffs, but also investment, standards, competition policy, intellectual property, which to some extent has caused troubles for the Doha Round negotiations on market access and rules.

Fourth, with the extension of global production chains and the refinement of the international division of labor, the identification of products' national origins has become increasingly blurred. Products are often produced in different countries, and how to define the distribution of profit in production chains and the effect on national welfare and employment rate has become increasingly difficult and sensitive. In some major developed countries, government and public support for globalization and trade liberalization has dropped and even been used as an explanation for economic downturns, high unemployment and reduced industrial competitiveness. At the same time, some developing countries have not benefitted from globalization, and thus, question the WTO principle of free trade.

Because of the above four reasons, a sustainable external environment to support the rapid development of China's trade in the last decade has been full of uncertainty.

China's Position in the WTO

The level of China's market opening is higher than most developing countries in the WTO, but China's opening has slowed down. After accession to the WTO, China's market access conditions continued to improve. And this is reflected in industrial, agricultural, and service tariffs. In some areas, Chinese tariffs are even lower than in some developed members.

In market access for industrial products, bound tariffs are at a relatively low level. China's current average restrictive level of industrial products is only 9%, much lower than other major developing countries and some developed countries such as India, Brazil, Australia, and South Korea (see Table 1). Second, China's tariffs are more effective, which means bound tariffs and applied tariffs are the same. Market access conditions are with high transparency and predictability, which is consistent with the developed countries.

Table 1:

Average Bound and Applied Industrial Tariff Rates of Key WTO Members (%)

<u>WTO Member</u>	<u>Average Bound Tariff Rate</u>	<u>Average Applied Tariff Rate, 2009</u>
United States	3.3	3.3
European Union	4.0	4.0
Japan	2.5	2.5
Canada	5.3	3.5
Australia	11.0	3.8
New Zealand	10.8	2.2
Republic of Korea	10.2	6.6
China	9.2	8.7
India	34.4	10.1
Brazil	30.7	14.1
Indonesia	35.5	6.6
South Africa	15.8	7.5
Mexico	34.9	9.9
Malaysia	14.9	7.6
Argentina	31.8	13
Egypt	27.7	9.2

Source: *WTO Trade Profile 2010*, WTO Secretariat, 2010

China has made greater concessions in its agricultural trade policy, allowing China's agricultural tariffs to be lower than those of the majority of countries. China's average agricultural tariffs decreased from 23.1% in 2001 to 15.6% in 2009, lower than countries such as Japan and India (see Table 2). In addition, China has completely eliminated agricultural export subsidies.

In terms of trade in services, China's GATS schedule covers 93 sub-sectors, which is higher than the average for developing countries (41) and close to the average for developed members (108).

Table 2:

Average Bound and Applied Agricultural Tariff Rates of Key WTO Members (%)

<u>WTO Member</u>	<u>Average Bound Tariff Rate</u>	<u>Average Applied Tariff Rate, 2009</u>
United States	5.2	4.7
European Union	13.5	13.5
Japan	22.2	21
Canada	15.4	10.7
Australia	3.4	1.3
New Zealand	5.9	1.4
Republic of Korea	56.1	48.6
China	15.7	15.6
India	113.1	31.8
Brazil	35.4	10.2
Indonesia	47.1	8.4
South Africa	39.5	8.9
Mexico	44.2	22.1
Malaysia	73.0	13.5
Argentina	32.4	10.3
Egypt	95.4	70.7

Source: *WTO Trade Profile 2010*, WTO Secretariat, 2010

Although China's market-opening tariff commitments (bound tariff level) are much lower than other major developing countries, some countries have lowered tariffs unilaterally, with the result being that the gap between their actual tariffs and those of China is relatively small. For example, the average bound tariff ceiling of Indian industrial goods was 34.4%, while the actually implemented average tariff in 2009 was only 10.1%. The same figure in Brazil was 14.1%, Australia 3.8%, and Korea 6.6%. China's average industrial applied tariff was 8.7%. In addition, although China in recent years has targeted the expansion of imports from least developed countries, its imports from the United States and Eu-

rope have not expanded as quickly. There have not been major changes in China's market access conditions, and it has not released further laws and regulations opening up new services. Relative to the stage of fulfilling its initial accession commitments, further opening of China's market has slowed down.

In different historical periods, the core countries of the GATT and WTO have changed. The United States, European Union, Japan and Canada, then known as the Quad, played a leading role in Uruguay Round (1986-1994). But India and Brazil were spokesmen for developing countries, replacing Canada and Japan, to attend the Seattle conference in 1999 and the mini-ministerial meeting in Potsdam in 2007. The US, EU, India and Brazil became the new core in WTO Doha negotiations, the so-called Group of Four (G4). In July 2008, China participated fully in the Geneva "green room" mini-ministerial meetings, which involved only seven WTO members (the United States, China, European Union, India, Brazil, Japan, and Australia), indicating that for the first time China was formally admitted into the core group of WTO negotiations. The WTO has thus formed a "Group of Seven" (G7) or the Group of Five (G5, excluding Japan and Australia). We can say that after 10 years of efforts, China's important position in the WTO is widely recognized and China has won the substantive right to speak in making international trade rules.

China's Influence in the WTO

Although China has entered the core decision-making circle of the WTO, the distribution of influence is imbalanced. There are three main factors that determine influence in the WTO: market size and trade volume, soft power (that comes from experience in the multilateral affairs and negotiation power), and the breadth and depth of participation and determination to be involved.

China's growing influence is mainly reflected in the large scale of its trade and domestic market. In WTO negotiations, the larger the import scale of an economy, the greater power and the right to speak. Imports mean importers' demand and dependence on exporters, and therefore, market owners have undoubtedly more chips. China's proportion of world imports increased from 3% in 2000 to 9% in 2010, to reach over \$1 trillion. China has become the world's second largest single importer following the United States. China's current import size is twice that of Japan and 10 times that of India and Brazil. This is the material foundation to support China's current status in WTO.

The imbalance in China's influence is mainly reflected in "soft power." "Soft power in the WTO includes: leadership in multilateral negotiations, the ability to appeal and persuade, agenda-setting and proposal-drafting skills, the ability to resolve disputes, and the ability to guide public opinion. For example, if you come up with a proposal, then how many countries will be willing to sign on and support you in the conference and how much of this proposal can be included in the final text of the agreement. Also, whether you can lead a larger number of countries and organize an interest group to exert its bargain power is also important. This kind of influence is not necessarily directly connected with trade size, but instead often the professional skills of the participants. At present, China's number of proposals in the Doha negotiations is not very large. It also lacks high-level lawyers skilled in dispute settlement, although it has made considerable progress. In terms of soft power, there is still a considerable distance between China and other countries like United States and Europe, India, and Brazil.

Third, China has entered into the core decision-making circles in the Doha Round negotiations, but not yet in a leadership role. It is focused on preserving its core interests. China is a staunch supporter of the multilateral trading system and participates fully in the Doha Round negotiations, but it has focused on certain areas of agriculture, industrial goods, trade in services, and rules-making.

In agriculture, China is a member of the agricultural G20 and G30, which advocates that developed countries slash agricultural subsidies and high tariffs and promote the establishment of the special safeguard mechanism for agriculture in developing countries. In the area of trade remedy rules, China supports tightening the present anti-dumping rules to prevent abuse. In the area of industrial tariff negotiations, China supports the use of the Swiss Formula for tariff reduction, emphasizing a larger gap in equation coefficients between developed and developing members. Also it adheres to the principle of voluntary participation in tariff concessions, against forcing emerging countries to participate in chemicals, industrial machinery, electronic appliances and other sector negotiations. In the service sector, China in 2003 and 2005, respectively, proposed initial and improved offers in business services, air ticketing and road passenger transport. And in the area of trade and environment negotiations, China participated actively in the discussion of an environmental goods list, and it submitted a joint proposal with India in April 2011, emphasizing the impact on environmental products market access for developing countries.

Overall, China has taken the safeguarding of its core interests as a priority in the negotiations. China contributes less in negotiations not involving its core interests, instead conveying its concerns via groups holding similar views. This is different from the independent claims and comprehensive participation of members like the United States, the European Union, India and Brazil.

Nevertheless, though it uses a different form of expression, we can say that this is an effective and practical way for China to participate in the Doha Round of negotiations. This reflects China's conception of diplomacy and its cultural traditions, and three other objective factors. First, China's initial commitments to join the WTO were higher when it joined the WTO than for other developing countries, which has reduced its space for further concessions in the Doha Round. Second, China's accession to WTO and the Doha Round took place both in 2001. In the first five years of membership China had to not only prepare to be a full WTO member, but it also had to focus on how to fulfill its own WTO commitments and deal with their effect on aspects of its domestic economy. These two tasks brought enormous pressure and challenges to the relevant departments of the Chinese government simultaneously. As a result of limited resources, the Chinese government through 2006 focused on fulfilling commitments, not engaging in new negotiations. Third, China has needed to go through a process of adaptation to accumulate experience in multilateral trade negotiations. After all, it has had only 10 years of practical experience, compared with 60 years for the United States, Europe, India, Brazil, and other major members. It has had to learn the history of negotiations and internal operations of the GATT/WTO in a very short time.

China's Major Challenges in Using in the Rules of Games in the WTO

China has become one of the world's major trading countries and an important member of the WTO. The international community expects China to actively participate in the multilateral trading system. At the beginning, China's main attention was to the rules and how to obey and adapt to them. Now China has to think more about what kind of international rules are consistent with China's own development, China's role in the WTO and other strategic questions. Then it needs to actively put forward solutions. Other WTO members also want to know its positions on major issues like the future development of China, institution building, and reforming the WTO's agenda and decision-making process.

Due to historical, cultural and other factors, China often does more

and says less in international communications. How to effectively improve the transparency of policy and let the international community have a clear and accurate understanding of the goals and direction of Chinese policy and to objectively evaluate and judge China is a tough problem to solve. China needs to actively use the media to convey its views and claims on international trade issues, and then improve transparency and to seek the initiative. These actions play an important role in creating a stable and friendly international environment, improving strategic mutual trust with other countries and establishing a positive image of the country.

China should speed up the talent-training process because WTO professionals in China are in short supply. To a large extent, negotiations in the WTO are a talent contest. Dealing with trade disputes as well as negotiating to form new multilateral rules requires professionals to pursue national interests through international rules. The trade volume of a country can be raised in a short time, but it is a longer process to train personnel and accumulate experience, which is the real gap between the developing and the developed in the WTO. In the future, competition with other countries will be mainly reflected in international rule-making power and their relative voice in this competition. If China wants to play a leading role in the multilateral arena, a large number of multilateral complex talents are needed. They have to be familiar with international law and international trade rules, have foreign language proficiency, and have practical experience in international negotiations.

Conclusion

The great historical significance of China's accession to the WTO is that it has served as an impetus for China's reform and opening to reach new heights and in linking China's development closely with the rest of the world. China already has an adequate material basis for more influence in international affairs. The world is looking forward to China playing a greater positive effect for the multilateral trading system and contributing to solutions to global economic governance. As a great power, China has inescapable historical and international responsibilities.

China's GPA Negotiations: What Are They Really About?

Tu Xinquan

ON JUNE 29, 2012, the Chinese Ministry of Finance held a commemoration to celebrate the 10th anniversary of the enactment of the Government Procurement Law. They announced the accomplishment that the scale of Chinese government procurement had increased from RMB 10 billion in 2002 to RMB 1.1 trillion in 2011, and that RMB 660 billion had been saved thanks to the law. Nonetheless, few seemed to be convinced either in China or abroad. While domestic attention has been paid more to a series of bidding scandals of the Ministry of Railway, foreign governments and companies have complained they are refused entry to such a huge market by the Chinese government. The image of China's government procurement system is far from ideal. Now the Chinese government is doing something to improve the system by negotiating to join the WTO's Agreement on Government Procurement (GPA). All expect this would significantly enhance the fairness, openness, and efficiency of Chinese government procurement. However, since the negotiations were launched at the end of 2007, a successful conclusion is still not in sight.

This short paper will discuss what China's GPA accession means for China and its trading partners, what they are negotiating about, and why the negotiations have been so difficult and complicated. Although it seems that there is no simple way to successfully finish the negotiations quickly, the author will make some suggestions for both sides to push forward the process.

Why Did China Apply for GPA Membership?

As mentioned above, China's Government Procurement Law was enacted ten years ago, soon after China became a WTO member. During China's WTO accession negotiations, China made a commitment to join the GPA. This seems backwards. The GPA is a plurilateral agreement under the WTO, which mainly aims to eliminate the exemption of government procurement from the principle of national treatment among voluntary signatories. Besides, parties should follow the principles and rules of the GPA in their covered procurement. As of 2012, 42 of the WTO's

157 members have signed the agreement, among which are only a few developing countries. Since it is not a mandatory obligation to accede to the GPA, most members choose to remain outside it. But for new acceding WTO members since 2000, it has become an informal duty to commit to joining the GPA. Croatia, Chinese Taipei, Saudi Arabia, Vietnam, and Russia all made such a commitment. In this sense, China is not exceptional. What was somewhat weird is that China had no government procurement system in place at that time.

In any case, China did promise in its WTO accession package to initiate negotiations to joining the GPA as soon as possible by tabling an offer. But it is safe to assume that the Chinese government at that time had not done much thinking about what this promise meant and how and when it should be fulfilled. Even the demanders of the promise, the United States and European Union, were not very serious about it. In fact, foreign companies were enjoying preferences at all levels of governments in China in their consumption and investments. There was no need to worry about receiving less than national treatment. However, things have changed over time. With the help from experts from the US, EU and international organizations, China developed its own government procurement system by learning from their experiences. One major experience is to use government procurement as a demand-side industrial policy tool. In particular, the US's "Buy America" policy is considered a good example. Therefore, Article 10 of the GPL provides that "Government procurements should (or shall) target domestic goods, works, or services."

But in the first years after China's GPL was implemented, governments were busy setting up institutional frameworks for this new system and had no time to exploit this hardly understood policy tool. In 2004, the National Development and Reform Commission (NDRC) and the Ministry of Finance jointly promulgated "Opinions on Implementation of Government Procurement of Energy-efficient Products," in which government procurement was for the first time taken as a formal policy tool to achieve specific goals. Since then, more and more agencies have taken government procurement as one important part of their policy toolbox. The most famous case is, of course, the linkage between government procurement and the "indigenous innovation" policy jointly sponsored by several ministries in 2006. With some discriminatory provisions against foreign invested companies in China, the policy was considered a symbol of Chinese government procurement policy turning into a protectionist instrument. While using bilateral pressure to successfully force the Chinese government to

give up the linkage policy, foreign governments and companies began to realize it was time to put China under a multilateral framework. Therefore, during the US-China Joint Commission on Commerce and Trade (JCCT) meeting held in April 2006, Vice Premier Wu Yi agreed to commence China's GPA accession negotiations before the end of 2007. Was this a voluntary move by China? It is hard to say that the Chinese government was really prepared to launch the negotiations, not to mention willing to join the GPA as soon as possible. With a procurement regime established only three years prior, the government had just begun to understand what it was and how it should be regulated and used. However, because of increasing foreign pressure and WTO commitments, the Chinese government had to show respect for its international obligations. This lack of internal motivation put the GPA negotiation at a totally different starting point than the original WTO accession negotiations.

What Are They Negotiating About?

The negotiations have been underway for more than four years. China has delivered three offers and promised to come up with a fourth before the end of 2012. What has been agreed to and what are still the main disagreements? Interestingly, what has been agreed to and not agreed to is based on one single question: what is government procurement?

Neither the GATT's main texts from 1994 nor the GPA itself has a clear-cut definition of government procurement. The GATT defines it as procurement for government purposes, but leaves unanswered what constitutes governmental purposes. The 1994 GPA only specifies the contractual means of procurement. The current text of the GPA just combines the above two approaches and develops a more comprehensive definition of government procurement, which refers to any kind of procurement by covered entities not for commercial purposes. Thus, the coverage of government procurement is subject to negotiation for each party, which is also the most important part of the whole accession negotiation. In general, since the GPA has no definition of government procurement, the coverage negotiation is based on the definition and scope of the applicant's domestic government procurement legislation. The incumbent members can reciprocally request more or give less during negotiation. However, the bargaining process is much more complicated because of the inconsistency and incoherency of Chinese government procurement system, as well as the huge difference between China's system and that of current members. The central point of focus is state-owned enterprises (SOEs).

There is no legal definition of an SOE or accurate number of SOEs in China perhaps because governments invest in everything. The state sector, including SOEs and government spending, accounts for almost one third of total fixed asset investment, meaning that it is the single largest investor in China. But the government has been trying to separate itself and SOEs during the three decades of market-oriented reform. Therefore, SOEs are not subject to the Government Procurement Law since they are supposed to be independent market entities. In China's WTO commitments, China also confirmed that "all laws, regulations and measures relating to the procurement by state-owned and state-invested enterprises of goods and services for commercial sale, production of goods or supply of services for commercial sale, or for non-governmental purposes would not be considered to be laws, regulations and measures relating to government procurement. Thus, such purchases or sales would be subject to the provisions of Articles II, XVI and XVII of the GATS and Article III of the GATT 1994." This means that it is not necessary to include SOEs in GPA coverage, since they have already undertaken the obligation of national treatment. However, the GPA parties are not convinced by that commitment. They are afraid that Chinese SOEs will submit to governmental requirements in some cases and secretly be given preferences for domestic products. If SOEs are listed under the regulation of the GPA, foreign suppliers at least can resort to challenge procedures with the WTO dispute settlement mechanism to deter hidden discrimination from SOEs. Moreover, in their own government procurement systems, SOEs are certainly public procurers governed by the government. With their SOEs under the GPA, they reasonably have requested that Chinese SOEs are listed in China's offer. However, listing SOEs as government procurers goes beyond China's current system and even runs counter to the orientation of Chinese SOE reform. This is surely a dramatic move which only top Chinese leaders can make decision. The problem is they are not very interested yet.

Is GPA Accession Really Important?

One reason why Chinese leaders are not interested is that nobody can tell them why it is important for China to join the GPA. Generally speaking, joining a trade agreement should have three benefits. The first is expanding export markets. The second is promoting domestic reform and development. And the third is improving international status and relations. The GPA certainly has all the three advantages, but none of them seem to be so attractive or compelling.

Regarding export opportunities, current GPA members show no good example. An EU study finds that only 3.5% of EU government procurement expenditure went to firms outside the EU between 2007 and 2009. The percentages for Korea, Japan, and the US are also in the single digits. Moreover, the Chinese government has turned its focus from exports to domestic consumption due to pressure from developed countries. Promoting reform through opening up is still meaningful for China. But China is now more self-confident in its own system than before thanks to the 2008 global financial crisis and the bad performance of developed countries since then. Lastly, the GPA is in no way comparable to the WTO. It is only a plurilateral agreement with 42 participants. It seems that China has nothing to lose without the GPA membership. Besides, because China is the first large developing country negotiating to join the GPA, accepting conditions that are too onerous would even be criticized as giving in to developed countries by other prospective applicants, such as India, Russia, and Brazil.

Is it really important for GPA members to get an extensive and intensive offer from China? China's government procurement market is truly huge. Even the official statistics show the market in 2011 was RMB 1.13 trillion. According to EU estimation method, the actual entire procurement market could be ten times larger than the official one, then reaching 11.3 trillion, which is almost one quarter of China's GDP and equal to total imports. But no one should have such high expectations. The incremental market opening opportunity due to GPA accession would be modest at best. One reason is that the current market is already largely open. China's "buy national" clause has not been entered into effect. Government agencies and SOEs have no preference for domestic goods. This is proven by the EU study showing that the import penetration rate of Chinese public sector is 6.1%, higher than those of the US (4.6%) and Japan (4.7%), and a little lower than for the EU (7.5%) and Canada (6.9%). Another reason is that foreign companies can already sell to the Chinese government through their subsidiaries in China. Even among GPA members, selling through local subsidiaries rather than direct exporting is the main way of entering foreign government markets, because it is always politically risky for a government to buy too many imported goods even though it might be economically rational.

Therefore, for foreign countries and companies, at most they could expect an enhanced and improved government procurement system upon the implementation of GPA rules and principles rather than the market ac-

cess offer that would exist on paper. They have already been in the market. It would be more desirable to help and push China to perfect its procurement system than to struggle for a long list of covered entities.

Conclusion

Following China's WTO accession, the Chinese government spent a lot of energy on winning recognition of its full market economy status. Now it seems to have given up this effort since it will automatically get this status in 2016. But even then China will still not be expected to be a true market economy in the eyes of most people. The border between government and market remains quite unclear and the power of government has even grown stronger recently. This might be the root cause of the difficulties with China's GPA negotiations. When the government is still a major player in the market, it is hard to accept international rules directly restricting its behavior.

Although there are some suspicions, the Chinese government itself has repeatedly affirmed its commitment to pursue market reforms. In this context, China's commitment in its WTO accession that SOEs will not be considered a government procurer is much more valuable than the one which will include all its SOEs in its GPA accession offer. At least, the former one indicates the right direction in which should be encouraged and cherished. And China's GPA accession is supposed to be in line with this direction. If both sides can keep this in mind, the negotiations would be less antagonistic and more constructive.

China in the G20: Between Status Quo and Reform

Ren Xiao

INTRODUCTION

DIFFERENT PEOPLE give different answers to the question of whether China is an advocate of the status quo, a modest reformer, or an anti-status quo reformer. To respond to this question, we need a working definition. After having considered the limited analysis to date that Hans Morgenthau, Robert Gilpin and others have conducted on “status quo” and found no satisfactory answers, Johnston made a contribution by having developed a set of indicators to assess whether an actor is a status quo seeker. Those five indicators move from the least challenging to the most challenging to the status quo, and they are further grouped into two sets.¹ The first set of factors is especially illuminating for the case of China and the G20; they are the degree of participation, acceptance of the norms of the community, and the desire for change when possible.

For Barry Buzan, the peaceful rise of a new power is possible in international society. This involves a two-way process in which the rising power accommodates itself to the rules and structures of international society, while at the same time other powers accommodate some changes in those rules and structures by way of adjusting to the new disposition of power and status.² A peaceful rise does not exclude rule change, so long as this is made not through force or coercion, but rather through mutual accommodation. Organski and Kugler defined status-quo states as those that have participated in designing the “rules of the game” and stand to benefit from these rules. For them, only rising states that want to change the rules as the power distribution changes are non-status quo powers.³

It seems too narrow to define a status-quo power as a rising power that whole-heartedly accepts the existing rules without any aspiration for

¹Alastair Iain Johnston, “Is China a Status Quo Power?” *International Security*, Vol. 27, No. 4 (Spring 2003), pp. 5-56.

²Barry Buzan, “China in International Society: Is ‘Peaceful Rise’ Possible?” *The Chinese Journal of International Politics*, Vol. 3 (2010), pp. 5-36.

³A.F.K. Organski and Jacek Kugler, *The War Ledger* (Chicago: University of Chicago Press, 1980), pp. 19-20; quoted in Johnston, “Is China a Status Quo Power,” p. 9.

rule change. We can hardly find historical examples. History may stand on the side that all rising powers seek rule change one way or another. The real question is in what way a rising power seeks rule change. In stark contrast to Germany and Japan between the First and Second World War, when they attempted to overthrow the status quo by way of annexation and invasion and eventually by waging an all-out war, China's behavior in recent decades suggest that it is first learning the rules of game and applying them, and seeks rule changes where it finds them unfair and unreasonable through accommodation, negotiation, and consensus-building.

Basically, a status-quo state accepts the existing rules of the game and it does not seek to change them since generally it is satisfied with the current situation. It wishes to maintain the existing order, and a rigid status-quo state even uses the resources it possesses to oppose changes so as to defend the current rules. On the contrary, an anti-status quo state is strongly unsatisfied with the existing rules, explicit or implicit, and seeks to overthrow them as the guiding norms for state behavior. A reform-minded status-quo state sits in between. Overall, such a state is satisfied with the current situation and accepts the existing rules. In the meantime, it holds that there are shortcomings in the present order and hopes to improve those things to create a better order. However, it seeks changes on the basis of the present rules of the game that it has accepted and endorsed. A reform-minded status-quo state wants to make the desirable changes in an incremental rather than radical or revolutionary way, likely over a long time span. This often requires it to work with other actors to build consensus. In this sense, it is often much more multilateral-oriented rather than resorting to unilateral or bilateral action. China's behavior in the G20 fits this definition of a reform-minded status-quo state.

A PRECURSOR

Prior to the ascent of the G20, China was faced with the question of whether it should pursue a membership or accept an invitation to join the G8. As China was rising economically as well as politically in the world, such a possibility was repeatedly raised around the turn of the century, mostly in an informal way, in the form of discussing whether the G8 should be turned into the G9 by bringing in China (or into the G10 by further adding India). In this context, internal meetings were held within Chinese government bodies to deliberate on this issue and a conclusion was reached: China should not seek to join the G8 or accept such an invitation for two overriding reasons. First, China identified itself as a devel-

oping country. For Beijing, such a membership would not be perceived positively in the developing world, since this would likely be seen as a major move to join the group of Western powers, and thus a fundamental change of self-identity as well as changes of its long-held position and policies. China's key foreign policy principle of "developing countries are the basis" would be affected, and this would be too high a price to pay for Beijing. Second, no matter whether it was the G8 or the G9, such a grouping would in any case be dominated by the Western powers. Being a junior partner could by no means be acceptable for China. Furthermore, the Chinese government tended to emphasize the UN as the legitimate engine of global governance, and China did not want the UN's authority to be undermined.

From the perspective of the G8, while non-Western powers were emerging and the world was changing profoundly, the G8 was appearing to lose momentum and risked loss of significance. Bringing in major developing powers and making them dialogue partners gradually became a necessity. Starting from the June 2003 Evian Summit hosted by France, the G8 regularly held dialogues with five major developing countries – China, India, Brazil, South Africa, and Mexico. This formula made the "+5" appear collectively as a group of which China was a part, and so China did not have to worry about being singled out and it could also take advantage of this opportunity to conduct its emerging power diplomacy. However, for Beijing, particularly the Ministry of Foreign Affairs, since the dialogues always occurred in places where the G8 summits were held, dialogue arrangements, agenda setting, and outcome design were all controlled by the G8, and the developing powers largely had to accept them. In this sense, the two groups were not equal.

In the Fall of 2008, the global financial crisis, triggered by the sub-prime mortgage crisis in the United States, broke out and quickly spread to other parts of the world. Itself part of the problem or even the origin, the West encountered the most serious crisis since the Great Depression of the 1930s. Clearly, the G8 was not capable of coping with a crisis of such magnitude. The world faced a dramatic shift in global power distribution and pressing global challenges. International institutions established after the Second World War seemed fragile and lacked legitimacy in responding to these challenges. Far-reaching reforms appeared necessary for creating the architecture of legitimate global institutions that would be representative, relevant, and effective. Against this backdrop, the elevated the G20 stepped onto the center stage of global economics and politics.

The G20's Ascent and China's Participation

Initially, the G20 mechanism came into being after the 1997-98 Asian financial crisis, primarily as a gathering of finance ministers and central bank governors to discuss and coordinate their international economic policies. As such, by including major developing countries as well as developed ones, the G20 forum created a perspective for the future shape of global governance. Since G20's inauguration in 1999, China has sent its finance minister and governor of the People's Bank of China, its central bank, to all the meetings of the G20, and its participation within this forum has so far been described as active.

By 2008 when Lehman Brothers collapsed and the crisis was deepening and spreading, the G20, which includes both major developed and developing economies, became a readily available tool for taking collective actions to fight against the global crisis. Initiated by the United States, the first ever the G20 summit took place in Washington in November 2008. President Hu Jintao of China attended the summit and gave a speech that laid out in a comprehensive way China's fundamental position and proposals with regards to fighting the massive crisis and reforming the international financial system (IFS). The speech is an important document for understanding Chinese policies, according to which reform of the IFS should aim at establishing a new international financial order that is fair, just, inclusive and orderly, and fostering an institutional environment conducive to sound global economic development. His speech also offered with four major proposals regarding reform in line with the principles of comprehensiveness, balance, gradualism, and pragmatism.

First, reform needs to be comprehensive. A general design is necessary which should not only focus on improving the IFS, monetary system and international financial rules and procedures, but also take into account the development stages and characteristics of different economies. Second, it needs to be a balanced reform based on overall consideration, seeks a balance among the interests of all parties and builds a decision-making and management mechanism with wider and more effective participation. Third, reform needs to be incremental, seeking gradual progress in a phased manner, starting with the easier issues, and achieving the final objectives of reform through sustained efforts under the precondition of maintaining stability of the international financial market. And fourth, it needs to be pragmatic, stressing results. All reform measures should contribute to international financial stability, the global economic growth, and

the welfare of people in all countries.⁴

Moreover, China proposed four reform measures, including advancing reform of the international financial organizations and increasing the representation and say of the developing countries in them, as well as improving the international currency system and steadily promoting the diversity of the international monetary system. From the beginning of the G20 summits, China underscored that when coping with the financial crisis, the international community should pay particular attention to the damage the crisis has brought to the developing countries. China proposed three measures, namely, helping developing countries maintain financial stability and economic growth, sustaining and increasing assistance to developing countries, and maintaining economic and financial stability in those countries.⁵

Between the Washington and London summits, stabilizing the world economy and preventing it from further slipping into chaos were inevitably the G20's top priority, while reforming the international monetary system and strengthening the financial surveillance system were put high on the agenda. China showed a positive attitude, and the two exploratory essays offered, respectively, by Vice Premier Wang Qishan and the Central Bank Governor Zhou Xiaochuan right before the London Summit, were suggestive. Wang called for the G20 "looking beyond the needs of the top 20," believing the developing world should have a stronger say in how the international financial system (IFS) is run. To reform the IFS, the G20 should focus on readjusting the governance structure of international financial institutions and increasing the representation and voice of developing countries. The London Summit should set a clear goal, timetable and roadmap for such reform.⁶

From the outset, China emphasized the need to help developing countries. According to Vice Finance Minister Li Yong, there are three key areas the G20 should help developing countries to cope with the crisis: First, the G20 should take care of the issue of development financing

⁴ See "Tide Over Difficulties Through Concerted Efforts," Remarks by H. E. Hu Jintao, President of the People's Republic of China, at the Summit on Financial Markets and the World Economy, Ministry of Foreign Affairs, *China's Foreign Affairs 2009*. (Beijing: World Affairs Press, 2009), pp. 545-549.

⁵ Ibid.

⁶ Wang Qishan, "G20 must look beyond the needs of the top 20," *The Times* March 27, 2009. See http://timesonline.co.uk/tol/comment/columnists/guest_contribut.

and advance the international poverty reduction process. The international community needs to reduce the crisis' negative impact upon the development issue to the minimum, strengthen capacity-building of the development institutions, ensure development resources, and make sure that the implementation of the Millennium Development Goals is unaffected. Developed countries should realize sooner rather than later their committed goal of official development assistance reaching 0.7% of the national income. They should not reduce the assistance they offer to the developing world due to the crisis, and should continue to write off debts developing countries owe them, open up their market, and transfer technology to jointly promote global poverty reduction and development.

Second, there is a need to build the capacity of multilateral development banks to better help developing countries to deal with the crisis. Those institutions should keep to and perform well their missions of reducing poverty and promoting sustainable development, enhancing capital adequacy, increasing anti-cycle capability, and developing highly practical aid tools through simplifying loan conditionality to meet the challenges such as capital outflow and impediments to trade financing. Third, continue to deepen international economic and trade cooperation and oppose trade protectionism. The rise of protectionism would seriously weaken the trend toward global economic recovery, obstruct the process of poverty reduction and sustainable development. Countries should work together to limit the negative impact of the financial crisis on international trade, and maintain its healthy and stable development.⁷ These statements laid out China's fundamental position, and they have remained its position since.

The G20 and Global Economic Governance

Over the years, observers have repeatedly identified the defects of the international monetary system, and there have been waves of calls for reform. For example, fifty years after the Bretton Woods conference, in 1994, there was a considerable desire to reform the IMS. The major objections to the "non-system" emerged from considerably adverse effects from exchange-rate volatility and capital flow volatility. This became a consensus when the 2008 global crisis broke out and shook the world, as it further revealed the problems and the necessity for reform. As Robert

⁷ "The Ministry of Foreign Affairs held briefing to introduce President Hu Jintao's forthcoming participation in the second G20 Summit," see *Renmin ribao* (People's Daily) March 24, 2009, p. 3.

Zoellick said, “The development of a monetary system to succeed ‘Bretton Woods II’, launched in 1971, will take time. But we need to begin. The scope of the changes since 1971 certainly matches those between 1945 and 1971 that prompted the shift from Bretton Woods I to II.”⁸ As is often the case, there is considerable disagreement on how and to what extent the IMS should be reformed. The reform proposals vary in degree from increased macro economic policy coordination to the creation of a World Central Bank.

No doubt, there are different assessments of the G20, including its usefulness and effects, and it is easy to brand the G20 a failure. For example, after the Seoul Summit, a *Financial Times* editorial said it did not embody “collective leadership, but joint abdication of power.”⁹ However, some important actions have emerged. The London G20 summit in 2009 produced a \$1.1 trillion global recovery plan, featuring national stimulus efforts, calls for increased IMF resources and greater financing for trade. The London summit also transformed the Financial Stability Forum – a loose grouping founded by the G7 – into a more influential Financial Stability Board open to all G20 nations and tasked with guiding new financial regulatory policies. It has already led to accords on standards and monitoring. The G20 summits in Pittsburgh, Toronto, and Seoul, as well as the preparations for the Cannes summit under France’s chairmanship, have achieved agreements on exempting emergency food supplies from export bans and on agricultural assistance for Africa. Also, France has used the G20 to spark debate on what a future international monetary system might look like.¹⁰

China should take the G20 very seriously. First, the G20 is an important platform. The G20 emerged from the backdrop when the Western countries were widely held responsible for the outbreak of the financial crisis and the G8 was incapable to singularly cope with it. When G20 at the summit level was born, for the first time major developing countries were engaged in global economic governance on a more equal footing. This has been a significant development and has provided a rare opportunity for major emerging countries, and China should actively participate in the process.

⁸ Robert Zoellick, “The G20 must look beyond Bretton Woods,” *Financial Times*, November 8, 2010, p. 15.

⁹ “G20 show how not to run the world”, *Financial Times*, November, 13, 2010, p. 6.

¹⁰ Robert B. Zoellick, “Five Myths about the G20”, *The Washington Post* “Outlook”, October 30, 2011.

Second, the G20's elevation is a favorable development. When China's comprehensive national power is growing and its international status rising, no matter what form global economic governance will take in the future, it would not be realistic without China's participation. Since America and Europe hope to enlist China's cooperation, Beijing is in a positive and advantageous position. On the whole, there are more gains to choose G20 and to participate in global economic governance on an equal footing. The emerging economies will obtain more representation and vantage point.

Third, the G20 can be made a long-term effective mechanism. After the Pittsburgh summit, the G20 started a process of establishing regulations and building institutions, and entered into a transition from crisis-fighting to a long-term mechanism for hopefully effective global economic governance. This development has far-reaching implications, as it has preliminarily changed the situation in which for many years developed countries monopolized international economic affairs, and has helped upgrade developing countries' rights to have a say in them. It is beneficial for China to participate in global governance in a wider platform and to defend China's own as well as many developing countries' legitimate interests.

Fourth, there are three outstanding questions that need to be resolved. One is the issue of legitimacy. The concerns of non-G20 nations need to be addressed and their interests taken into consideration. Second is whether the G20 can be effective. The G20 bears the characteristics of hastiness to combat emergencies. When the crisis subsides, clashes of different interests and aspirations would likely emerge and thus pose challenges for the G20 states to continue coordinating their actions or policies for better governing global economic affairs. A third one is the power distribution issue. Schemes have to be worked out for proper and improved arrangements regarding financial regulation, share management, and voting power distribution in the IFIs. Beijing has been aware that this will take time and will be undergoing a long, complex, and even tortuous process. This was proven right given the intense controversies and fights over China's exchange rate policy, especially before the Seoul summit.

In short, China wants the status of the G20 as the premier global economic governance platform to be consolidated, and further turn China's influence into institutional power. By adequately and reasonably taking advantage of its newly increased institutional power in the international governing organizations such as the IMF and World Bank, Beijing hopes to effectively safeguard and expand its development interests, and to shape

a favorable institutional environment for its participation in international economic cooperation and competition at a higher level.

CONCLUSION

As defined at the beginning of this essay, a reform-minded status quo power sits somewhere between rigid and anti-status quo powers. A status quo state accepts the existing rules of the game and it does not seek to change them because generally it is satisfied with the current situation. China has benefited from the existing international system and has continued to rise to the world's second largest economy status. Logically, it does not aspire to overthrow this system within which it is doing well. In this sense, China is indeed a status quo power. Meanwhile, it is not true that China rigidly sticks to this existing system and wants it to remain unchanged. Rather, China has been arguing that the current international order is flawed and there exist a number of unjust and unreasonable components. They long need to be changed. In this sense, China is not a complete but rather a reform-minded status quo power.

By analyzing the case of China in the G20 process, the findings demonstrate that China has actively participated in the G20's deliberations and actions, put forward suggestions, sought expanded share and voting power in the IFIs in correspondence with its rising status, and promoted the internationalization of the Renminbi. In other words, while having accepted and observed the current international rules of the game, China seeks changes for greater institutional power and for better global governance. This aspiration became stronger when it appeared that China has fallen into the "dollar pitfall" in which China is "abducted" by the large reservoir of the US treasury bonds it has purchased and accumulated, as the value of which is determined by the US domestic policy decisions. When the dollar loses value, China's dollar assets shrink. This real risk prompted Beijing's desire for a new international reserve currency that is independent from any particular nation's policies, though China's Foreign Ministry claimed it was China's official policy.

China's approaches to the changes it seeks are reformist rather than revolutionary. In this regard, there are two features. One is incrementalism, namely, being patient and attempting to bring about changes gradually over a fairly long period. The other is change through consensus. China is prepared to seek consensus in the multilateral settings, working with other actors and joining global economic governance. After all, governance is a collective endeavor. Crisis usually drives changes. The G20's

elevation to a summit-level body and its rise to prominence were a product of the global financial crisis when the G8 was unable to fight the crisis alone. Against this backdrop countries had to join hands to collectively combat the crisis and further to explore the necessities of reform. After all, the developing powers are rising. Due to these reasons, the G20 process inevitably bears the color of reform.

Nevertheless, on the issue of United Nations Security Council reform, as one of the permanent five members which possess veto power and thus has a vested interest, China is more rigid and reluctant to extend veto power to other nations. This is not very different from the position shared by two other permanent members, the United States and Russia. If one looks at this case of the UN Security Council reform only, one could easily come to the conclusion that China is a rigid status quo seeker. However, facts combined do not lead us to such an argument. On this particular issue of Security Council reform, China's position has much to do with Japan's ambition for a permanent seat and with Sino-Japanese relationship.

Let us not lose sight of the forest while looking at the trees. China has been espousing necessary changes for a "new international political and economic order." When that sounded too revisionist and being aware that China was a benefactor of the existing order, Beijing opted for the more moderate rhetoric of "pushing the international order to change in the direction of becoming more just and reasonable." With that in mind, China carefully wants to avoid being seen as anti-status quo and to demonstrate a realistic attitude. In the meantime, China does have ideals and wishes for a better world. For example, it wishes for more even distribution of power between established and emerging powers, better treatments of the less developed countries, and fairer representation of different kinds of countries in terms of level of development. In general, China espouses constructive reforms while accepting the existing rules and wanting to integrate into the world further. What China has been practicing within the G20 proves this well.

China and Japan's FTA Strategies and Regional Integration in the Asia-Pacific

Junji Nakagawa and Wei Liang

THE TRADE policies of both China and Japan have historically centered on multilateralism. Over the past ten years, however, these two countries have shifted course somewhat by pursuing a number of free trade agreements (FTAs) and economic partnership agreements (EPAs). As the two largest economies and most important powers in Asia, the actions and interactions of China and Japan have a direct impact on the global trading system.

China's FTA Strategy

China officially proposed its first FTA negotiation with ASEAN members in November 2000. Since then China has begun negotiations or entered into a number of regional and bilateral trade agreements. China signed its first FTA agreement (trade in goods) with ASEAN in 2004, and presently ten are in force: Hong Kong (2004), Macao (2004), ASEAN (2005), Chile (2006), Pakistan (2007), New Zealand (2008), Singapore (2008), Peru (2009), Costa Rica (2010), and Taiwan (2010). China's trade with these countries in 2010 together totaled \$574.5 billion, or 19.3% of China's global trade. China is also in the process of negotiating FTAs with the Gulf Cooperation Council (GCC), Australia, Iceland, Norway, and the Southern African Customs Union (SACU, which includes Botswana, Lesotho, Namibia, and Swaziland). Finally, China is considering reaching FTAs with India, South Korea, Japan, and Switzerland.

What are the major factors that have contributed to China's policy shift from multilateralism to bilateral/regional FTA negotiations? Politically, a well-thought out FTA strategy will help assure China's peaceful and beneficial emergence relative to its Asian neighbors. Economically, China is motivated to pursue FTAs with such partners as Australia, ASEAN, and the Gulf countries and to secure essential primary materials in order to hedge against potential supply shortages, including those created by increases in commodity prices. The pursuit of FTAs in this perspective again reflects the Chinese leadership's desire for ensuring the achievement of its key national security goals, particularly the long-term sustainability of its eco-

conomic development strategy.

What are the main characteristics of China's FTA strategy? Considering the fact that improving political relations and securing natural resources have been the two main concerns that have dictated the choice of China's FTA partner selection, it helps explain why China's FTAs so far have not resulted in deep and comprehensive trade liberalization. Instead, China has signed most of its FTA agreements with small and medium sized economies; the negotiation process has been very flexible, pragmatic, and gradual; and the scope of agreements has tended to be shallow and less controversial to its partners. Why has China preferred these "shallow" agreements over comprehensive ones? It is less costly for both China and its developing country FTA partners to agree on these less demanding and less "painful" trade concessions. Many of the FTA agreements China has negotiated have excluded sensitive sectors and issues that would be more difficult to deal with in the short term, such as intellectual property rights protection, dispute settlement mechanisms, special sectoral liberalization, environmental protection, and labor standards. Also, China negotiated more than half of its FTA agreements by placing geopolitical security and strategic goals over economic considerations. China's efforts with the China-ASEAN FTA (CAFTA) are widely seen as an example of the primacy of geopolitical considerations in its engagement of Southeast Asia. In order not to upset its ASEAN trading partners, China allowed the ASEAN countries to determine under what pace their trade would be liberalized and what should be included (and excluded) in the trade liberalization scheme.

Japan's EPA Strategy

Japan concluded its first EPA with Singapore in 2002, and has since concluded EPAs with Mexico (2004), Malaysia (2005), the Philippines (2006), Chile (2007), Thailand (2007), Brunei (2007), Indonesia (2007), ASEAN (2008), Vietnam (2008), Switzerland (2009), Peru (2011) and India (2011). It is still negotiating EPAs with Australia, GCC, Korea, and Mongolia. Also, it is conducting preliminary joint research for bilateral EPAs with Canada, Columbia, and the EU, and a trilateral EPA with South Korea and China. Japan's EPA frenzy is in contrast to its decades-old preference for multilateral forums (WTO and APEC) for trade and investment liberalization. There are several reasons for this policy change, including the stalemate of the Doha Round, the necessity of leveling the playing field for its private firms with their competitors who already estab-

lished FTAs with the same countries, securing imports of energy resources and other primary materials, and competing with China for influence in the Asia-Pacific region.

Japan, thus, shares many of the motivations of China's FTA strategy, but there are significant differences between China and Japan's goals in pursuing their respective FTA/EPA strategies. The most important is that Japan has been active in establishing a high level of regulatory reforms in its EPAs that might ultimately be incorporated in multilateral forums that will help its companies build efficient global production networks in a transparent and reliable regulatory environment. These elements include trade facilitation and e-commerce, trade in services, competition policy, intellectual property rights, and investment protection. In this respect, Japan's EPA strategy is more similar to that of South Korea's, which has aggressively been pursuing high level FTAs with its major trading partners such as Chile, Singapore, ASEAN, the US, EU, Japan and China. Japan has also pursued a different approach in the regional integration of East Asia and the Pacific. While China is taking initiative in an ASEAN+3 (China, Japan and Korea), Japan is taking initiative in a wider ASEAN+6 (ASEAN+3 plus India, Australia and New Zealand) and has shown interest in joining the Trans-Pacific Partnership (TPP) Agreement. Unfortunately, the rivalry between China and Japan in the projection of regional integration in East Asia and the Pacific has substantively delayed the pace of promoting integration in the region.

Comparing the Approaches of China and Japan

The comparison of the FTA strategies of Japan and China is instructive. Japan tends to use FTAs as a tool to build production networks that benefit its largest industries, while China uses them as a foreign policy tool to promote economic and political partnerships. Japan focuses more on trade in services and investment policy and tries to protect its agriculture sector. As a result, Japan's FTAs are more robust than China's, though they are still viewed as "selectively comprehensive" compared with the gold standard of the US and EU FTAs with high level of trade liberalization. Both China and Japan have signed many "low risk, low return" FTA agreements. To Japan, its ability to promote its economic interest through an aggressive EPA program is constrained by the need of protecting its agricultural sector and rigid immigration policy. To China, its geopolitical or resources-driven FTA strategy determines its soft approach in negotiations by not pushing hard for trade liberalization. Similar to Japan, most

of China's FTA partners are not China's top trade partners. Among the top ten trading partners of China, only Hong Kong, Taiwan and Malaysia have FTAs with China.

Shaping the Future Path

First, the tendency for China and, to a lesser extent, Japan, to negotiate moderate trade deals has also made it hard for both to negotiate FTAs with developed countries, who are more likely to ask for more comprehensive agreements that include trade in services, competition policy, labor standards, among other things. This not only explains why China so far has negotiated most FTAs with developing countries, but also why the China-Australia FTA negotiations are still stalled. This reluctant approach does not jive with China's status as the second largest economy and the largest exporter in the world. Its unwillingness to make bold trade liberalization and to engage in high-level regulatory reform, since its WTO entry, has been considered as one of the main reasons for the stalemate of the Doha Round.

Second, the rivalry and the consequent parallel FTA/EPA negotiations by China and Japan have contributed to the proliferation of regional agreements in the region and globally. Asia as a consequence is creating a system of overlapping trade regimes. It seems necessary, as the next step, to consolidate this "noodle bowl." Will China and Japan be able to take the initiative in establishing regional integration in East Asia and the Pacific? We can only speculate on a few possible scenarios due to a number of policy options and uncertainties. One possible scenario is the formation of an East Asian Community either via ASEAN+3 or ASEAN+6. Another possible scenario is the formation of a broader regional integration in the Asia Pacific via the TPP. Yet another possible scenario is the formation of a trilateral FTA among China, Japan and South Korea.

Third, the rivalry between China and Japan has so far been at the level of competition of visions, none of which has gained enough political support for realization. Since last year, however, the US has renewed its attention to the Asia-Pacific and has taken the initiative to push for broader integration through TPP. This new development poses policy challenges to both China and Japan. Although the original TPP looked like a minor trade agreement to Japan, the US's decision to join it dramatically increased the economic and political significance of the TPP. As nine countries have already started negotiation of the enlarged TPP, Japan will have to decide whether it will be able to join the negotiation over the wide range of subject

matters, such as comprehensive tariff eliminations, including agricultural products and the liberalization of trade in financial services, both of which might pose political challenges to the government of Japan. From Chinese perspective, Japan's proposal of ASEAN+6 is a policy compromise to the U.S. proposal, and more importantly, reflects a reluctance on the part of Japan to form any kind of FTA with China at this stage, given the lack of political trust, even though an ASEAN+3 may make good economic sense. By proposing an "Asia only" arrangement, China seeks to secure its trade ties with East Asian countries and push for China-led regional integration.

Fourth, the TPP poses insurmountable political challenges to both Japan and China. To Japan, joining the TPP negotiation means abandoning its heavy protection of domestic agriculture. This is the main reason for strong resistance even within the ruling Democratic Party. The US's attempt to incorporate strict control against state-owned enterprises (SOEs) in the TPP raises additional political burdens on Japan, as it would have to abandon its financial and regulatory support to the Japan Post Insurance and the Postal Bank. However, this protection is not sustainable even if Japan declines to join the TPP, as it has already put a heavy financial burden on Japan. So long as Japan wants to remain in its status as a major economy in the region and globally, it has to persuade the resisting vested interests and join the TPP negotiations.

As Beijing believes that the TPP has the potential to become the substitute for an FTAAP (Free Trade Area of the Asia-Pacific) and reflects an American effort to continue its presence in the region and encircle China, China has felt a sense of discomfort. China has no plans to participate in TPP in the short run. Clearly, China is not ready to commit to such a high level of trade liberalization required by TPP negotiation and it goes against China's longstanding FTA strategy to pursue agreements that are voluntary, flexible, and pragmatic. To China, TPP potentially serves as an instrument to contain China. First, this proposal will fundamentally undermine Beijing's efforts in the past ten years to integrate regional economy. China built the concept for the framework centered on ASEAN+3, but it would be difficult for this framework to grow concurrently with the TPP. Second, other Asian countries are economically benefiting from China's ascent through expanding their trade with China, but they are also concerned about China's growing clout. Bringing the US into the region would help ease concerns about a "China threat" by strengthening security ties with the US. In addition to Vietnam and Malaysia, Thailand and other countries are leaning toward the TPP to secure a competitive edge when

the US market is liberalized. Third, if Japan opts for the TPP, momentum for a trilateral FTA between China, Japan and Korea would be lost. When the three countries got together in Beijing in October 2010 discussing a trilateral FTA, they identified five major hurdles to be cleared: agriculture, differences among the three countries over their stands on regional security, the US presence, the history issue between Japan and Korea, and jockeying for regional leadership between China and Japan. Apparently, it is the lack of political trust that has impeded negotiations. However, if Japan decides not to join the TPP due to its domestic resistance (especially from agricultural interests), TPP may become a motivating factor for the three countries to move forward with their trilateral FTA, which will become the backbone of an “Asia only” regional arrangement. After all, China has the lowest level of agricultural tariffs among the three. In other words, Japan’s decision will reveal its broader thinking about its foreign policy – to reinforce its role as an Asian power or to reconnect with the US economically. Consequently, it will also shape the future of Asia’s regionalism, whether it will be limited to Asia or encompass the Asia-Pacific.

It must be noted, however, that China runs the risk of being isolated or excluded from this and any future regional arrangement. Some Chinese scholars believe that even if China expresses its intention to join the TPP in the future, the US would maneuver to block China’s participation by making unreasonable demands. If China joins the TPP, it would de facto be a China-US FTA. Considering the growing domestic criticism against China’s trade surplus with the US, its currency policy and other political frictions, it is not very likely that the US Congress would approve such an agreement. If this is the case, the TPP would drive the region apart with systematic exclusion of non-members, including potentially China. According to China’s General Custom, China-TPP members trade accounted for 22.8% of China’s total foreign trade in 2010, which would rise to 32.8% if Japan is included. Some China analysts already warn that if the Chinese government adopts a delaying strategy, China will have to face a tough negotiation with all TPP members to join the TPP with the rules set by others, similar to what China experienced over its WTO accession negotiation. In sum, whether to join TPP negotiations not only poses policy dilemma to both China and Japan, it may also require a policy U-turn for both countries to switch to a different FTA/EPA strategy and a new vision for regional integration.

China's Frustrating Pursuit of Market Economy Status: Implications for China and the World

Zhao Shuang and Scott Kennedy

AFTER IT went through a painful 15-year long negotiation process to obtain WTO membership, China did not seem to have obtained all she wanted. Incumbent WTO members successfully negotiated that China could continue to be treated as a non-market economy in trade remedy cases for the first 15 years of her membership, that is, until December 11, 2016. This condition put China in a disadvantageous position in anti-dumping and countervailing duty disputes. The “normal value” of Chinese products is often not based on actual production costs in China, but instead often relies on figures from third-party countries where production costs are higher than China. As a result, China has frequently lost anti-dumping cases and the value of the antidumping tariffs has been higher than it otherwise would have been. Scholars estimate that these cases totaled \$12.7 billion between 2002 and 2009.¹

Righting a Wrong

Facing this challenge, two years after joining WTO, China started a decade-long campaign to secure recognition of market economy status (MES) from other members. China was able to rapidly gather recognition from over 70 countries during the first four years of this effort, from the year 2004 to 2007. But since 2008, additional recognitions have ground to almost a complete halt. As of 2010, MES recognition was applied to only 39% of Chinese exports. Most importantly, two of China's largest trading partners, the United States and the EU, have so far both steadfastly refused to recognize China's MES. For the Chinese, the issues around China's MES recognition have gone well beyond economics. After such a long time of market reform and getting back to the center of the global stage, the Chinese are frustrated that they are still treated unequally by other major players.

This essay first explores the evolution over the debate about what constitutes a market economy and then explains the pattern of recogni-

¹ Wang Lei and Li Jiacheng, “The Study on China's Market Economy Status,” *Productivity*, No. 3 (2010).

tion and non-recognition of China's MES. It then explores the implications of these tensions. In the short term, those opposed to China being recognized as a market economy appear to have won the day, but there are potentially negative consequences over the longer term by giving so much weight to this categorical distinction and effectively treating China as a second-class citizen of the multilateral trading system.

What is a Market Economy?

The Western position vis-à-vis China's MES status is bound up in a longer history. The term "non-market economy status" is closely related to trade remedy laws, especially antidumping laws. Originally a term invented to accommodate former Soviet bloc countries' participation in the General Agreement on Tariffs and Trade (GATT), it is now essentially applies only to antidumping cases. Article VI of the GATT defined dumping as selling products of one country to another country at "less than its normal value."² Soon after, Article VI:1 of the 1994 version of the GATT, which resulted in the creation of the World Trade Organization (WTO), recognized that non-market economies could be treated differently in trade remedy cases, a principle that was restated in the WTO's Agreement on Antidumping (Article 2.7).

The "normal value" of products in the GATT and the WTO is determined under the assumption that the export country is a market economy where all relevant costs to producing a good are determined by relatively free markets.³ When dealing with countries that have centrally planned economies, such as former Soviet countries, normal value became hard to determine. In 1960, the United States first used the prevailing domestic or export prices of similar products manufactured in a market economy country as the best source of information for determining normal value when the US Treasury Department dealt with bicycles imported from Czechoslovakia.⁴ Since then, the practice of using a constructed price from a similar market economy country has been normal-

² The General Agreement on Tariffs and Trade (GATT 1947), Article VI Anti-dumping and Countervailing Duties, in World Trade Organization, *The Results of the Uruguay Round of Multilateral Trade Negotiations: The Legal Texts* (Geneva: World Trade Organization, 1995), pp. 493-495.

³ Francis Snyder, "Ideas, Pluralism and Power in EC Anti-dumping Law about China," *European Law Journal*, Vol. 7, No. 4 (December 2001), p. 380.

⁴ *Ibid*, p. 384.

⁵ *Ibid*.

ized in US and EU antidumping laws.⁵

American and EU antidumping laws have evolved to more precisely identify the characteristics of a nonmarket economy. The US Commerce Department refers to “non-market economy countries” as those whose operation does not follow market costs or price rules. In a 1986 antidumping case involving candles from China, the Commerce Department enunciated a four-point test to determine non-market economy status that included the extent of: government ownership of the means of production, centralized control over resource allocation and inputs, government control over output, and currency convertibility and government control over trade.⁶ Similar criteria have been embedded in American trade law⁷ :

- (1) The extent to which the currency of the foreign country is convertible into the currency of other countries.
- (2) The extent to which wage rates in the foreign country are determined by free bargaining between labor and management.
- (3) The extent to which joint ventures or other investments by firms of other foreign countries are permitted in the foreign country.
- (4) The extent of government ownership or control of the means of production.
- (5) The extent of government control over the allocation of resources and over the price and output decisions of enterprises.
- (6) Such other factors as the administering authority considers appropriate.

⁶ Li Xiaoxi, *A Report on the Development of China's Market Economy* (Beijing: Institute of Economic Resource and Management, 2003), p. 4; and Charlene Barshefsky, “Non-Market Economics in Transition and the U.S. Antidumping Law: Remarks on the Need for Re-valuation,” *Boston University International Law Journal*, No. 2 (Fall 1990), pp. 373-380.

⁷ Section 771 (18) of the Tariff Act of 1930, as amended; 19 U.S.C. § 1677 (18). See Terrence P. Stewart, et al, “Any Change to China’s Non-Market Economy Status, Must Be Based on the Criteria Specified,” Position paper submitted to the US-China Economic and Security Review Commission, August 18, 2005, available online at <http://www.uscc.gov>, accessed September 10, 2012.

The European Commission in 1998 issued Regulation No. 905.98, which allows the respondent enterprises accused of dumping and operating in a non-market economy to apply to be treated as operating according to market-economy principles provided they can meet five criteria: 1) Prices, costs and inputs are determined by market; 2) Firms have one clear set of basic accounting records that are independently audited in line with international accounting standards and are applied for all purpose; 3) Production costs and financial situation of firms are not subject to significant distortions carried over from the former non-market economy system; 4) Firms are subject to bankruptcy and property laws that guarantee legal certainty and stability for the operation of firms; and 5) Exchange rate conversions are carried out at the market rate.⁸

Not surprisingly, the Chinese believe all countries should recognize China as a market economy. In April 2003, the Economic and Resources Management Research Institute at Beijing Normal University, entrusted by the Ministry of Commerce, released its “Report on the Development of China’s Market Economy,” to justify China’s eligibility as a market economy. In an effort to show that China has gone through drastic market reforms in the last two decades, Liu Xiaoxi, a leading Chinese economist and the author of the report, demonstrated that “China is about 69% a market economy,” which puts it above what it claims are internationally accepted standards for concluding whether a country is en toto a market economy. Liu provided evidence that the Chinese government dramatically reduced revenue from the state-owned enterprises, privatized state-owned enterprises, and made capital and labor more mobile.⁹

The US and the EU, however, do not accept these arguments and have determined that despite there having been a great deal of economic reforms. China’s currency is still not freely convertible on the capital account, the financial system is heavily controlled by the state, there are doubts about the independence of firms from government influence, and many areas of China’s market are not open to foreign industry.

Although much of this debate looks highly technical and legalistic, arguments on all sides are driven by self-interest and political prefer-

⁸ Li Xiaoxi, p. 4.

⁹ The authors claim that there is a 60% threshold, above which countries should be considered market economies. The authors believe that 69% of economic activity operates according to market principles and 31% does not. “General Introduction of Market Economy Development Report,” ChinaNet, November 7, 2003, available at <http://www.china.org.cn/english/2003chinamarket/79484.htm>.

ences. For instance, the US denies China is a market economy partly on the grounds that it has a nonconvertible currency, but 42 countries have adopted managed floating exchange rates similar to China, and almost all of them are recognized as market economies.¹⁰ Conversely, China prefers to highlight those aspects of the economy it has liberalized and overlooks the extent to which controls over finance, foreign exchange, certain key commodities, and SOEs are still in place and how these can distort the entire economy. In the domestic policy debate, these issues are regularly on the agenda, but they are pushed aside when China engages the US and others on the MES question. So to some extent the legal debate is academic and not the true source of the conflict.

Explaining the Pattern of Recognition

Regardless of the merits of either side's case, China has tried to change its disadvantageous position so that its firms would be treated equally in trade remedy cases. The effort to have individual countries recognize China as market economy began in early 2004. In each instance, Chinese diplomats have used a variety of economic and political tools at their disposal. As mentioned above, these efforts have borne some fruits in the first few years and then dramatically slowed down since 2008. At present, 74 countries recognize China's MES, but at least 93 do not.

Why have some accepted China's request and others been more stubborn? To answer this question, we assembled a large dataset composed of information about everyone of China's MES recognizers and non-recognizers, and also conducted in-depth interviews with Chinese and foreign officials. Table 1 summarizes the descriptive differences between those who recognized China's MES and those who have not.¹¹

The quantitative data and interviews do show that Chinese government has achieved some tangible results from its efforts. Beijing has been especially successful in inserting recognition of China's MES as a condition for broader trade and diplomatic negotiations. For example, some countries have been sufficiently motivated to recognize China's MES in their own pursuit of WTO membership. Based on interviews, this appears

¹⁰ Xiao Gang, "China's Diplomatic Efforts to get Market Economy Status," *International Economics and Trade Research*, Vol. 24, No. 9 (September 2008), p. 80.

¹¹ We have data for 167 countries. This includes all 157 members of the WTO, and 10 other countries. The United Nations has 193 members. Even if there are some missing countries in our dataset, our study accounts for over 99.9% of China's trade.

to be the case with Russia and other post-Soviet states. Other countries have been willing to recognize China's MES in return for negotiating free trade agreements (FTAs), including New Zealand, Australia, and Costa Rica. The data also shows that China's economic cooperation with other countries, such as infrastructure building projects and labor cooperation, and China's outward foreign direct investment (FDI) are both positively related with recognition. Finally, Chinese high-level diplomacy has been occasionally useful. State visits by President Hu Jintao and Premier Wen Jiabao to Africa and Latin America have been occasions to reach agreement on MES recognition.

The data also explains why the US, EU and others have not recognized China's MES. Neither the US nor the EU depends heavily on Chinese inward investment or economic cooperation projects, and neither is in the process of negotiating an FTA with China. Hence, both are weakly motivated to recognize China's MES. Their hesitance is also held by a large number of countries concerned that they will not be sufficiently compensated for MES recognition. For instance, Mexico has refused to recognize China's MES because they do not believe substantive benefits will flow to Mexican producers and consumers as a result even if they provide recognition. Those who have been most concerned about competition from China have not been swayed by this assertive Chinese diplomacy. In addition, some nonrecognizers are motivated by the desire to continue to use non-market methodologies in handling antidumping cases against China. The overall average number of antidumping cases brought against China by recognizers and nonrecognizers is quite close, but the distribution within these two groups, particularly nonrecognizers, is highly skewed. The US and EU clearly are trying to maintain their advantage in antidumping cases, but this does not apply to all nonrecognizers.

Despite the failure to persuade more countries to recognize China's MES, the Chinese government has not given up trying a country-by-country persuasion strategy. The hope is that collecting countries' recognition of China's MES would put pressure on the US and EU to give into to peer pressure. In this sense, the recognition from some middle-income countries such as Australia means much to China, as it makes the case that not only small developing countries that receive benefits from China would do China a favor, but developed democracies would also recognize China as a market economy. According to their own logic, it seems to Chinese leaders that getting recognition from developed countries would make China's MES more legitimate.

Table 1:
Comparing China's MES Recognizers and Nonrecognizers

	<u>Recognizers</u>	<u>Nonrecognizers</u>
Total # of Countries	74	93
<u>Economic Ties</u>		
Established FTAs with China	0.19	0.01
Imports from China, Avg. 2001-2010 (US\$, millions)	4,071	3,251
Exports to China, Avg. 2001-2010 (US\$, millions)	2,493	4,714
Economic cooperation projects before 2004 (US\$, millions)	346	16
Economic cooperation projects since 2004 (US\$, millions)	265	154
Outward Chinese FDI, Avg. 2003-2008 (US\$, millions)	5.0	1.0
<u>Trade Disputes</u>		
Antidumping cases by China against others	0.99	0.94
Antidumping cases by others against China	4.11	3.98
<u>Political Alignment*</u>		
Political rights	3.73	3.61
Civil liberties	3.42	3.47
<u>Diplomacy</u>		
Foreign leaders visits per year to China before 2004	0.48	0.34
Foreign leaders visits per year to China since 2004	0.48	0.51
Chinese leaders visits before 2004	0.28	0.31
Chinese leaders visits since 2004	0.66	0.61
<u>By Region</u>		
Europe**	6	11
Latin America	14	19
Africa	21	30
North America and Oceania	6	9
Asia	14	9
Former Soviet Union	10	3
Western Asia and North Africa	2	13

- * According to Freedom House's 7-point scale: 1 is excellent, 7 is poor.
 ** The European Union is treated as one entity even though it includes over 25 countries since MES recognition is a region-wide common decision.

Lessons Learned

Three broad lessons emerge from China's experience over the last decade. First, China's has been largely frustrated in its efforts. It seems that it has had difficulty translating its economic power into soft power, and has not been able to re-shape the normative environment to the extent that would put pressure on the EU and US to recognize China's equal status. This finding is consistent with research on China's participation in the WTO and other areas of global governance. There is still a long way for China to learn the rules of the game of international economic diplomatic strategy.

Second, even though the 15-year restriction will officially end at the end of 2016, it may still be possible for WTO members in practice to treat China as a non-market economy. Perhaps most important are the results of a WTO case China brought against the United States regarding the US's simultaneous use of antidumping and countervailing duties against the same product. The WTO's Appellate Body did not find that double remedies are not permissible, but more importantly, it concluded that Chinese state-owned banks may be considered "public entities," and hence, loans from them considered to be subsidies. If so, this would put Chinese companies at a long-term disadvantage in countervailing duty cases.

Third, this episode raises worries about tensions between how incumbent and rising powers take different views of the fundamental rules of the game of the international trading system. Despite its failure to gain widespread MES recognition, China has learned from this episode and will apply these lessons to other efforts to shape international rules in its favor. Some of these lessons may push China to liberalize its economy and more comprehensively provide national treatment to others. However, another possibility is that a China concerned about being treated unequally by others may determine that it has no choice but to pursue preferential arrangements with certain countries to guard against what it sees as protectionist efforts from competitors. That could lead to greater fragmentation of the multilateral trading system, and be a substantial challenge to the WTO.

We take no position on whether China's MES should have been initially restricted, but it does appear to us that the longer the MES issue has dragged on the more it appears as a fight over self-interest rather than principle – on both sides. The result appears to be a reduction in the legitimacy of basic norms of equal treatment that underlays the multilateral trading system. Going forward we would recommend that reference to MES is no longer applied to current or future members. Trade remedy regimes related to antidumping, countervailing duties, and safeguards should stand on their own without these kinds of exceptions.

Chinese Participation in Transnational Climate Governance

Thomas Hale and Charles Roger

EFFORTS TO NEGOTIATE a successor to the 1997 Kyoto Protocol have stalled. Developed countries, which in the Kyoto treaty only committed to reduce emissions by an average of 5% below 1990 levels, are adamant that the next treaty must include specific commitments from the largest emerging economies, including India, Brazil, Indonesia, South Africa and, above all, China, the world's largest emitter in absolute terms. Emissions from such states have been rising rapidly, and these countries will account for the vast majority of future emissions, making them essential to the success of any global effort. However, in the UN negotiations they have proven reluctant to adopt binding targets, especially in light of ongoing US inaction, arguing that they would be both unfair and unreasonable in view of their stage of development and lower capabilities for policy implementation. As a result, the multilateral talks seem unlikely to deliver substantive reductions in emissions on the scale necessary in the near term. Gridlock at the multilateral level has led many to look for alternative solution. A host of projects and initiatives have arisen at the regional, national, and sub-national levels, and in the private and non-profit sectors, which aim to fill some of the "governance gap." Examples include voluntary corporate pledges to reduce or monitor emissions, city-level emissions reductions targets, and voluntary carbon trading markets and standards. Many of these initiatives link across borders to form transnational climate governance (hereafter TCG) schemes.

Transnational governance avoids some limitations of multilateral mechanisms, since it avoids the sovereignty costs commonly associated with international agreements, and engages directly with the actors responsible for producing GHG emissions. It allows those actors, of any kind, that are willing to move forward to do so without being held back by laggards and spoilers, as the UN negotiations are. But they also face limitations of scale. Ultimately, whether these non-multilateral governance mechanisms are able to complement, or even substitute for, a "global deal" depends to a significant extent on whether they come to include a sizable number of Chinese actors. China is the world's largest emitter of GHGs, accounting for almost a quarter of the world's total, a figure that may grow to around

30% by 2035. Thus, no system of transnational climate governance that fails to include a substantial portion of Chinese actors can hope to mitigate climate change on a significant scale.

Only recently have researchers begun to map the global universe of TCG.¹ Building on these efforts, the present study employs a new dataset to measure and characterize Chinese participation in TCG. Such participation has grown rapidly, and today nearly half of all TCG schemes are active in China to some extent. But this participation remains shallow and uneven. While there are some areas where participation is quite good by world standards - in the transnational governance of carbon markets, for example - TCG schemes in other areas, such as transnational municipal networks and transnational corporate governance schemes, have encountered major challenges. In general, Chinese participation in TCG does not resemble the spontaneous “bottom up” emergence of pro-climate activity that TCG’s advocates hail as a potential alternative to multilateral gridlock. Instead, Chinese participation in TCG largely reflects the priorities and needs of bureaucratic agencies within the central government.

Trends in Chinese Participation in TCG

Globally, TCG is a recent phenomenon. It emerged rather haltingly in the 1990s, when a few schemes became active around the time of the 1992 Earth Summit, such as Energie Cities (created in 1990) and the E8 (created in 1992). More, and more diverse, schemes began to appear around the time of Kyoto. Then TCG “took-off” in the 2000s. This trend can be clearly seen in Figure 1, which is based on a database of 75 TCG initiatives that we have compiled.² Between 1990 and 2000, the number

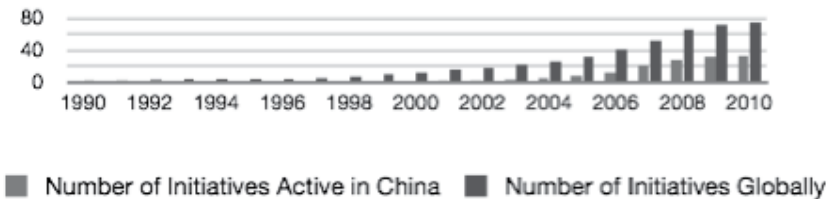
¹ L.B. Andonova, M. M. Betsill, et al, “Transnational Climate Governance,” *Global Environmental Politics*, Vol. 9, No. 2 (2009), pp. 52-73; H. Bulkeley, “Transnational Climate Governance: What Does the Database Tell Us?” Transnational Governance Workshop (2010), Durham, U.K.; and M. Hoffmann, *Climate Governance at the Crossroads: Experimenting with a Global Response after Kyoto* (Oxford: Oxford University Press, 2011).

² The database is, of course, only indicative. It captures only a small part of the total universe of TCG initiatives. Further, it is unrepresentative in several ways. Successful TCG schemes are likely to be overrepresented in the sample, since they are likely to last longer and attract more attention. Initiatives involving less prominent actors, or actors on the periphery of central climate governance networks, are likely to be underrepresented. This will possibly lead to a bias in the sample towards initiatives created by actors in the global North. Finally, the sample will likely be biased towards initiatives that have been studied and cited before in academic literature, resulting in some degree of path dependence in the selection of cases. Nevertheless, we can be fairly confident that the database selects the cases of transnational governance that weigh most heavily on the politics of climate change and that the actual number of schemes is likely to be much larger.

of TCG schemes in the database grew by a factor of six, with the total rising from two to twelve schemes, respectively. After 2000, the number of schemes rose another six fold to a total of 75 by 2010.

A good majority of those 75 initiatives (53, or 77%) are active in countries in the developing world, and many involve Chinese participants. We find that just under half of all the initiatives in our database (33 in total, or 44%) are active in China to some extent. Further, the number of initiatives active in China has grown quite significantly in a short period of time. As Figure 1 shows, the first scheme in our global dataset is recorded as being created in 1990, and the total number of initiatives begins to increase considerably after 1998. The first initiative recorded as being active in China appears the following year, in 1999, and steady growth begins shortly thereafter, in 2002.

Figure 1. Cumulative Totals of Initiatives, China Versus World, 1990-2010

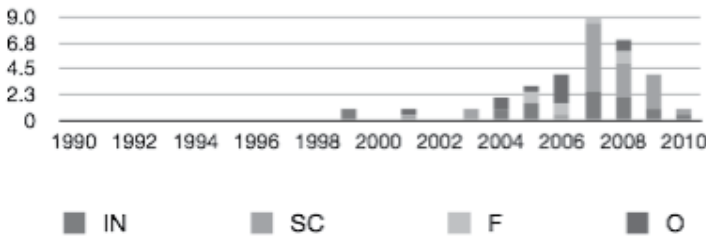


The initiatives in our dataset engage a broad range activities, including information-sharing and networking (IN); standards and commitments (SC); financing related activities (F); and operational activities (O) (see Figure 2). SC schemes are those primarily involved in coding and implementing specific rules, largely intended to reduce emissions by specifying, certifying and monitoring global “best practices.” IN schemes are those designed to build capacity by sharing knowledge, experiences and information, or which record emissions and commitments. Initiatives engaging in operational activities are those that perform certain governance-type services or provide collective goods, such as facilitating markets, supporting research and development, or helping to initiate other transnational partnerships. Finally, financing initiatives are a specific class of operational schemes that help to facilitate, direct, and sometime provide funding directly to climate change-related projects and programmes.



All of these kinds of TCG schemes are active in China to some extent. Overall, we find that SC schemes are the single largest category of TCG active in China, accounting for 46% of the total in 2010. This is followed in order of importance by IN, O and F schemes, with shares of 28, 16 and 10%, respectively. IN schemes were the first to appear in China, with the first becoming active in 2001. The first financing scheme – the World Bank’s Prototype Carbon Fund (PCF) – does not appear until 2005, when the first PCF-funded projects in China started, five years after it - the first financing initiative - appears in our global dataset, in 2000. As can also be seen, the number of SC schemes grew four fold in 2007, quite late in our global dataset, and well after the initial increase in the total Chinese growth rate in 2004.

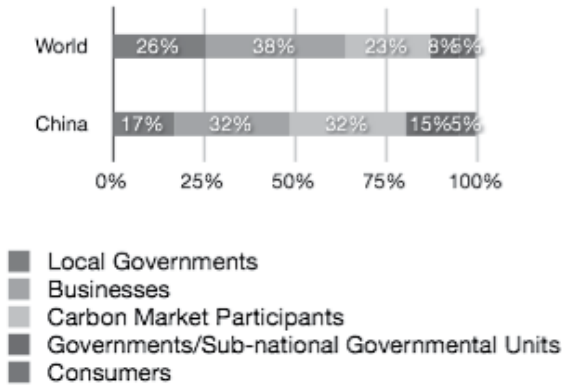
Figure 3. Kinds of Initiatives Active in China, By Date First Active, 1990-2011



The growth of different kinds of schemes over time can be observed in Figure 3, which shows the different kinds of initiatives that have become active in each year. In this figure, 2007 stands out as a unique year in the China dataset, with not only the largest single increase in the number of SC schemes but also the largest increase in the number of IN schemes. 2006, similarly, saw the largest single increase in the number of

O schemes. Together, this suggests that the three-year period 2005-2007 was a crucial one for the growth of TCG in China, beginning with the first financing initiative and ending with the largest year of growth in SC schemes. Following this, the rate of growth begins to taper off in the China dataset, and in the global dataset as well.

Figure 4. Target Participants, World Versus China



One of the most interesting trends that our database reveals are the differences between China and the rest of the world in the kinds of actors targeted by TCG. This gives us some idea of the kinds of TCG that have been most successful, and suggests particular barriers that TCG schemes have encountered in China. In our global database we find that businesses are the largest category of target participant, followed by local governments, carbon market participants, governmental/sub-national governmental units and consumers, respectively (see Figure 4). The target participants in China, on the other hand, are quite different. We find that there is a noticeable decrease in the share of businesses compared to the global dataset, as well as a decrease in the share of local governments. Carbon market participants, by contrast, comprise a much larger share in China than in the global database - jumping from third to first place - as do governmental/sub-national governmental units.

Limitations and Prospects

Though TCG had grown rapidly in China, it remains uneven. Carbon markets are the most successful area. Voluntary and compliance carbon markets have expanded significantly since 2005, and China has been

involved in these markets to a considerable extent. Carbon offset standards, which define these markets by establishing procedures through which carbon is quantified, have grown in step as an essential dimension of such markets, and their proliferation and positive effects on the price of offsets helps to account for the major growth of SC schemes in China in 2007.

However, when we take a closer look at other major kinds of TCG initiatives that scholars have investigated - transnational municipal networks and transnational corporate governance schemes, which are both central facets of TCG, globally - it is clear that they have encountered some major challenges in China.

Consider first the role of local governments. Transnational municipal networks have been a major area of TCG worldwide, and, as our database shows, 17% of the TCG initiatives currently active in China target local governments as participants.³ However, it is notable that this figure is much lower than the world average, which suggests that such initiatives have confronted some barriers in China. The experience of ICLEI, the oldest sustainability network of local governments, is exemplary. Its Cities for Climate Protection (CCP) program has had considerable success over the years, particularly in Australia and the United States. It has made numerous inroads across the developing world as well. However, while it is nominally active in China, ICLEI records only one Chinese member (Shenyang⁴), a rate of participation that is far below many other developing countries. In Brazil, for example, 20 members are recorded; in India there are 36. Further, while ICLEI has numerous regional offices positioned throughout Asia, there is none for China. Local officials in China, therefore, have so far had little incentive to join networks like ICLEI, and the reason seems to be that their benefits may be mismatched with local priorities. Involvement in networks that focus on reducing emissions may not help to bolster the position and resources of officials vis-a-vis other groups within the government and civic body that are more concerned with pressing local environmental issues. No-

³ H. Bulkeley and M. Betsill, *Cities and Climate Change: Urban Sustainability and Global Environmental Governance* (London: Routledge, 2003); and H. Bulkeley and M. Betsill, "Rethinking Sustainable Cities: Multilevel Governance and the "Urban Politics of Climate Change," *Environmental Politics*, Vol. 14, No. 1 (2005), pp. 42-63.

⁴ The City of Shenyang is one of the largest industrial centers in China. As a result, it has been greatly affected by local and regional air pollution, and has been at the forefront of municipal efforts to improve air quality in China, for instance, by administering a levy on boilers that effectively serves as a local carbon tax. In attempting to tackle local air pollution, city officials have found that such measures can also serve to mitigate carbon emissions. See ICLEI 1997.

tably, other municipal networks with a strong emphasis on the issue of air pollution, such as the World Bank's Clean Air Initiative, appear to have been more successful in China than those focusing exclusively on the issue of climate change.

Transnational initiatives focusing on corporate actors - such as the UN Global Compact - Caring for Climate, the Carbon Neutral Network, the Carbon Disclosure Project (CDP) and the Global Reporting Initiative (GRI) - have encountered similar difficulties in China. In our global dataset, businesses are the main kind of actor targeted by TCG schemes. But, in China, schemes targeting businesses constitute a smaller share of the total and appear to have had mixed results. In terms of uptake, the GRI may be the most successful of the corporate reporting initiatives in China. A total of 278 CSR reports have been submitted by Chinese firms since the GRI's engagement in China first began in 2007, including a few of China's larger private and state-owned businesses. However, the quality of reporting has been highly uneven in China. Only 29 reports have above an "A" application level, and only 42 have been certified by GRI or a third party. Further, these raw figures actually overstate the real number of corporations involved, since many of the same firms have submitted reports in different years. The majority of the reports that received higher application levels also all came from the same small group of firms, largely with the service sector. All these figures are much lower than the world average.⁵

The Carbon Disclosure Project has also faced challenges in China. In 2011, of 100 Chinese companies invited to participate, only 11 opted to answer the CDP's annual questionnaire, a number that is substantially below the average response levels elsewhere.⁶ Those that did were mainly from the banking industry. Trading and distribution companies, and firms from the hotel, restaurant, leisure, metals and mining, financial, construction, chemical, airline, and industrial sectors uniformly did not respond. The distribution of participants in the most recent CDP questionnaire and in the GRI towards services sector firms and away from sectors such as construction, mining and chemicals is a trend plaguing other carbon reporting initiatives

⁵ GRI, Global Sustainability Reporting Statistics, 2010. Available at: <https://www.globalreporting.org/resourcelibrary/GRI-Reporting-Stats-2010.pdf>.

⁶ Carbon Disclosure Project, Report 2011, "China 100 Executive Summary," available online at: <https://www.cdproject.net/CDPResults/CDP-2011-China-Report-Exec-Summary.pdf>; and E. H. Kim and T. Lyon, "Carbon Disclosure Project" in T. Hale and D. Held, eds, *Handbook of Transnational Governance: Institutions and Innovations* (Cambridge: Polity Press, 2011).

active in China. One effort to develop a common energy and emissions reporting framework specifically for China, the Energy and Climate Registry, which is based upon the Climate Registry and Greenhouse Gas Protocol, has so far found it difficult to attract participants in heavy industry. Only five Chinese companies (mainly in the information and telecommunication industries) have been recruited in nearly three years of operation, and they have largely proven to be unwilling to publicly disclose their involvement.⁷

The problem confronted by the developers of the Energy and Climate Registry, a voluntary reporting system that companies and cities can use to track and reduce their emissions, are symptomatic of transnational corporate governance schemes in China. Its developers have found that most are unwilling take part mainly due to concerns about having to divulge sensitive technical data about production processes and business practices that may give an edge to competitors, especially when the reporting scheme originated from outside of China and is not directly supported by the key ministries in the Chinese government.⁸ Many companies have also reported that they are waiting to see what rules are made mandatory by the government before agreeing to voluntary disclosure. A more general issue has also been that Chinese businesses often see little value in addressing environmental issues. Except for a few leaders, such as Lenovo and Haier, “beyond compliance” environmental protection has been seen as too burdensome, and the value of corporate social responsibility has not been apparent. Thus, in the absence of some external pressures or price incentives, such as those that have proven crucial to the adoption of carbon offset standards, Chinese businesses are unlikely to be actively involved in TCG.

It is also worth noting that Chinese actors have mainly participated in TCG schemes as followers rather than leaders. Thus far, Chinese actors have been involved in the initiation of only four schemes (the APP, Climate Savers, EcoPartnerships, and Methane to Markets). The vast majority of TCG schemes in China are foreign in origin. And, notably, in all cases except one (Climate Savers, which included Lenovo as an initiating member), the initiating actor was the Chinese central government. This last point demonstrates a key finding of our study: China’s domestic political structures condition the scope and nature of sub- and non-state actors’ participation in TCG. As noted above, TCG schemes in China consistently report

⁷ X. Li, Interview with author, October 24, 2011. Project Officer, Energy and Climate Registry. Beijing.

⁸ J. Zhu, Interview with the author, October 19, 2011. Vice-President, Innovation Center for Energy and Transportation (iCET). Vancouver.

that local government officials and private corporations are reluctant to join their initiatives without knowing how such actions will fit with existing or anticipated governmental regulation. In other words, there is a general lack of willingness to take initiative without official government approval. Moreover, the area in which Chinese participation in TCG is most robust—carbon markets—is, not coincidentally, an officially sanctioned program that is actively orchestrated by the National Development and Reform Commission and its provincial branches.⁹ NDRC officials have also been eager to develop expertise in carbon trading in advance of China's experiments with city- and province-level emissions trading schemes, which it aims to launch in 2013. In sum, while transnational governance is usually seen as a “bottom up” phenomenon, in China it often takes a government-led form.

Conclusion

These findings show that Chinese participation in TCG is broad but shallow, and represents more the interests of central government officials than an emergent movement toward voluntary pro-climate policies on the part of sub- and non-state actors. These conclusions cast doubt on the hopes of TCG's more enthusiastic supporters that measures like corporate codes of conduct or city-level programs will have a large impact on China's growing emissions. Due to the country's vast role in global GHG emissions, this is an important qualification to the prospects of TCG to (partially) substitute for ongoing multilateral gridlock.

Importantly, however, the study also highlights pathways through which TCG might come to play a greater role in China's climate governance. Successful engagement with central bureaucracies is key. TCG initiatives that target cities or companies, for example, have much to offer Chinese counterparts in terms of shared experiences, technical knowledge, and international benchmarking. These assets can help central government bureaucrats tasked with mitigating emissions to achieve their objectives. Therefore, a “hub and spokes” model, in which central government actors orchestrate sub- and non-state actors' engagement with TCG initiatives, may stand a better chance of success than the “bottom up” model typically associated with TCG.

⁹ M. Schroeder, “Varieties of Carbon Governance: Utilizing the Clean Development Mechanism for Chinese Priorities,” *Journal of Environment and Development*, Vol. 18, No. 4 (2009), pp. 371-394.

Innovative Trade Policies that Can Support China's Low-Carbon Economy

Joachim Monkelbaan and Ricardo Meléndez-Ortiz

THIS SHORT essay argues that innovative thinking on trade policies can support China in its pursuit of a low-carbon, “harmonious society” (*hexie shehui*). To this end, we first explore China’s needs in terms of the environment, energy, jobs and trade. Then we assess ways in which a “Sustainable Energy Trade Agreement” (SETA) approach can address China’s needs. Finally, we identify ways forward for initiatives that aim at massively developing markets for sustainable energy goods and services.

Environment, energy, employment and trade: China’s needs in the 21st century

Over the past thirty years, China’s impressive economic development has brought social stability and dramatically improved standards of living for hundreds of millions of Chinese. However, the rapid economic growth trajectory chosen has come at a considerable environmental cost.¹ Environmental issues have not only large potential economic and ecological impacts but must also inform China’s strategic considerations. Providing adequate standards of living for its population is of existential importance in any development plan of China and underwrites any policy strategy.

Relatedly, China’s total energy demand is projected to double over the next two decades despite large gains being made in terms of overall energy efficiency. China’s carbon emissions are projected to grow by 80% by 2035. The dominance of coal in China’s energy mix poses a particular challenge; currently around 80 percent of all Chinese electricity is generated from coal-based sources. Reducing China’s dependence on such carbon-intensive energy is crucial to any meaningful action towards climate change mitigation.²

¹ According to the World Bank, half the Chinese population does not have access to safe drinking water and 16 of the world’s ‘top 20’ cities by level of air pollution are in China. The World Bank and SEPA have estimated the combined health and non-health costs of air and water pollution in China. The report found that it was costing the Chinese economy 5.8% of GDP each year.

² Two-thirds of all greenhouse gas emissions during the 21st century are expected to result from burning coal.

Sustainable energy sources and the efficient use of energy can make a significant dent in China's dependence on finite fossil fuels and growing emissions of greenhouse gases that are held responsible for global warming. The Chinese government envisions increasing the share of non-fossil energy in the total energy mix to twenty percent by 2020. In the same year, the Chinese government committed to the ambitious goal of cutting carbon emissions per unit of GDP by 40-45% compared with 2005.

At the same time, China needs to create high-quality jobs for its 7 million university graduates that enter the workforce each year. China has identified seven "strategic emerging industries," many of which are related to low-carbon development and could provide many job opportunities to meet these needs.³ The International Labour Organisation (ILO) estimates that the closure of small coal-fired power plants will affect over 600,000 Chinese workers between 2003 and 2020. However, if China is able to efficiently manage these structural shifts to a low-carbon economy, it is expected that 1 million jobs will be created between 2005 and 2020 through the development of low-carbon industries, resulting in a net addition of 400,000 jobs. Moreover, the renewable energy sector creates relatively high skilled employment.⁴

While the Chinese government is putting great effort into switching the economy towards consumption-based growth, China's economic growth model is still highly trade-oriented, and an open multilateral trading system remains crucial to China if it wants to develop its strategic industries.

In order to transition to a low-carbon economy, China will require investments of up to \$700 billion in clean energy by 2020, and the same year the size of the global market for low-carbon energy is expected to be around \$2.7 trillion. Finally, any future developments on trade in low-carbon technologies must take into consideration Beijing's policy of "indigenous innovation" (*zizhu chuangxin*). The clean energy sector is

³ China announced in 2011 that it wanted to develop seven "strategic emerging industries" to propel the country's transition from low-cost workshop of the world into producer of high-value, high-technology goods. The seven strategic emerging industries (SEI) are: alternative fuel cars, biotechnology, environmental and energy-saving technologies, alternative energy, advanced materials, new-generation information technology, and high-end equipment manufacturing.

⁴ Industry surveys in Germany have suggested that on average renewable energy jobs are relatively high-skilled: 82% of employees in the industry have vocational qualifications and almost 40% of these have a university degree, compared to an average for the whole industrial sector of 70% and 10%, respectively.

highly dependent on the continued innovation and implementation of environmentally friendly technology and services within a sound regulatory framework.⁵

How can China use trade to reach its 21st century goals?

In a perfect world, the purpose of global governance should be ensuring that China and other countries can meet their own needs, some of which we described above. Trade policy for example can make the more than 60% increase in trade in some energy efficient goods possible if both tariff and non-tariff trade barriers are removed.⁶ Under current international policy frameworks, though, some domestic policies can continue restricting trade and making the production and diffusion of technologies for non-fossil energy supply inefficient.

In a perfect world, it would also be possible to address some of these barriers to trade in sustainable energy goods and services by taking recourse to existing rules disciplines in the World Trade organization (WTO). In our rapidly integrating world, trade policy should focus on smoothening value chains and removing obstacles to trade in goods and services related to sustainable energy. Instead we see that WTO rules in many areas of the energy sector (including sustainable energy) are ambiguous. And the WTO's Doha round negotiations are stalled, including negotiations on environmental goods and services that could otherwise have addressed some of the trade barriers to sustainable energy.

Under these conditions, China and other countries could explore a variety of ways to address trade-related issues that may stand in the way of further scaling-up sustainable energy as well as ensuring economic and environmental benefits.

Innovative Approaches: Sustainable Energy Trade Initiatives

In our view, trade arrangements that specifically focus on fostering the massive scale-up of sustainable energy through trade could show the

⁵ Smart grid technology is a priority area for innovation as the “renewable energy rich” regions (in terms of wind-speed and sun-cover) are located in China's West and North-west, which need to carry energy to the energy-intensive Eastern coastal regions. Many Chinese wind farms that are operational cannot deliver power to consumers due to weaknesses in energy infrastructure and the inability to connect to the grid. According to Morgan Stanley research, about 3.5 GW (or 29%) of installed wind capacity in China may be lying idle.

⁶ According to calculations by the World Bank, for compact fluorescent light bulbs (CFLs).

way forward. Such “Sustainable Energy Trade Initiatives” (SETIs) could provide enabling governance where it does not currently exist, and they could do so in a focused manner. SETIs could provide international frameworks and a common set of disciplines (with due consideration for differing levels of development) that can boost the efficiency and effectiveness of synergies between trade, energy security, and climate governance.

An eventual plurilateral or multilateral Sustainable Energy Trade Agreement (SETA) could establish international cooperation on these challenges among the widest possible range of participants. Meanwhile a SETA should ensure a fair, level playing field and robust markets for sustainable energy goods and services (SEGS) by tackling trade-related barriers and providing a global framework for sustainable energy trade and investment. Eventually it could also comprise cross-border trade in sustainable energy itself.

A SETA’s *scope of issues and market barriers* could be defined in advance or left open-ended. Such an initiative could focus initially on key trade-related issues (tariffs, subsidies, procurement, services, IP etc) for a few sectors (for example solar and wind energy). Subsequently they could also address issues of domestic (energy) regulation such as fossil-fuel subsidies as well as investment, competition policy, trade-facilitation and transit issues. These non-tariff barriers as well as services, export restrictions, local content requirements and behind-the-border measures would benefit from a negotiated set of rules specific to the energy sector, rather than those existing for other goods and services.

Substantive contents of a SETA need to be specified and tailored according to China’s needs. This means that it should address wider trade-related sustainable development concerns and priorities of China as an economy in transition. Also China would be receptive to assistance in its enormous efforts to conform to international standards and certification procedures for sustainable energy technologies.

As for the *form*, SETIs could be pursued either within the WTO framework, including agreements amongst like-minded countries, or outside of the WTO at the bilateral and regional levels. They could consist - depending on what countries decide may be the best approach - of either legally binding agreements or voluntary approaches. The non-binding nature of venues such as APEC for instance enables ambitious initiatives, though it may provide less than the desired amount of predictability.⁷

Thus, a SETA could enable a fresh approach that takes a holistic

and integrated view of the sustainable energy sector, while simultaneously addressing a variety of emerging market and trade-related barriers.

China's Opportunities in a SETA

China's possible participation in the crafting of bilateral, regional and global SETIs will be critical, given the country's position as the world's biggest energy consumer and emitter of greenhouse gases, and the fact that it has emerged in recent years as the biggest producer and exporter of clean energy goods, and the world's top recipient of clean energy finance. From a perspective of securing access to technology and making markets more predictable, China may have a strong developmental, commercial and geopolitical interest in jointly crafting SETIs.

There would be many benefits for China if it would join a sustainable energy trade initiative approach at an early stage. A SETA would not only provide a more stable market for sustainable energy goods and services but it would also boost production and make export opportunities for such goods and services more predictable while the cost of imported technologies would be lowered. It would promote a shift from China being the world's manufacturer to providing an enabling environment for the extensive innovation of technologies – moving the Chinese economy up the value-chain.

As to geopolitics, participating in the development and establishment of a SETA would be one way for China to address suspicions about its economic and strategic ambitions as it could lead to more transparency and trust-building. For instance, if a wide range of countries would get involved in a SETA, then that will make China appear as cooperative leader on the one hand, and on the other it may increase the degree of bargaining power of all participants and compliance of China with its SETA commitments. That would not only be one step towards China's own harmonious society, but indeed towards a harmonious world (*hexie shijie*). China's commitments on trade when it acceded to the WTO, its ambitious domestic aims for climate change mitigation and its recent constructive role in the UNFCCC all showing that China stands up for its role in such a harmonious world.

⁷ Liberalization of EGS has progressed in the Asia-Pacific Economic Cooperation (APEC) region. In November, APEC leaders pledged to develop a list of environmental goods and services in 2012 on which APEC members will reduce tariffs to 5% or less and to remove non-tariff barriers including local content requirements.

Addressing China's Needs in a SETA

A SETA should offer the right balance of incentives and guarantees for China and other developing countries to justify the erosion of protection for some of their industries. Therefore, China might wish to include provisions on technical assistance, cooperation on innovation or technology transfer. Technical assistance and capacity building from countries that have more experience in clean energy could be a part of the SETA process. A practical way to bridge the divide between those who believe that government support and industrial policy drive the dissemination of clean energy and those who believe in free markets would be to make the non-discrimination principle the cornerstone of any SETA. In such a way, a SETA would emphasize the progressive liberalization of discriminatory trade measures, while continuing to allow some such measures that are considered necessary for developmental and environmental purposes. Discriminatory measures would be those taken through a transparent mechanism, rather than those hidden away in hard to discover places in domestic laws and regulation.

The result of the non-discrimination approach is that policy space would be expanded considerably. Governments could pursue other policies to support clean energy to whatever extent they wanted, as long as the measures used were not discriminatory.

Finally, it is important to realize that China's frameworks for making trade, climate and energy policy are not simple, static entities. When linking the potential benefits of a SETA to China's domestic policy actors, the picture emerges that they have diverging interests, as is common in most countries. For example, the Ministry of Commerce (MOFCOM) would have an interest in securing predictable, rules-based access to foreign markets for China's growing renewable industries (as would the private firms involved); the Ministry of Science and Technology (MOST) would have an interest in international technological cooperation which could be facilitated through a SETA; and the Ministry of Foreign Affairs would have an interest in harmonious foreign relations overall. MOFCOM necessarily has to propel trade liberalization with the consent of all the other ministries with a stake in an FTA before it can submit a negotiation agenda to the State Council for approval. When we add into the picture the diverse interests of China's provinces, and private and state-owned companies, we can see that engaging China on a SETA requires a polycentric approach that allows for the inputs from the great variety of stakeholders in trade, energy and sustainable development.

In that sense, China's 12th Five-Year Plan could act as a unifying mandate for the Chinese government to take part in crafting a SETA, as it aims to ramp up the clean energy sector through market mechanisms and economic incentives with the participation of all government bodies.

Conclusions

China's needs in terms of energy security, environmental sustainability, employment, investment, innovation and trade are nothing short of astounding. We have shown in this essay that Sustainable Energy Trade Initiatives (SETIs) are innovative approaches that can unleash the power of trade for the sake of low-carbon development. SETIs would respond in a practical manner to China's 21st century needs and aspirations.

Despite the obvious benefits of a SETA for China, more work is required before the Chinese government can take the ideas described here forward. Awareness-raising will be key. Capacity building should also lead to enhanced policy coordination among institutions at the national level, and with local stakeholders. The International Centre for Trade and Sustainable Development is committed to building such understanding for a SETA in China, and in fostering the international cooperation, political will, and leadership that will determine the future of trade in and development of sustainable energy.

China and the Private Governance of Global Labor Standards

Lu Zhang and Tim Bartley

THE GLOBALIZATION of production has spurred important debates about transnational business and labor rights. Fearing that global production systems would undermine labor rights and lead to a “race to the bottom” in labor conditions around the world, labor rights activists have called for the globalization of labor standards.¹ Yet the failure of attempts in the 1990s to add a “social clause” to the General Agreement on Tariffs and Trade (GATT) and the refusal of the World Trade Organization (WTO) to incorporate labor standards drove activists to seek other means to enforce labor standards. Some have refocused attention on the International Labor Organization (ILO) or on including labor standards in bilateral trade agreements. But labor rights advocates have also called for corporations to take responsibility for labor conditions in their supply chains. Since the mid-1990s, anti-sweatshop activists in North America and Europe have waged campaigns arguing that large retailers and brands in the apparel and footwear, consumer electronics, and food industries are responsible for abuse, poor conditions, and the suppression of labor rights in their suppliers’ factories. In response, many brands have adopted codes of conduct and similar policies for their supply chains and have sent auditors to assess compliance.

Taken together, these codes, monitoring, and certification activities potentially amount to a new way of regulating labor conditions globally. This model puts powerful brands and retailers, pressured by NGOs, investors, and consumers, in the position of enforcing labor standards for their supply chains. It puts auditors and certifiers in the position of assessing performance around the world. And it makes new demands on factory managers to show evidence of decent working conditions. This model has grown dramatically since the 1990s, to the point where arguably the majority of factories making consumer products for sale in North America and Europe are now subject to some type of demand for compliance with labor standards. Overall, the past two decades have

¹ Anita Chan and Robert J.S. Ross, “Racing to the Bottom: International Trade without a Social Clause,” *Third World Quarterly*, Vol. 24 (2003), pp. 1011-1028.

witnessed a dramatic rise of “transnational private regulation,” in which firms and NGOs push standards through global supply chains.²

But how significant are these attempts? Are private labor standards just window dressing for brands and retailers, or do they represent a meaningful form of global governance? Existing research on compliance reveals that private labor standards initiatives rarely if ever live up to their purported goals, although they do sometimes spur improvements in particular working conditions.³ Many questions remain about the extent of their influence, how they are put into practice in different countries, and what their role might be in broader fields of global governance.

China’s Critical Place in Labor Standards Governance

China looms large over these questions, given its huge role in global production and its growing impact on global governance arrangements. The rapid growth of Chinese exports in the 1990s – especially in apparel, footwear, toys, and consumer electronics – drew a great deal of attention to issues like forced labor, appalling working conditions, and harsh militaristic styles of managers in export-oriented factories. In becoming the “world’s factory,” China had also become the nexus of debates and experiments about the labor codes of conduct, factory auditing, certification, and corporate social responsibility (CSR). These efforts were mostly sponsored by brands, retailers, and industry associations in the U.S. and Europe, pushed along by NGO and union critiques of labor exploitation in global supply chains. Skeptics have cast doubt on the sincerity and effectiveness of these initiatives in the Chinese context, documenting poor quality auditing, fraud, and the persistence of many exploitative practices.⁴ On the other hand, more optimistic scholars note that private labor standards has catalyzed discussion of CSR in China and that codes of conduct have, along with labor laws, contributed to the

² Tim Bartley, “Institutional Emergence in an Era of Globalization: The Rise of Transnational Private Regulation of Labor and Environmental Conditions,” *American Journal of Sociology*, Vol. 113, No. 2 (2007), pp. 297-351.

³ Stephanie Barrientos and Sally Smith, “Do Workers Benefit from Ethical Trade? Assessing Codes of Labour Practices in Global Production Systems,” *Third World Quarterly*, No. 28, No. 4 (2007), pp. 713-729.

⁴ China Labor Watch, “Corrupt Audits Damage Worker Rights: A Case Analysis of Corruption in Bureau Veritas Factory Audits,” 2009, available online at <http://www.chinalaborwatch.org>; and Ngai-Ling Sum and Ngai Pun, “Globalization and Paradoxes of Ethical Transnational Production: Code of Conduct in a Chinese Workplace,” *Competition and Change*, Vol. 9, No. 2 (2005), pp. 181-200.

growth of rights consciousness among rural migrant workers.

We contribute to this discussion by examining the dynamics and potential impacts of factory certification in Chinese export-oriented consumer products industries. Based on our own interviews of auditors, managers, workers, and NGOs, as well as a survey of managers in manufacturing firms in Guangdong province, we consider the rise of labor-related CSR in China, what types of firms are getting certified, and how (if at all) certified factories differ from similar non-certified factories.

The Mixed Record of Labor Standards in China

When Levi Strauss developed its “Terms of Engagement” for contractors in 1991, it was one of the first companies to set labor standards for its supply chain. Within the next decade, the majority of large brands and retailers in the U.S. and Europe developed codes of conduct for their contractors. As Chinese exports of apparel, footwear, and electronics grew in the 1990s, especially after China’s entry into the WTO in 2001, South China became the epicenter of attempts to audit compliance with these codes. Some brands helped to organize collective standard-setting and monitoring-oversight programs like the Fair Labor Association (FLA), Ethical Trading Initiative (ETI), Business Social Compliance Initiative (BSCI), and Worldwide Responsible Accredited Production (WRAP). A few brands with higher standards encourage suppliers to be certified to Social Accountability International’s SA8000 standard.

The SA8000 standard played a particularly important role in introducing labor-oriented CSR to China, with SA8000 and CSR becoming almost synonymous in some circles. The SA8000 standard also generated a great deal of controversy within China, in part because it addressed the sensitive issue of freedom of association. While many codes were silent about how freedom of association could be implemented in China or other countries where freedom of association is legally restricted, SA8000 called for the formation of “parallel means” of worker representation—such as worker committees—in settings where trade unions could not be independent. Many Chinese industry and government officials framed SA8000 as an illegitimate foreign intrusion and a trade barrier, especially in the period from 2001 to 2004. On the other hand, attempts to encourage worker committees gained minimal traction in Chinese factories. A handful of Chinese factories have been heralded as having effective worker committees (Center for International Private Enterprise and Social Accountability International 2009), but these com-

mittees have not survived.

As SA8000 certification was growing, a potential competitor arose within China. In 2005, the Chinese National Apparel and Textile Council (CNTAC) introduced its CSC9000T standard. This standard focused on management systems more than outright performance, on domestic labor laws more than international norms, and on gradual improvement more than pass-fail compliance. While many observers initially viewed CSC9000T as an industry- and state-sponsored threat to international standards initiatives, CNTAC very quickly began to collaborate with international buyers, eventually building a partnership with the European-based BSCI. Overall, CSC9000T has not become a direct competitor to SA8000 but instead is now being framed as a step toward higher-bar certification programs. It is notable that this domestic program did not end up directly challenging more internationally-driven standards. While this has occurred in some other fields, the rise of private and international systems of labor standards in China has instead led to a set of overlapping but not directly competing initiatives. Earlier attempts to frame SA8000 as a foreign intrusion have largely subsided, as the Chinese government began after 2005 to promote CSR as a pillar of a “harmonious society.”⁵

One apparent reason why the initial controversy surrounding labor-oriented CSR in China eventually subsided is that the application of standards was done in a way that did not disrupt business priorities. Factory audits rarely forced managers to make major changes in their production practices. SA8000 certification grew substantially, with 410 facilities, employing over 291,000 people, certified in China as of late 2011. Yet many observers see the growth of SA8000 certification in China as due at least in part to lax auditing, and sometimes, to outright fraud. As one factory owner put it, “I believe among every ten certified factories, nine are fake.”⁶ By all accounts, Chinese factories can rarely if ever meet the standards for maximum hours of work prescribed by Chinese labor law – no more than 44 hours per week and no more than 36 hours per month of overtime – which is required by both SA8000 and WRAP. It is clear that essentially no factories can fully meet the letter of the standards, yet some factories have been able to document good enough practices to satisfy auditors. To be sure, there is substantial

⁵ Li-Wen Lin, “Corporate Social Responsibility in China: Window Dressing or Structural Change?” *Berkeley Journal of International Law*, Vol. 28, No. 1 (2010), pp. 64-100.

⁶ Interview with factory owner, Dongguan, June 24, 2011.

variation among SA8000 certified factories. In one especially egregious case, a factory in Shandong province, making candles and candleholders for Tchibo was certified despite what was later revealed to be horrendous health and safety practices. The dark factory, lacking in fresh air and rife with fire risks, had workers making candles by hand over a primitive gasoline bottle stove, and workers were not supplied with protective equipment.⁷ On the more positive side, factories that have received sustained attention from brands and SAI have moved beyond industry norms for working conditions and respect for workers.⁸ So while there is variation, it is clear that merely being certified does not guarantee that a factory in China is living up to either the letter or the spirit of global labor standards.

Only a small minority of Chinese factories has sought certification from international initiatives. Those that have typically do so in response to a specific demand from an important buyer. One factory we visited, a Taiwanese-owned umbrella factory producing for Disney, Wal-Mart, Target, and others got certified to the ICTI CARE standard for the toy industry in order to please Disney and Wal-Mart. The factory owner was frank in telling us that her company did some “make-up” for auditors, such as having workers memorize prepared answers for auditors. On the other hand, she also reported that certification required the company to add new fire alarms, shop floor fans, improved toilets, and to reduce the number of workers living in each dorm room. Interestingly, she also suggested after studying the prepared materials to deal with auditors, workers have become more aware of their rights and would ask for better working conditions and overtime payments. As she summarized about the impact of certification and auditing, “It becomes real if a company fakes a long time” (*jia jiu le jiu bian zhen le*).⁹

In at least some instances, factories have sought certification to solidify a competitive advantage, regardless of specific demands from buyers. The owner of one Chinese-owned high-tech manufacturer we visited said that SA8000 certification was a process of self-improvement and becoming a sector leader for his company. Here, certification was undertaken more proactively than reactively. While we found workers’

⁷ Interview with certification representative, Shenzhen, November 12, 2010.

⁸ Center for International Private Enterprise, and Social Accountability International, “From Words to Action: A Business Case for Implementing Workplace Standards,” 2009, available online at <http://www.cipe.org/publications/papers/pdf/SAI.pdf>.

⁹ Factory visit and interviews with factory owner and workers, Dongguan, June 24, 2011.

wages at this factory were higher than industry averages, our observations also suggested that the company may be using dispatched agency workers in ways that conflict with SA8000 standards.¹⁰

Recent Survey Data Finds Only a Marginal Effect of Certification

While certified factories routinely fail to meet the letter of the standards to which they are certified, there is still the question of whether certified factories are, on average, different than similar non-certified factories. We seek to address this issue by analyzing data from a 2010 survey of firms (including some SA8000 certified firms) in Guangdong province, designed and shared with us by scholars at the Guanghua School of Management at Peking University. We examine the data on 102 factories, 26% of which were SA8000 certified.¹¹ The certified firms most commonly produce electronics/appliances (36%), footwear/sporting equipment (17%), and apparel/accessories (14%). Factories that report that most of their clients ask for compliance with labor standards are more likely than others to be SA8000 certified.

Using this data to compare certified and uncertified factories, we have found that there are indeed some differences that may be traceable to certification itself. For instance, managers in certified factories attach greater importance to Human Resource Management (HRM) than do those in uncertified firms, and this difference remains when controlling for size, resources, and several other factors. Although we cannot determine whether certification causes this difference, it is plausible that SA8000's emphasis on management systems and formal personnel policies does influence managers' conceptions of HRM. On the other hand, we have found certified factories are not especially different than uncertified ones in many ways, again controlling for size, resources, and other factory-level characteristics. Certified factories are no more likely to have a medical clinic for workers, no difference from others in terms of their relationships with buyers, stability in orders, or growth in buyers or orders; neither do managers in certified factories report greater ease in recruiting workers—a notable finding given that the survey was conducted as labor shortages in coastal cities were making managers more sensitive to the challenge of recruiting and retaining workers. On the

¹⁰ Factory visit and interviews with management and workers, Shanghai, July 11, 2011.

¹¹ Since the sampling technique deliberately over-sampled certified factories, this is not meaningful as an estimate of the prevalence of certification (which would be far lower).

whole, these findings suggest that certification has not radically transformed factory conditions and that there is nearly as much variation among certified firms as there is between certified and uncertified firms.

Conclusion

Overall, the experience of global labor standards in China – especially in the form of private factory certification – hold several implications for discussions of China and global governance. The Chinese case certainly poses severe challenges for advocates of international labor rights. The space for independent labor activism is heavily constrained, and the culture of factory management in China evolved around assumptions of strong managers and docile workers. In this context, it should not be surprising that the direct effects of factory certification have been quite circumscribed. Although labor standards certification initiatives have failed to radically transform labor relations, our research suggests that they have played a role (albeit limited) in China by catalyzing the rapidly expanding discussion of CSR, fostering the maturing of HRM, and contributing to debate about labor representation (and the role of the ACFTU). In addition, codes of conduct and other private labor standards have in at least some settings helped migrant workers understand their rights. In this sense, the experience of global labor standards in China should not be dismissed, but rather viewed as a dynamic process with important implications for both the evolution of labor regimes within China and of the international system as a whole. At the same time, our study has also led us to the conclusion that although it is possible for CSR to have productive linkages to other labor advocacy strategies, more substantial and genuine improvement in labor standards come from workers' collective actions (whether organized or unorganized) and government enforcement of labor laws and regulations (often in response to the former).

China and Global Health Governance

Yanzhong Huang

THE PAST three decades have seen some profound changes that have fundamentally shaped the landscape of global health governance (GHG), defined by as “the formal and informal institutions, norms and processes that govern or directly influence health policy and outcomes worldwide.”¹ These changes include the rise of new global health problems: infectious diseases such as HIV/AIDS and pandemic flu, non-communicable diseases such as cancer and cardiovascular diseases, bioterrorism and dual-use dilemma, health system problems such as capacity building, and social determinants of health such as food security. These global health challenges were accompanied by the proliferation of a large number of new actors (such as the Gates Foundation) and the emergence of new processes and institutions in GHG.

Thus far, while good progress has been made in disease prevention and control and health system strengthening, more still needs to be done in continuing the battle against HIV/AIDS, effectively managing biosecurity issues and acute pandemics, and ensuring effective and sustainable global health financing. Financing global health becomes particularly a concern in a time of austerity, when major institutions and countries slashed or fallen short of their financial commitments, giving the “two Washingtons” (US government and Gates Foundation) a near-monopoly on global health financing. Due to the unsustainability and ineffectiveness of this model in achieving the goals of the global health regime, there is an urgent need for new global health resources and advocates.

The past two or three decades have also seen the robust growth of emerging economies, represented by Brazil, Russia, India, China and South Africa (BRICS). BRICS countries make up 42% of the world’s population, 20% of the global GDP, and 75% of foreign reserves worldwide. Four countries (Brazil, Russia, India and China) also contribute more than half of the world’s economic growth. Just as the G20 (which

¹ Tikki Pang et al., “The new age of global health governance holds promise,” *Nature Medicine*, Vol. 16 (November 2010), p. 1181.

includes all five BRICS) is overshadowing the G8 as the primary forum for discussing global issues, there is a growing expectation that emerging powers can and should play a greater role in global governance for health.

China's Distinctive Role in Development Assistance for Health

Among the emerging economies, China plays a central role among health, development and security. Accounting for one-fifth of the world's population and 14 % of the world's disease burden, it is a critical factor to reckon with in global health. It is the 2nd largest economy in the world, which is larger than all of its BRICS counterparts combined. Among all the emerging economies, it is by far the largest contributor to development assistance to other countries. It also has a long history of providing development assistance for health (DAH). During 1963-1982, 6,500 Chinese health workers joined the medical teams and served a total of seventy million people in 42 countries. The export of the Chinese primary health care model to the Third World not only improved people's health status in the recipient countries, but also presented an alternative approach to health care provision in limited resource settings.

In the 21st century, China has increased its DAH to less developed countries. Through 2009, China has sent more than 21,000 medical workers to 69 countries worldwide. Africa remains one of a regional priority for China's health assistance. Three-quarters of the host countries of China's medical teams are in Africa. Between 2007 and 2011, China committed \$757 million in health assistance to Africa. China's DAH takes various forms. Dispatching medical teams remains China's flagship DAH program, although China has also increasingly invested in infrastructure building, human resources development, malaria control, and reproductive health. China's health aid serves to expand its political influence and improve its international image. However, since the 1990s DAH has increasingly been used to serve China's own economic development, for example, by expanding market share and access to raw materials.

In providing health aid, China rejects Western approaches and definitions. It prefers tying its assistance to domestic economic interests by requiring recipients to source procurement from Chinese firms, even though most Western countries have moved always from tied aid. Most of its DAH is conducted in the form of bilateral aid. Its antimalarial projects in Africa, for example, are not integrated with any other global

malaria programs. Instead of focusing on social programs and good governance, China's DAH emphasizes infrastructure building by funding hospitals and anti-malaria centers as well as the construction of pharmaceutical factories. At a June meeting in Beijing, Minister of Health Chen Zhu indicated China's disapproval of the existing donor-recipient paradigm and prefers one founded on shared accountability and leadership from recipient countries.

Despite its growing health aid to less developed countries, China's contribution remains very limited. Unlike major donors, China is both a recipient and donor of development assistance. For example, so far it has made only a nominal contribution to the Global Fund, but has raked in nearly \$1 billion from the fund. Critics find it ridiculous that a country with the largest foreign exchange reserve and the second largest fiscal revenue is still aggressively pursuing grants that are ostensibly dedicated to helping the world's poorest nations. Its development assistance in health is also no match of the United States. Through PEPFAR alone, the US has committed more than \$30 billion to funding for the AIDS epidemic in the developing world, esp. Africa. Despite growing international pressures for investing more in global health, China has prioritized efforts to address significant domestic health challenges. Government officials repeatedly have said, "Taking care of China's health care cause is itself the biggest contribution to world health."

China's Limited Role in Multilateral Cooperation and Governance

Contribution to GHG goes beyond DAH. According to David Fidler, GHG refers to the use of formal and informal institutions, rules, and processes to deal with challenges to health that require cross-border collective action to address effectively. Any discussion of China's engagement in GHG, therefore, has to address China's role in coping with transnational health problems that requires international collective action. In part because of the 2003 SARS debacle, China's engagement in this area focuses on international cooperation over infectious disease prevention and control. In January 2006, it hosted the International Pledging Conference on Avian and Human Influenza. In June 2009, during the H1N1 outbreak, it hosted the International Scientific Symposium on Influenza A (H1N1) Pandemic Response and Preparedness. In June 2011, China organized the first meeting of health ministers from the BRICS countries. Unlike India, China in engaging global disease prevention and control uses the World Health Organization (WHO) as a critical venue.

In 2006 it invested \$8 million in campaigning for the election of Margaret Chan (a Hong Kong Chinese) to the WHO director-general position. Its support also ensured Chan's reelection in 2012. China has also shown willingness to work cooperatively with other players in setting global health rules and norms. For example, it was not in the way when the WHO was negotiating the revision of the International Health Regulations (IHR), one of the most radical changes to govern international cooperation over public health emergencies since the mid-19th century. A country that attaches utmost importance to sovereignty and social-political stability, China showed flexibility in allowing the WHO to take into account non-state sources of information in WHO's decision making process.

That being said, China is not an active participant in the negotiation of the Framework Convention on Tobacco Control (FCTC), the universal access to HIV/AIDS medications, pharmaceutical intellectual property rights, or the pandemic influenza preparedness (PIP) framework. China also has a mixed record of complying with international health rules. China signed the FCTC in 2003, pledging to ban smoking in workplaces and indoor public spaces by January 9, 2011. But due to the strong resistance of its tobacco industry, the deadline passed without any major change. Experts believe that China's anti-tobacco policies are among the least effective in the world. There is also concern that the rising power of China provides incentives for China to play by its own rules in global health. Despite WHO's call for countries not to impose trade restrictions during the 2009 H1N1 outbreak, for example, China instituted a ban on pork and pork products from Mexico, three U.S. states, and Canada. The pork ban was hard to justify on public health grounds, as China's Ministers of Health and Agriculture both agreed that the flu had nothing to do with eating pork. The lack of a public health justification for the pork ban meant that the ban probably violated the IHR (2005), which require that trade-restrictive health measures be based on WHO recommendations or a legitimate public health justification provided to WHO upon request. In addition, despite its status as a leading supplier of drugs and APIs, China's contribution to global health innovation is not significant (as compared to India). The few innovations include antimalarial drug artemisinin and a low-cost contraceptive Sino-implant (II). Many Chinese manufacturers are not familiar with WHO prequalification or UN agencies' procurement programs. Thus far, China does not have any WHO prequalified vaccines.

China's Domestic Health Challenges and Global Health Governance

The way China addresses its domestic health challenges also has important implications for GHG. China faces significant domestic health and development challenges. Historically, infectious diseases that originated in China have changed epidemiological patterns worldwide. Economic development increases the chances for China to be exposed to various microbial threats. As Stewart Patrick has noted, stronger developing countries such as China “may actually pose a bigger infectious disease threat to the United States and the global community than weaker states.”² China is also a significant contributor to the global disease burden. It has one of the world's largest burden of TB and one-third of all global MDR cases. Non-communicable diseases now are responsible for 85% of the mortality (compared to 60% worldwide). However, noticeable progress has been made in controlling major epidemics and health system strengthening. Between 2002 and 2009, China increased ARV drug coverage from almost zero to 63% of those who need treatment. Beginning in 2009, China has dedicated significant resources toward developing programs and strategies to build a basic health care system that provides effective and affordable health care. China's approach to health services delivery provides a range of lessons learned and best-practices that should be of interest to other countries. By pumping tremendous resources to expanding the health insurance coverage, for example, China contributes to the global wave of universal health coverage (UHC), described by WHO Director-General Margaret Chan as “the single most important concept in public health.”

In addressing its own domestic health challenges, China welcomes the participation of multilateral organizations such as Global Fund, Gates Foundation, and the World Bank. Despite the opaque and exclusive authoritarian structure in China, global health players have a significant role to play in the country's domestic health governance. In terms of agenda setting, they are often critical in moving “latent” public health issues to governmental agenda. In terms of policy formulation, they can affect not only the timing of government action, but also the content of policy design. International actors can also affect policy implementation by influencing the financial and bureaucratic capacities in China.

² Stewart Patrick, *Weak Links: Fragile States, Global Threats, and International Security* (Oxford: Oxford University Press, 2011).

China's efforts to address domestic health challenges are still constrained by its domestic political system. The Chinese state still lacks the capacity, incentives or effectiveness in reforming its health system. According to *Lancet*, one out of every eight Chinese households was racked by catastrophic health expenses in 2011. Even though China is justified to impose compulsory licensing on patented cancer drugs, the government did not take actions. Instead, it undertook a series of measures in pricing, procurement, and reimbursement that had the effect of protecting foreign firms and suppressing national firms. It also prohibits the marketing of India-made generic cancer drugs (which cost less than 15% of patented products).

Conclusion

To summarize, China has shown increasing engagement in global health governance. It is moving toward a net donor in development assistance for health. China is willing to take initiatives in certain areas (e.g., infectious disease prevention and control). It has also become more proactive in addressing domestic health challenges. China's engagement presents both opportunities and challenges to existing governance structure. On the positive side, China's DAH can be complementary to traditional donors, and it did not hinder the negotiation of new global health rules. What's more, their assistance to developing countries is shaped by domestic experiences and South-South solidarity with recipients. Though not without critics, China's contributions are improving health and well-being in some of the world's poorest countries. But in the meantime, China's distinctive patterns of development assistance, its uneasiness with the existing GHG structure, its unwillingness to take more responsibilities and its preference to play by its own rules also present challenges to existing GHG. Thus far, China's approach to GHG has not presented a viable alternative to existing GHG. Its contribution to DAH remains small, and largely complementary to aid from traditional donors. Furthermore, it is still facing significant domestic challenges. In short, the future direction and effectiveness of China's engagement will ultimately be determined by the dynamics of the power shift and its ability to address its own domestic substantial health challenges.

China's Foreign Aid Policy: Implications for Global Governance of International Development

Shuaihua Cheng, Ting Fang, Hui-Ting Lien

Introduction

THE QUESTION of aid effectiveness is not new. As Easterly has written, with more than \$2.3 trillion spent in foreign aid over the last half-century there is no equivalent impact in reducing poverty and conflict.¹ One of the reasons for the ineffectiveness of international development aid, as argued by scholars and donors themselves, is the lack of harmonization among donors and recipients, among governmental donors and non-governmental organizations, and among traditional donors and emerging new donors of the developing world. And it is true that there is no single place today where all countries can both agree on the rules and monitor their implementation. Rather, there are several places, with different strengths and weaknesses, creating overlap and gaps. Moreover, this eclectic set of arrangements scarcely merits the term of “governance”, as most norms are set by a limited club-like group, and the norms are not rules.

In contrast to the WTO and trade disputes, there are no formal monitoring, penalty, or reward mechanisms in the field of international development. A weak regime for international development carries major downsides. The top five problems are: support is not predictable; some countries are chronically under-aided as the crowd focuses on certain regions; fragmentation of sources and earmarks piles up transaction burden and distorts national allocation decisions; governance, human rights and the environment are challenged where corruption sprawls; and economic and job opportunities are wasted due to lack of supply capacity, infrastructure and effective market access overseas.²

In the last decade, Chinese aid has become more visible due to its growing magnitude. The international community pays close attention to how China conducts aid that differs from that of the traditional donors, or more precisely OECD Development Assistance Committee (DAC)

¹ W. Easterly, *White Man's Burden: Why the West's Efforts to Aid the Rest Have Done So Much Ill and So Little Good* (Penguin Press, New York, 2006).

² *Global Governance for International Development: Who's in charge?* OECD Development Brief, October 2010.

members. Debates take place frequently on whether China's aid supports bad governance, undermines established consensus on standards, and re-indebts poor countries with high volume of loans.³ Chinese aid is also accused of being driven to facilitate extraction of natural resources for its own benefit and not that of the aid recipients.⁴

On the other hand, Chinese aid wins applause from some by diverging from the hierarchical "donor-recipient" relationship to a more horizontal partnership, which provides the parties assistance on the same level.⁵ The focus on productive industries instead of social sectors and poverty reduction by the traditional donors has raised the prospect of providing poor countries with the process China experienced in its development.⁶ In short, Chinese might provide a miraculous alternative to African countries faced with decades of ineffective aid by traditional donors.

To help improve understanding about the effect China is having on the norms and rules of international aid, we will discuss three main questions in this paper. First, how does China's domestic political economy shape its foreign aid practices? Second, at the international level, what are the new ways traditional donors are trying to improve international aid? And finally, what are the implications of China's strategies and practices for the global governance for international development?

China's Domestic Political Economy

China's international aid policy has evolved significantly in recent decades. The key principles, however, were formulated about half century ago. In 1964, the Chinese government declared "the Eight Principles for Economic Aid and Technical Assistance to Other Countries." Its core contents, which are still important today, stress equality, mutual benefit, and attaching no strings (that is, unconditional aid).

China's foreign aid policy has gone through four stages. In the first stage (1950-1977) China had a headstrong Communist political and

³ N. Woods, "Whose Aid? Whose Influence? China, Emerging Donors and the Silent Revolution in Development Assistance," *International Affairs*, Vol. 84, No. 6 (2008), p. 1210.

⁴ T. Lum et al, "China's Foreign Aid Activities in Africa, Latin America, and Southeast Asia," Congressional Research Service, #7-5700, R40361, 2009, p. 5.

⁵ J. Glennie, "A New Direction for International Co-operation," *The Guardian*, October 5, 2011.

⁶ J. Walz et al, "Brave New World: A Literature Review of Emerging Donors and the Changing Nature of Foreign Assistance," Center for Global Development Working Paper No. 273. (November 21, 2011), p. 16.

economic system and was faced with huge difficulties of international isolation and economic shortage. Unsurprisingly, China's aid policy was only focused on DPRK, Vietnam and several African countries who shared with it similar political positions. Aid was limited and mainly material assistance.

China's foreign aid policy during the early Reform era emphasized strengthened assistance to the least developed countries (LDCs) and paid more attention to the economic and long-term effects of aid projects. More importantly, China learned management skills from building joint ventures with enterprises from developed countries, and applied its own experiences to its own foreign aid policies, for instance, by setting up joint ventures in recipient countries and diversifying the ways it provided aid. The declaration in 1992 of pursuing the goal of establishing a socialist market economy represents the beginning of the third stage. This was a game changer for China's international aid policy because it ushered in a dramatic shift from a planned to a market economy. China's aid policy changed accordingly. First, China diversified the sources and means of funding and used market-based funding to activate economic collaboration between China and recipient countries. For instance, China set up a "Foreign Aid Fund for Joint Ventures and Cooperative Projects" and issued low-interest loans via the China Export-Import Bank. Second, China attached greater importance to capacity building via scaling up technical training, such as setting up Forum on China-Africa Cooperation (FOCAC). This reflects China's own newly gained experiences of how important human capital and technological skills are for poor countries to catch up in the global market.

China's aid policy entered the fourth stage in 2004. With an increased national economic strength and the trend of Chinese companies "going global," China has increased financial resources for international aid by an average of 29.4% per year. In the meantime, China has started to arrange aid projects through multilateral and regional institutions in addition to traditional bilateral support.

The leading ministry for China's foreign aid is the Ministry of Commerce (MOFCOM). The role of MOFCOM in China's aid policy is not accidental, but part of the legacy of China's planned economy. In the early stages of foreign aid, China mainly provided materials, and international flows of all materials were controlled from 1952 by Ministry of Foreign Trade.

Apart from MOFCOM, other main institutions involved in China's

foreign aid include the Ministry of Foreign Affairs, Ministry of Finance, and the China Export-Import Bank. The Ministry of Transport, Ministry of Health, Ministry of Education, Ministry of Agriculture, Ministry of Culture, the State Administration of Radio Film and Telecom, Ministry of Science and Technology, and the China Development Bank also play some role in determining aid projects.

What is the division of labor among these government agencies in formulating and implementing aid projects? According to the recent white paper on its foreign aid policy issued by Chinese government, the Executive Bureau of International Economic Cooperation, China International Center for Economic and Technical Exchanges, and Academy of International Business Officials affiliated to the Ministry of Commerce are entrusted with tasks of managing the implementation of complete projects and technical cooperation projects, material aid projects and training programs connected with China's foreign aid.⁷ The Export-Import Bank is responsible for the assessment of projects with concessional loans, and the allocation and recovery of loans. Chinese embassies and consulates abroad are in charge of the direct coordination and management of foreign aid projects in the relevant countries. The local commercial administration departments are required to cooperate with the Ministry of Commerce to deal with affairs related to foreign aid within their jurisdiction. In providing foreign aid, the related departments of the Chinese government keep in close contact and cooperate with each other. In drafting foreign aid programs and foreign aid funds plans for each country, the Ministry of Commerce communicates regularly with the Ministry of Foreign Affairs, Ministry of Finance and the Export-Import Bank of China to seek their suggestions.

Lancaster's study commended the Chinese approach as a "request-based" aid program, because in reality, the initial step of an aid project is that recipient governments and Chinese embassies in the field propose aid projects to Beijing.⁸ Then, officials from MOFCOM, other ministries, or Chinese firms then undertake feasibility studies of project proposals. The Ex-Im Bank often finances the project, and it is typically implemented by Chinese state-owned enterprises (SOEs).⁹

⁷ "China's Foreign Aid White Paper," PRC Ministry of Commerce, 2010.

⁸ Carol Lancaster, "The Chinese Aid System", Center for Global Development, June 2007.

⁹ Bates Gill and James Reilly, "The Tenuous Hold of China Inc. in Africa," *Washington Quarterly*, Vol. 30, No. 3 (Summer 2007), pp. 37-52.

Another interesting finding is the role of SOEs. Officially, SOEs are not part of the aid policy formulation process, but they are believed to have started playing an important role in recent years. According to the interviews we did with senior managers of selected SOEs who are involved in China's foreign aid, SOEs participate in all four stages of the process: they help recipient countries prepare aid requests, conduct preliminary project assessment, implement aid projects, and evaluate the effect of aid projects.

New Development Norms Proposed by Western Donors

What are the recent Western efforts to improve the global governance of international development aid? And what is China's response to those efforts?

Keeping with the spirit of the Washington Consensus, Western donors have always emphasized that assistance should be accompanied with the request that recipient countries must comply with principles that force them to reform or to improve internal governance, such as fiscal discipline, clear public expenditure priorities, and interest rate liberalization.¹⁰

Western countries are believed to take advantages of their overseas aid in goodwill to push those developing countries to liberalize or to reform their institutional system. Western donors view the Washington Consensus as a method to reach the objective of reducing poverty in recipient countries. However, decades of controversy over the Washington Consensus have raised many doubts about whether the economic conditions that are often placed on aid are always good for development.¹¹ Some of the least developing countries have begun to turn to China for "unconditional" assistance, making it a key competitor for Western countries in recent years. We will try to analyze two main objectives of Western aid program as follows, and then see if China acts against these Western efforts.

Untied Aid

In China, nearly all the procurement recipients of projects financed through grants and zero-interest loan are from the list of approved Chinese firms, and foreign recipients of China's concessional loan are requested to source at least half of procurement from Chinese firms. By contrast, the

¹⁰ Center for International Development at Harvard University, "Washington Consensus", April 2003, available online at <http://www.cid.harvard.edu/cidtrade/issues/washington.html>.

¹¹ Deborah Brautigam, *Dragon's Gift: The Real Story of China in Africa* (Oxford: Oxford University Press, 2009).

OECD Development Assistance Committee (DAC) in April 2001 adopted a recommendation on untying aid to the least developed countries.¹² The OECD views untied aid as a more efficient way to deliver assistance, and as helpful in reducing administrative burden for both donors and recipients. However, to say that China is the only country that largely counts on tied aid is inaccurate. According to the figures published by DAC of OECD, as of 2001 Italy's official development aid was 92% tied, and the figure for Canada was 68.¹³ And even if not officially tied, American aid has created enormous demand for US products and services.

Governance and Democracy

As indicated on the website of US AID, since the Marshall Plan was implemented on the European continent after World War II, one of the main objectives of US's overseas aid has been to help developing countries reform their governance systems in a democratic direction.¹⁴

Even though democracy aid remains extremely small in comparison with US AID's total overseas development assistance to Africa, it plays a much more direct role with respect to vertical and horizontal accountability. By supporting independent media outlets, augmenting the capacity of civil society, strengthening election commissions, and strengthening legislatures and judiciaries, democracy-oriented aid aims to reinforce relationships of responsibility between citizens and their governments as well as between different government institutions. Without this aid, many of the key institutions and actors important for the consolidation of governance would be much weaker.¹⁵

As a rising power in the world, China is criticized by being inattentive the responsibility of improving political systems. Moreover, Chinese aid is seen as consistently being supportive of corrupt and autocratic countries, which would definitely undermine the political reform of the recipients.

There is no "one-size-fit-all" approach in the world for helping least developed countries. China is aiming at creating a "China-style" approach to foreign aid to adapt to its own internal conditions. Though there is still long way ahead, China is trying hard to catch up with the West with its new approach.

¹² OECD, *Untying Aid to the Least Developed Countries*, 2011.

¹³ Brautigam.

¹⁴ USAID, http://www.usaid.gov/about_usaid/

¹⁵ Danielle Resnick, *Foreign Aid and Democracy in Africa* (United Nations University, 2011).

Implications for Global Governance on International Development

There are two important positive lessons that can be drawn from the China's foreign aid in past decades.

The first is a focus on inexpensive tangible results. The strong focus of Chinese aid on infrastructure allows minimum embezzlement and corruption by rarely transferring cash to the recipient governments. Not being directed to the recipient's national budget, aid is disbursed directly to Chinese contractors. Through the use of a domestic tendering system, the tied elements of aid do not appear to result in cost overruns. Also, China's aid spends less on employing experts compared with most traditional donors. In Mozambique, 3,500 technical experts have been hired by Western donors, costing \$350 million each year and equal to the salaries of 400,000 local people. The distinct practice of the Chinese also makes it less likely there will be a brain drain from recipient bodies.

The second benefit is the emphasis on productivity. China's aid policy explicitly demonstrates its intension of using subsidies to help foster investment by their own companies. Infrastructure, as a sector disengaged by traditional donors, is supported by China's aid regime, and also helps entrench China's commercial engagement in the recipient country. This is similar to the China's own development experience in which China benefited from foreign investment initially in its special economic zones (SEZs), boosting productivity by introducing advanced technology and management. Likewise, the African SEZs and the CADF deliver on China's doctrine on promotion of production that lays the foundation of development.

In contrast to the preference of investing in and donating food by the West, Chinese agricultural investment is considered in line with addressing Africa's hunger problems by introducing hybrid rice and promoting sustainable fishing. Heavy investment in agricultural infrastructure, such as dams and canals, have expanded arable field significantly.¹⁶

Besides these strengths, there also are several looming challenges on China's aid-policy radar that have been raised by international scholars and discussed among Chinese stakeholders.

The first is China's apparently distinctive deviation from conditionality. China's "non-interference" rhetoric is often used to justify its no-strings-attached foreign aid practice. Some observers have accused China of giving blind support to "rogue states." Officials and politicians

¹⁶ Carl Rubinstein, "China's Eye on African Agriculture," *Asian Times*, October 2, 2009.

in Europe and the US accused China of being complicit with the odious Sudanese military junta by not using its leverage over aid and other forms of support to end the massacres in Darfur.

The second issue is about tied aid and limited positive spillover effects on the rest of the recipients' economy. Noticeable projects – roads, railways, telecommunication networks – are built by Chinese firms. In other words, most of Chinese aid is tied, a practice the members of OECD-DAC agreed to move away from due to the view that tied aid increases costs and requires larger bureaucracies on all sides. Generally, the aid department of MOFCOM or Ex-Im Bank disburses aid to the contractor after the recipient has confirmed the progress in line with the contract. The Ex-Im Bank states that for concessional-loan-funded projects, “In principle, no less than 50% of total procurement shall be made in China.”¹⁷ Local employment marks another limit of Chinese aid. Throughout Africa, where present Chinese aid projects, Chinese contractors hire mainly imported Chinese workforce, even where Africans desire opportunities to work.

The third major question is the risks of re-indebting the poorest countries. The multilateral debt relief initiative (MDRI), which dealt with the HIPC countries' debt to multilateral institutions, resulted in a relief of \$43 billion.¹⁸ The fact that China is now offering new loans to these very same countries is seen as free-riding on the established donors' debt relief programs and creating new problems for the future of the recipient countries. In 2008, the IMF expressed its concern over a \$9 billion Chinese package, consisting of zero-interest, concessional and commercial-rate loans to the Democratic Republic of Congo. At the very same time a write-off of a \$12.3 billion loan was under negotiation within the MDRI framework. Doubting the Congo's debt sustainability on Chinese offer, and worried by its guarantee of prior repayment to China, the IMF and the World Bank pushed a renegotiation. Eventually, the IMF concluded that the downsized \$6 billion loan had become “consistent with debt sustainability.”¹⁹

The fourth concern is transparency and lack of cooperation with other donors. In 2005, the OECD-DAC meeting on aid effectiveness called for alignment between donor countries by sharing information in order to avoid the overlap and to pool resources. The Chinese delegation signed

¹⁷ China Ex-Im Bank, “Chinese Government Concessional Loan and Preferential Export Buyer's Credit,” available online at: http://english.eximbank.gov.cn/businessarticle/activities/loan/200905/9398_1.html.

¹⁸ N. Woods, “Whose Aid? Whose influence?” p. 1209.

¹⁹ “China and Congo: Friends in Need”, Global Witness, March 2011.

the pledge in its traditional role as an aid recipient. Being a donor that is ramping-up funding, China is emerging as a lone ranger in the international aid world. Western aid donors complain that China is secretive about its aid projects, and that it declines to attend the traditional meetings presided over by the World Bank to coordinate aid activities in poor countries.²⁰

The Way Forward

China's foreign aid, both its composition and how it is provided, is rooted in its domestic political economy.

For China, there is a room to improve its aid policy in three ways. Firstly, China should provide more detailed data on its allocation of aid, as well as information about the conditions of its loan packages. Its White Paper on foreign aid was a very good first step, and more detailed reports should be made available for researchers and partners. Secondly, there needs to be a stronger dialogue mechanism between China and other bilateral, regional and multilateral donors. A positive trend is that the Beijing office of British Department for International Development (DfID) and the MOFCOM have signed a memorandum of understanding to reassure China's partners that a trilateral approach to aid has high-level support. Thirdly, China should join forces with other experienced donors to encourage those firms who are implementing aid projects to behave in socially responsible ways in compliance with international environmental and social rules and regulations.²¹ This would have positive implications for both the recipients' local communities and the implementing Chinese firms, as the two interact and are affected by each other directly.²²

Enhanced aid cooperation also requires that traditional donors adopt reforms. There is reasonable suspicion that some criticism of Chinese aid is politicized. Many consider that US Secretary of State Hillary Clinton's speech at the Busan aid effectiveness conference, urging developing countries to be alert on aid donors, was directed at China's recent offensive of aid.²³ Though the politicization of the emergence of China

²⁰ Jane Perlez, "China Competes With West in Aid to Its Neighbors", *New York Times*, September 18, 2006.

²¹ Shuaihua Cheng & Guoyong Liang, "Social responsibility of Chinese investment in Africa: What does it mean for EU-China Cooperation on development policy towards Africa?", *Trade Negotiations Insights*, Volume 10, May 2011.

²² Robert I. Rotberg, ed., *China into Africa: Trade, Aid, and Influence* (Brookings Institution Press, 2008), p. 77.

²³ Andrew Quinn, "Clinton tells developing world to be wary of donors", *Reuters*, November 29, 2011.

in the aid world seems inevitable, it is not unreasonable to expect that through feedback from recipients, China has and will continue to alter its aid, most significantly in Sub-Saharan African. In addition, it is time to put the overall norms of aid under close scrutiny, transforming it to rules facilitating effective international cooperation for development aid. Those areas of supposed current agreement are not fully persuasive. For instance, the norm of reducing debt burden and rebuilding credit worthiness by debt relief inhibits new borrowing that could encourage new investment and boost economic growth. In Angola and Sudan, both heavy borrowers, China is found to have a positive impact on debt tolerance through stimulating exports, infrastructure investment, and GNP growth.²⁴

The original norms for aid evolved from established donors through careful examination, but their soundness needs to be regularly examined in the context of aid effectiveness. Indeed, in the first decade of the new millennium, least developed countries, mostly significantly Africa, witnessed a strong revitalization of economic growth. The international community ought to bring together key participants from both the established donors and emerging powers to work finding ways to achieve feasible and effective cooperation.

²⁴ Helmut Reise, *Is China Actually Helping Improve Debt Sustainability in Africa?* (OECD Development Centre, 2007).



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