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ZHENG Yongnian & KONG Qingjiang

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# **CHINA IN THE WTO: FROM ACCESSION TO THE DOHA FAILURE**

ZHENG Yongnian & KONG Qingjiang<sup>\*</sup>

## **Introduction**

China's accession to the World Trade Organization (WTO) on 11 December 2001 was an historic event. For the rest of the world, admitting China into the world trading system was a great experiment. Indeed, as the most populated country, China's rapidly expanding economy reflected its significant role in decision-making concerning resource allocation in the world. There was no certainty at the time of accession that China's economic system would mesh well with WTO rules and other trading partners' generally market-oriented economies. Moreover, in the history of the world trading system, never had a country of such trading importance and with a system that had been identified to be incompatible with WTO norms been admitted.

It is no exaggeration that at the time of the accession, given China's trade weight, its anticipated gigantic trade surge would disrupt the market of its trading partners, and the rule-based multilateral trading system would be endangered if China opted to ignore the WTO rules. With this apprehension in mind, even before admitting China into the world trading system, the leading trading partners, particularly the United States and the European Union (EU), had successfully forced China to accept an ever more comprehensive protocol on the accession, one in which China committed itself to ever more far-reaching obligations beyond the WTO. Moreover, they kept a close watch on China's behavior in the WTO and formed task forces to monitor China's compliance with WTO commitments. It was the first time in the history of the world trading system for existing members to form monitoring task forces. Furthermore, China's trading partners have never been shy to take full advantage of the built-in mechanisms in the WTO, i.e., Trade Policy Review Mechanism and the Dispute Settlement Mechanism, to this end.

When China joined the world trading system, the WTO launched its new round of trade talks called the "Doha Development Agenda" (Doha Round). After seven years of ordeals, the Doha Round disappointingly ended in failure, thanks, namely, to splits between wealthy and developing nations. The failure of the Doha Round talks just represents, in the short run, a missed opportunity for some additional steps in the direction of a more competitive and productive system of global economic activity and trade. Along with this, the dominance of EU and the US in the global trading system will be weakened as China becomes more assertive in defending its perceived national interests. More alarming, however, is that China's refusal to cooperate in global trade talks would displace the world trade pattern, given the

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<sup>\*</sup> Professor Zheng Yongnian is Director at the East Asian Institute, National University of Singapore. Dr. Kong Qingjiang is Professor of Law at Zhejiang Gongshang University, China.

world's dependence on China-manufactured products over the years.<sup>1</sup> Other global undertakings, from slashing greenhouse-gas emissions to ending food-export restrictions, will also face hurdles if China flexes its muscles and fails to cooperate.<sup>2</sup>

With these questions in mind, we examine China's international behaviors since its accession to the WTO and interpret their implications. We argue that while China has made efforts to embrace international rules and norms, as a rapidly rising power, it has not yet learned how to bear greater international responsibility as expected by other members of the international community. China encounters dilemmas: as a member of the WTO, it wants to promote its national interests within the system; yet, it cannot be too self-interest centered since it is expected by other members to promote global public goods; meanwhile, China also faces different demands from the developed and developing world, and what side China should stay with is not an easy solution.

### **The Chinese Approach to and Perception of International Order**

In recent years the general sentiment towards multilateral institutions has not been very positive. The fiasco of the WTO Ministerial Conferences every other year demonstrated how strongly non-governmental organizations (NGO) of farmers, environmentalists, human rights activists, labor unions, and consumer groups protest against the current multilateral trading system. Other influential international institutions such as the International Monetary Fund (IMF), the World Bank and even the EU are also subjected to similar criticisms from a similar range of NGOs.

The antipathy towards the international institutions largely emanates from the misgivings about their recent eye-catching quantitative and qualitative expansion. The international organization system has expanded its regulatory domains beyond the purported statutory interests to regulate an array of non-statutory ones, which are traditionally the prerogatives of domestic constituencies of their member states. In addition to their quantitative expansion, international institutions have transformed themselves into entities beyond typical international organizations, which are perceived as "constitutionalization" of the international institutions. This gives rise to another worry that as massive power is increasingly concentrated in the hands of unelected bureaucrats, international institutions are becoming more and more unaccountable; they are further and further removed from the people who are affected by the decisions of the very bureaucrats who preside over the institutions. This was particularly so when a number of WTO panelists decide against trade laws, policies and measures formulated and deemed necessary by a member's elected national legislature to protect the interests of its people. These sentiments underscore a real

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<sup>1</sup> It has been argued that as China continues to grow, the demand for its products in the US and EU will be replaced by demand from Chinese consumers. What will be critical in the long run, however, is Chinese access to primary products from other countries: food, minerals and energy resources. In this context, a quasi-colonial system may even be envisaged with China ("the world's workshop") at the center, exporting its manufactured goods to resource-rich countries in exchange for their primary products.

<sup>2</sup> Even the official news agency of China worries that "[i]f the Doha Round repeatedly fails, this will cast doubt on the ability of all parties to find solutions to complex problems, such as climate change, high oil prices and food prices within a global framework," though it naturally makes no reference to China. See Xinhua news agency, 31 July 2008.

problem: most international institutions suffer from what is often referred to as a “democratic legitimacy deficit.”

Interestingly, unlike the general concerns over the issue of legitimacy of international institutions, the Chinese, both the government and the general public, perceives this issue as a matter of power sharing. In fact, inside China, the legitimacy of international institutions has never been singled out for meticulous and systemic study. Rarely can one find any literature on this issue. Students of international law in China are largely disinterested in this matter. It is only touched on in the discourse of international order, which has been heatedly debated upon by students of international relations.<sup>3</sup> In this context, any discussion of the Chinese approach to international norms cannot be proceeded without an understanding of China’s attitudes towards the international order.

### *The Evolving Chinese Attitudes towards International Order*

How a nation reacts towards an international institution is very much influenced by the cognitive necessity of behaving in a morally sensible way in the view of its domestic constituency. China, in the era of Mao Zedong, rejected the rules of the then international system and was never hesitant to pursue change through revolution instead. Mao’s foreign policy was noted for its bombastic language, strong opposition to the superpowers, especially the United States and the Soviet Union, close association with developing countries, relative isolation from international organizations, and economic autarky.

After the beginning of the reform and opening up in the late 1970s, Deng Xiaoping took China in the opposite direction. He promoted engagement with the international community to facilitate economic modernization at home. Consequently, China gradually began to emerge in the world stage from its Mao-era isolation. China expanded its international profile by significantly increasing its participation in intergovernmental and nongovernmental organizations, especially financial ones, i.e. the World Bank and the IMF. Of note, Chinese participation in the international community remained thin during Deng’s tenure.

The transformation only began in the early 1990s, with Beijing’s drive to expand its bilateral and multilateral links to further rapid economic growth based on economic reform and opening-up. It began to establish various levels of “partnership” to facilitate economic and security coordination. The pinnacle of this process was the Treaty of Good-Neighborliness and Friendly Cooperation that China signed with Russia in 2001.

During the 1990s, Beijing also began to abandon its previous aversion to international norms. Chinese leaders started to recognize that some norms could allow their country to promote its trade and security interests regionally and internationally. Thus, starting in the second half of the 1990s, China began to engage the Association

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<sup>3</sup> In this regard, serious research works include Ye Jiang and Tan Tan, “On the Legitimacy of International Institutions and its Defects” (in Chinese), *World Economics and Politics*, no. 12, 2006; and Wang Lefu and Li Weiquan, “A Study of the Issue of Legitimacy of Subjects in International Governance in the Context of Globalization” (in Chinese), *Journal of Sun Yat-sen University*, no.9, 2003.

of Southeast Asian Nations (ASEAN). In 1995, Beijing began to hold annual meetings with senior ASEAN officials. Soon, China helped initiate the “ASEAN + 3” mechanism, a series of yearly meetings among the ten ASEAN countries plus three northeast states, China, Japan, and South Korea. Next came the Framework Agreement on Comprehensive Economic Co-operation between the Association of Southeast Asian Nations and the People’s Republic of China, which was based on the “ASEAN + 1” mechanism. With the Framework Agreement, a China-ASEAN free trade area is set to emerge within 10 years. China also signed, with the ASEAN, a declaration on a code of conduct in 2002 primarily for the purpose of settling territorial disputes between China and some ASEAN members. Interestingly, the final document included most of the draft language sought by ASEAN – and little of what was offered by China. China also deepened its participation in the Asia-Pacific Economic Cooperation Forum, hosting the ninth leaders’ meeting in Shanghai in 2001. While clinging to its claims over the islands, China has now repeatedly committed itself to settling the territorial disputes peacefully, based on international law.

In Central Asia, China led the establishment of the region’s first multilateral group, the Shanghai Cooperation Organization (SCO). Founded to settle long-standing territorial disputes and to demilitarize borders, the SCO has expanded its mission to counterterrorism cooperation and regional trade after the September 11 terroristic attacks in the United States.

China has also spared no efforts in improving its ties with Europe since the end of the Cold War. In 1996, China was a founding member of the Asia-Europe Meeting, which holds biannual summits for heads of state and yearly ministerial meetings. China and the EU also initiated an annual political dialogue. More noteworthy is that China made public unprecedentedly a document “White Paper on China’s EU Policy,” which enunciated its relations with the EU as crucial. In 2004 both China and the EU agreed to establish a “strategic partnership” to institutionalize the bilateral relations.

Meanwhile, China has increased its engagement with the Security Council of the United Nations. Until the mid-1990s, China regularly abstained from Council resolutions that invoked Chapter VII of the Charter of the United Nations, which authorizes the use of force, in order to signal its opposition to the erosion of sovereignty such resolutions implied. In recent years, however, Beijing has begun to back these measures. In November 2002, for example, it voted for Resolution 1441 on weapons inspections in Iraq, one of the few times that China has supported a Chapter VII measure since joining the UN in 1971. Beijing has also increased its participation in peacekeeping operations, supporting contingents in East Timor, Congo (Kinshasa), Haiti and elsewhere. More prominently, China ratified several major arms control and nonproliferation treaties, including the Treaty on the Nonproliferation of Nuclear Weapons and the Chemical Weapons Convention. China has also agreed to adhere to the basic tenets of the Missile Technology Control Regime. And it signed the Comprehensive Nuclear Test Ban Treaty in 1996.<sup>4</sup>

These changes represent firstly China’s deeper participation in the international system and its attempts to rebuild its image, protect and promote its

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<sup>4</sup> In contrast, for much of the 1980s, Beijing viewed arms control and nonproliferation as the responsibilities of the United States and the Soviet Union, and as attempts to limit China’s influence.

economic interests, and enhance its security; they also supposedly demonstrate China's attempt to hedge against American influence around the world. More importantly they signal a larger transformation: China's emergence as an active player in the international arena. Although the changes are precipitated by the motivation to protect its own interests, China now accepts many prevailing international norms and institutions. It is fair to say that currently Beijing is prepared to work within international norms to pursue its interests.

### *Chinese Perceptions of International Norms in the Discourse of Sovereignty and Globalization*

Sovereignty can be historically understood through two broad movements. The first is the development of a system of sovereign states, culminating at the Peace of Westphalia in 1648. The second movement is the circumscription of the sovereign state, which began in practice after World War II and has since continued through European integration and the growth and strengthening of laws and practices to protect human rights. As a result, it becomes increasingly unclear if there is legitimate power above and beyond the sovereign.

China, however, seems to adhere to the traditional understanding of sovereignty.<sup>5</sup> China's approach has its base in the Chinese tradition. The Confucius teaching, which served the Chinese empire well for more than 2,000 years, acknowledged the "natural order of things" and gave great weight in particular to the need to accept the supremacy of family above all other institutions.<sup>6</sup> Manifested in the social institutions, the Chinese tradition tended to grant some legitimacy to the hierarchy of priorities which still has a bearing on the Chinese perception in the modern days.<sup>7</sup>

In this regard, however, the impact of China's participation in globalization on its perception of international norms should be examined. China has had in place a well developed, seemingly unstoppable, policy agenda for economic reform, one that requires, to remain internally coherent, a particular conception of globalization as an open world constructed of nation-states. Increasingly exposed to international economic influence, China has constructed a discourse of international norms that reinforces the correctness of its opening-up policy: China can retain its sovereignty and capacities despite the challenges and risks that international norms represent.

Although caution and conservatism are still prevalent in China's attitude towards international norms, as China's rise seems to be inevitable in recent decades, the Chinese ambition to enjoy the privileges of a great power in the international

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<sup>5</sup> For a detailed discussion of the People's Republic of China's perception of sovereignty, see Cheng Hu, *Globalization and State Sovereignty* (in Chinese) (Beijing: Tsinghua University Press, 2003), pp. 112-122.

<sup>6</sup> A typical example in this regard is that during some dynastical periods sons could not be prosecuted for aiding and abetting a criminal father, because it was natural that a family would aid and shelter its own members.

<sup>7</sup> For an argument that Confucianism still serves as the mode of governance in contemporary China, see Ross Terrill, *The New Chinese Empire: And What It Means for the United States* (New York: Basic Books: 2003).

institutions, which is supposedly to offer the Chinese-style international norms, is becoming evident. It is therefore a plausible argument that as China's power accumulates, it is just a matter of time before it begins to rigorously promote international norms with Chinese characteristics, unless the nation is assured that more power can be developed through cooperation.<sup>8</sup>

However, this paper argues that China has been frustrated with contemporary international norms, which are undoubtedly impacted by the US supremacy. To make it even worse, the US supremacy is often tantamount to unilateralism, *per se*, which is not enough to guarantee the effective functioning of international norms and may sometimes even constitute a real threat to the legitimacy or democratic decision-making process of international institutions.

Sovereignty, globalization and international norms are intertwined. In this context, it is fair to argue that multilateralism is set to be beneficial in that it increases the legitimacy of transnational governance. It provides a chance for members of the international community to express their ideas and interests where negotiation and decision-making can be accomplished in such a multilateral situation. From the Chinese point of view, multilateralism is the way for international community to constrain the caprice of a superpower and for international institutions to avoid making mistakes. This is particularly important when more and more developing countries and relatively weak powers prefer to pursue global governance through international institutions, which were often initiated by big powers. After all, transnational democracy – albeit at its early stage – should not be forgotten when democracy is a key word in domestic policy. Faced with an array of international institutions that do not fit China's preferred type, China has generally shown a preference for cooperation to conflict in dealing with international institutions. China is expected to continue cooperating with other states within the boundaries of international rules and norms of behavior.

In this regard, it is not because international order inherently entices a quest for legitimacy or at least a symbolic or normative legitimacy, but because China is aware that it is still a developing country, albeit a rising power. Pragmatically, China attaches great importance to its weight in the decision making process when it approaches an international institution. In fact, the criteria for judging whether there exists a democratic mechanism or a balance of interests of the institution's constituent members in the institution's decision-making process are two folds: firstly, whether the big powers among the institution's members share power or responsibility facilitated by the presence of a consultative mechanism, formal or informal, between the big powers; secondly, whether the interests of developing countries at large are taken into consideration in the decision making process. In other words, the international order should be able to accommodate the participating nations, whether manifested in a certain degree of coordination of sovereignties or in responses to the concerns of the participating nations.

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<sup>8</sup> See, for example, Marc Lanteigne, *China and International Institutions: Alternative Paths to Global Powers* (London and New York: Routledge, 2005), Chapter 5.

## **China's WTO Compliance under Other Powers' Monitoring**

The WTO is a rule-based system. For a nation, a membership in the WTO means it is bound by the norms embodied in the WTO agreements. In other words, national laws and administrative measures that affect trade must conform with WTO rules. A member failing to do so is likely to be brought to the Trade Policy Review Body for regular review and/or to the Dispute Settlement Body for adjudication. Both procedures are aimed at bringing members in line with WTO rules, with the Dispute Settlement procedures amounting to international adjudication. In this sense, due to the effective dispute settlement mechanism and trade policy review mechanism, the WTO norms are enforceable. Moreover, the WTO disciplines have cut into the traditionally exclusive sphere of domestic regulation. Never in the history of international norms have an international institution intrudes the domains of sovereign states as far as the WTO.

China has made great efforts to comply with many of its WTO obligations since its accession. For example, tariff reduction is one of the most important obligations undertaken by a member in joining the WTO. China has implemented in a timely manner tariff reduction commitments. The Trade Policy Review shows that all China's tariff lines are bound and that the relatively low applied most-favoured-nation (MFN) rates are close to bound MFN rates, thereby imparting a high degree of predictability to its tariff regime. Non-tariff barriers have been reduced, an example of which is in the decline of lines subject to automatic import licensing. The overall aim of China's trade policy is to accelerate the opening of its economy to the outside world and to introduce foreign technology and know-how, develop foreign trade, and promote "sustainable economic development." China has, by and large, continued to liberalize its trade and related policies gradually.

Nonetheless, like other WTO members, China interpreted and applied the norms, institutions and processes of the WTO in a way that is influenced by its local culture—an utilitarian approach to law or rule by law. Trade and trade-related measures, both at the border and internally, are still used as instruments of industrial policy. China has continued to use policy tools to channel resources into certain activities, with a view, *inter alia*, to promote investment in high technology, encourage innovation, and protect the environment (by, for example, reducing energy consumption). These tools include tax incentives, non-tax subsidies, price controls, and various forms of "guidance" including sector-specific "industrial policies." In order to reduce exports of products which used large amounts of natural resources and energy, or to reduce China's large trade surplus in an attempt to reduce trade friction, a variety of measures, including export taxes, reduced rebates of VAT on exports, and export prohibitions, licensing and quotas, are used, thus making China's already complex export regime considerably more restrictive.

Given the binding force of WTO rules, limited room for selective application is left for China. For example, in terms of transparency requirements, although some aspects of China's trade policy regime remain opaque, it has to continue to adopt measures to increase the level of transparency of its trade and trade-related policies, practices, and measures. A typical example is that of the Regulation on Open Government Information, which has been introduced to enhance transparency. China



has adopted measures to increase the alignment of its national standards with international norms.

There is little doubt that China's entry into the WTO has been a major contributing factor to its stunning economic success in recent years, keeping foreign markets open to its exports. Two points are noteworthy in this regard. Firstly, China's compliance with WTO obligations is driven by perceived benefits or out of self-interests. Secondly, China's compliance with its WTO rules and commitments lingers an inconsistent unsettling issue, which suggests an inherent tension between international norms and the Chinese context.<sup>9</sup>

### **China's WTO Participation Driven and Circumscribed by Perceived Interests**

China's participation in WTO activities is channeled through WTO's dispute settlement process, trade policy review, the Doha Round trade talks and other WTO-sponsored activities.

#### *Trade Dispute Settlement Process*

One of the main pillars of strength of the WTO trading system since its inception has been the WTO dispute settlement system. Indeed, China has been actively involved in the day-to-day operation of the WTO dispute settlement system from the very beginning, both as a user of the system and as a source for adjudicators in the system (see the Appendix in details). Since its accession to the WTO, China has been brought to the WTO eight times.<sup>10</sup> It lost two cases, i.e., the chips case<sup>11</sup> and auto parts case.<sup>12</sup> On other occasions, it conceded to phase out its trade measures in question before the establishment of a panel. China has gotten used to the fact that other members' use of WTO dispute settlement mechanism should not be viewed as hostile actions against it, adding that they follow lengthy negotiations and represent the normal way for mature trading partners to resolve their differences. Moreover, China is learning to use the WTO dispute settlement mechanism particularly by way of third party involvement in disputes and has become comfortable with using the mechanism.

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<sup>9</sup> Some even argued that in order for China to conform to WTO rules, the Constitution of the People's Republic of China needed to be revised in that references to the principle of party leadership contained in Article 12 may require amendment. See Pitman Potter, "Prospects for China's Legal Reform Project," in Pitman Potter, ed., *The Chinese Legal System: Globalization and Local Culture* (London: Routledge/Curzon, 2002), p.136.

<sup>10</sup> See WT/TPR/S/161, 28 February 2006 and WT/TPR/S/199, 16 April 2008.

<sup>11</sup> In order to encourage foreign chips manufacturers to build facilities in China, China places a 17 percent tax on semiconductors but gives local manufacturers rebates, thereby providing the latter with a substantial advantage. On 17 March 2004, the EU, together with the US lodged complaints against the chips tax rebate. The dispute ended with the phasing out of the tax rebate policy in China in July 2004.

<sup>12</sup> On 18 July 2008, a WTO panel pronounced that China's measures are inconsistent with national treatment obligations in that they subject imported auto parts to an internal charge in excess of that applied to like domestic auto parts.

## *Trade Policy Review*

Trade Policy Reviews (TPR) are mandated in WTO agreements to regularly examine and evaluate members' trade and related policies. Significant developments that may have an impact on the global trading system are also monitored. The US and the EU, which in this respect, treat China as a normal and important trading partner, use the review to press China on key issues such as government interference, transparency, standards, intellectual property rights protection and discrimination against EU firms.<sup>13</sup> Since its accession, China has undergone six rounds of transnational trade policy review and two rounds of normal trade policy review. During the normal course of trade policy review, China was found to cooperate with the Trade Policy Review Body and interested members when it provided the Government Report as well as addressed a substantial number of questions posed by interested members.

China has also used the regular TPRM of the WTO to address its concerns, such as challenging the US and the EU in relation to their trade measures which were perceived unfair.<sup>14</sup>

## *Doha Round Trade Talks*

The Doha Round was the first multinational trade talks after the establishment of the WTO. For China, it posed a challenge and an opportunity as a new WTO member to participate in the talks which cover the broadest of topics and require the sophisticated knowledge of participating members.

During the Doha Round, China aligned itself with free trade not only rhetorically but also in practice. A *New York Times* article exclaimed, "Since joining the WTO, China has been an outspoken defender of free-trade principles."<sup>15</sup> China has also actively participated in WTO mini-ministerial meetings and other bilateral or multilateral consultations.<sup>16</sup> China made more than 100 proposals altogether in the Doha Round, either alone or through cooperation with other developing countries. China also made major compromises and concessions on issues such as overall trade-distorting domestic support (OTDS) reduction for developed members, sensitive products, Special Safeguard (SSG) and anti-concentration clause (ACC). China also indicated its further market openings in some key sectors.<sup>17</sup>

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<sup>13</sup> On the second TPR from 21-23 May 2008, for example, the EU submitted more than 170 questions to China.

<sup>14</sup> On the TPR of EU on 25 and 27 October 2004, for example, China addressed 36 trade issues to the EC.

<sup>15</sup> Stephen Castle and Keith Bradsher, 'China's Shift on Food Was Key to Trade Impasse', *New York Times*, July 31, 2008.

<sup>16</sup> See, "Official: China has always played active role in WTO talks," Xinhua News Agency, 28 July 2008.

<sup>17</sup> See, "Statement at the Mini-ministerial Meeting by H.E. Chen Deming, Minister of Commerce, PRC," Geneva, 29 July 2008.

### *Other Participatory Activities in the WTO*

China has been active in paving the way for the appointment of its nationals in influential sub-entities in the WTO. China views a presence of its nationals in WTO bodies as a national glory as well as an evidence of its stature. More importantly, it sees this as an opportunity to influence rule-making or rule-enforcement in the future. China has so far, successfully recommended four Chinese nationals as panelists to the WTO Dispute Settlement Body. More noticeably, China was very successful in getting one of its nationals appointed in the influential and prestigious Appellate Body.<sup>18</sup> With the strong lobbying of the Chinese government, the WTO's Committee on Subsidies and Countervailing Measures elected Zhang Yuqing, a Chinese national to the membership of the Permanent Group of Exports (PEG) on 1 August 2008.

To participate in WTO activities, capacity building is very important to new members who are developing countries. In addition to its own capacity-building, China – as the first among the equals – contributed or hosted conferences to help other developing countries with capacity building.<sup>19</sup> China's efforts in this regard demonstrate, among others, its commitment to help other developing members fully benefit from the multilateral trading system and better integrate into the global economy.

China has participated in a way which accords with its culture and philosophy of safeguarding its interests, within the WTO framework. In other words, the country's participation in the WTO was driven as well as circumscribed by the interests that it perceives. Noteworthily, China's participation has been characterized by cooperation more than confrontation with other WTO members, although some participatory activities (e.g., dispute settlement process or even Doha Round talks) are more or less confrontational by nature. Nevertheless, no activities of such have been observed to disrupt the WTO agenda.

### **Pronounced “Hidden Agenda”: WTO Shaping**

In an interdependent world, international norms are crucial to the national interest of any country within the integrated global economic system. It is no exaggeration that rules predetermine the structure of international relations. This is why the late Chinese leader Deng Xiaoping pointed out long ago that China had to make its contribution to the international community. He was referring to a role in

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<sup>18</sup> The WTO Dispute Settlement Body appointed on 27 November 2007 Zhang Yuejiao, a Chinese national to the seven-member Appellate Body. Dispute Settlement Understanding (DSU) which stipulates that the Appellate Body shall “comprise persons of recognized authority, with demonstrated expertise in law, international trade and the subject matter of the WTO agreements generally.” The DSU also requires that the Appellate Body membership be broadly representative of the WTO membership. Candidates were nominated by WTO members and interviewed by a Selection Committee comprising the Director-General, and the Chairpersons of the General Council, the DSB, the Council for Trade in Goods, the Council for Trade in Services and the TRIPS Council. The appointments were made by the DSB on the basis of the Selection Committee's recommendation and following consultations with WTO members.

<sup>19</sup> For example, China hosted the “International Dialogue on WTO Dispute Settlement Mechanism: Experience Sharing Among Developing Countries” in Beijing from 9-10 July 2008, and donated CHF206,000 (about USD200,000) to the WTO Aid for Trade Initiatives.

world affairs corresponding to China's status as an emerging power. As a WTO member, China has to act within the boundary of WTO rules whenever it intends to promote its trade interests or fulfill its obligation towards other WTO members. Then a question arises: Is China satisfied with WTO rules?

In the eyes of China, although WTO rules are a result of contentions and compromises between developed and developing countries, there is no denying that the developed world led in the making of WTO rules. For example, WTO rules to a large extent are based on the "comparative advantage" theory and "game" theory, which represent the interests of the developed countries in their theorizing. Therefore, not all WTO rules are seemingly reasonable to many other countries.<sup>20</sup>

After China's WTO accession, Chinese officials clearly stated on various occasions that China was bound by WTO rules and would follow the rules. However, it might be too simple to equate the statement with China's acceptance of the legal force of WTO rules. In name, WTO rules are equally binding to both developed and developing countries. The developing world, however, often lacks the necessary powers and means to enforce WTO rules against the developed countries. The binding force of WTO rules is often viewed to be real for developing countries, but discounted for developed countries.

China is in favor of promoting a democratic decision-making process in the international order. As a realist, however, China is aware that with the predominance of the US, the current multilateral institutions could not deliver the sort of international norms that it expects. China is dissatisfied with some aspects of this system, the US unilateralism in particular. China has never ceased to adhere to its stand of establishing a new international political and economic order that is "fair" and "reasonable" to her. That is why it has taken bold initiative in reforming the trading system where its interests lie. As the major target of antidumping measures authorized by the WTO Antidumping Agreement, China was never shy to advocate a liberal approach to antidumping measures. More importantly, the pervasive regional integration trends provide the nation with an opportunity to test whether regional trade agreements lend support to the emergence of its own version of international order and institutions.

Regional trade agreements (RTAs) are such an area where China can flex muscles in rule-making without the risk of contradicting the multilateral rules of the WTO. Article 24 of the GATT and Article 5 of the GATS are two provisions regulating the formation of regional trade agreements. As a matter of fact, however, WTO members have little difficulty concluding regional trade agreements without running the risk of contravening the two provisions. Not long after its accession to the WTO, China has been intensifying its pursuit of bilateral/regional free-trade agreements with some of its trading partners. In China's bilateral/regional trading agreements, which it regards as a necessary supplement to multilateral trade liberalization, other WTO members hoped that they would not diminish China's commitment to the multilateral trading system.

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<sup>20</sup> See, Yang Jingyu, Minister of the Legislative Office of the State Council, "Accession to the WTO and the Legal Institution-Building in Our Country," *Qiu Shi*, no. 3, 2000, p.171.

The Chinese had, as mentioned earlier, proposed a blizzard of Asian regional economic arrangements in the past decade. China's efforts to promote regional institutions, which have so far been prompted by its economic greenhouse, are expected to rely primarily on the use of its "soft power"; they are also precipitated by the frustrations that multilateralism fails to go ahead as anticipated. In a nutshell, China has voiced various approaches to WTO rules, including honoring its own commitments, using WTO rules to its own advantage, and actively participating in the making of new rules.

### **A Preliminary Interpretation of the Chinese Behavior in the WTO**

With China now the world's third largest trader, members look to China to assume greater leadership in shaping the multilateral trading system. China has been urged to keep its momentum in trade liberalization. That is why whenever the Doha Round talks were suspended, either the WTO Director General or United States Trade Representative or EU Trade Commissioner would fly to Beijing to exhort Chinese leaders. For example, not long after the talks were suspended in July 2006, Pascal Lamy and Susan Schwab paid a visit to Beijing to push China to play a bigger role in reviving the Doha Round. To a great degree, China had the potential to become a leading player in the Doha Round and was in a position to contribute more than other developing countries to the multilateral trading system. Firstly, China is both a developing country and a trade giant. It has a good understanding of how other developing countries and developed countries feel in the talks. Due to this unique status, China could emerge as a mediator, helping to bridge the gaps between the developed and developing worlds. Secondly, the thrust of WTO-sponsored liberalization in trade in goods has shifted from industrial products to agricultural products. China, unlike its peers among developing countries, is not reliant on agriculture for its economic growth and export revenue. Therefore, it has a smaller stake in agricultural negotiations of the Doha Round. Thirdly, China's trade barriers are already low compared to other developing countries such as India and Brazil. If China offers improved access to its markets by cutting its tariffs on non-agricultural goods by, e.g., a half from the current applied rates and liberalizing trade and investment in the financial and other service sectors, such action will yield important dividends. It would allow China to respond positively to protectionist pressures in Europe and the United States, and would reinforce Chinese economic and political relations with other developing countries in the WTO.

As for China's *de facto* behavior, noteworthy is that there is a huge perception gap. In this regard, it suffices to make a comparison between China's perception of its behavior in the Doha Round and that of other members. Indeed, both China and the other members recognize China's status in the world trading system. Before the last moment of the Doha Round, China had been a constructive but low-key participant in the Doha Round. Particularly, China had played a useful role in advancing the negotiating process through its membership in the G-20 coalition of developing countries. In the eyes of China, it certainly played an active role as a talk facilitator, in spite of the ups and downs of the talks. Throughout the Doha Round talks, China was from time to time found to echo the US and EU's call for freer trade. China called on members to stand up to trade protectionism. While the Doha Round was suspended in

July 2006, China helped resume the talks soon by exchanging views with key players through various diplomatic channels.

In the eyes of other WTO members, however, China had not offered additional reforms beyond the extensive commitments undertaken in its 2001 protocol of accession, and merely routinely urging other members to show sufficient political will to advance the Doha Round. Even China's low profile in the WTO talks was not befitting its status as one of the world's largest economies and trading nations. More unacceptable to them is that China's late-hour emergence as a swing factor was a surprise – and not only because it departed from its usual low-key negotiating style. Therefore, China deserved blame—along with India and other major trading nations—for the fall-out of the Doha Round talks.

It is difficult to gauge the exact reasons why in the Doha Round China, at the last moment, joined India in insisting on having the right to re-impose tariffs –or raise them – if there was a surge in food imports, which in part contributed to the demise of the Doha Round. One explanation of China's willingness to let the Doha Round talks collapse is that the emerging giant's ties with other developing nations are growing in importance. This article argues, however, there were two other possibilities which led to the Chinese action, namely, domestic politics and perceived national interest. Like other countries, domestic politics can also have an impact on China's behavior in the international fora. After decades of high industrial growth, the rural problem (dubbed as “*san-nong wenti*”, i.e., agriculture, village and peasants) has become a burning social-economic problem which is crying out for attention.<sup>21</sup> Siding with India for the right to protect Chinese agriculture and farmers from import surges was apparently a politically correct choice, albeit a nominal one, because China is a net importer of food.

The second factor is interest and costs assessment and calculation. Technically, the Doha Round was merely a game through which the US and Europe made long-sought concessions on agricultural subsidies in exchange for developing nations' further opening of their markets to US and European manufacturers and service companies. While China remains a net importer of agricultural products, China saw no vital interests in the offer of the US and EU. On the contrary, for China a successful conclusion of the Doha Round would mean more responsibilities in non-agriculture market access (NAMA). A fallout in the talks would be in the interest, albeit perceived, of China. As a matter of fact, the hypothesis of “developing countries alignment” would not stand if the issue of US cotton subsidies, which is of vital interest to Africa's four cotton-producing nations, was not even discussed in mini-ministerial meetings.

In conclusion, China realizes that it has an important stake in a well-functioning multilateral trading system.<sup>22</sup> It had been a constructive but low-key

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<sup>21</sup> John Wong, “What is China's *San-Nong* (Rural) Problem?” in Wang Gungwu and John Wong (eds.), *Interpreting China's Development* (Singapore and London: World Scientific Publishing Co., 2007), pp. 160-167.

<sup>22</sup> For example, Zhang Xiangchen, Head of WTO Affairs of the Chinese Ministry of Commerce had reportedly declared that “given its huge volume of imports and export, China has always made the multilateral trade system a priority of its trade policies.” See, “Official: China has always played active role in WTO talks,” Xinhua News Agency, 28 July 2008.

participant in the Doha Round of multilateral trade negotiations in the WTO. Particularly, China had played a useful role in advancing the negotiating process through its membership in the G-20 coalition of developing countries. No one doubted that China had “fully demonstrated flexibility and constructiveness and sincerely hoped to reach a successful Doha Round through working together with other members.”<sup>23</sup> The issue at stake here is how other WTO members perceive China’s actions in its pursuit of interests, particularly the institutional advantages vis-à-vis its inactions towards areas of wider interests of the multilateral trading system *per se*. Of course, the issue is one subject to the interpretation of the perception gap between China and other WTO members on the role of China in the Doha Round. At the WTO ministerial meeting in Geneva in late July 2008, China joined the organization’s inner steering committee for the first time. It seemed that China, far from supporting liberalization and willing to help promote a fruitful outcome, used its newfound clout to join India in seeking new protection beyond the red lines of most of the other participants, including many developing countries. The gap reflects the expectation of other WTO members about China’s due role and China’s own perception.

Today, China, the world’s most populous country, largely works within the international system. China is taking a less confrontational, more sophisticated, more confident, and, often, more constructive approach toward regional and global affairs. However, for a major power, China is also expected to provide international public goods while pursuing its own interests. Its international behavior is now confined by its self-benefiting motive and public spiritedness. It has to pay attention to the perceptions of others. Now, the issue here is that on one hand, China realizes that it has an important stake in a well-functioning multilateral trading system, and on the other, other WTO members are dissatisfied with its inactions towards areas of wider interests of the multilateral trading system *per se*.

Failing to deliver public goods for the international community is a totally unacceptable behavior of a leading member of an international institution.<sup>24</sup> If China is to be seen as a leader, it must be prepared to pay its fair share (which, indeed, will be substantial) of the costs of addressing global issues. In this regard, China’s role as a bystander in the worldwide effort to advance a freer multilateral trading system is arguably untenable. Its support for India’s position was thus miscalculated since India’s position effectively negated a chance to expand markets for Chinese exporters in favor of building political ties with other lower-income countries. In addition, as an authoritarian system, China’s domestic social pressure is hardly able to affect its international agenda.

### **Concluding Remarks**

There has been speculation that China might overtake the United States as the world’s largest economy by 2020. No country in history has emerged as a major power without causing a worry about its direction: a rising late-comer initiating a

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<sup>23</sup> See, “Statement at the Mini-ministerial Meeting by H.E. Chen Deming, Minister of Commerce, PRC,” Geneva, 29 July 2008.

<sup>24</sup> See, for example, Ye Jiang and Tan Tan, “On the Legitimacy of International Institutions and its Defects” (in Chinese), *World Economics and Politics*, No. 12, 2006.

confrontation with a weakening hegemon. Many observers – in reasoning by historical analogy – even point to the USSR or Wilhelmina Germany as a parallel for contemporary China, which is viewed as a potential challenger to the US.<sup>25</sup>

The international community and its members collectively or separately have devoted significant resources to deepen China's participation in the international system and to promote its emergence as a responsible great power that observes the norms and principles of the international society. Insofar as the international community has a larger goal of international order, it is for a system that would be characterized by observance of international law as agreed in international institutions.

On China's side, the country was observed to maximize its interests through minimal involvement, by free riding on the actions of other major powers while staking a claim to the moral high ground, i.e. it sought many of the rights and privileges of a great power without accepting most of the attendant obligations and responsibilities.<sup>26</sup> Even in light of past experiences, it would still be over-exaggerating to argue that China's actions in the WTO have challenged some of the most fundamental norms and rules of the existing international norms. Even China's failure to act in a way that falls within the expectation of other WTO members in the final stage of the Doha Round talks was no violation of existing WTO rules from purely legalist point of view. The US and EU's dissatisfaction with China's performance seems to be rooted in China's inconsistent behavior during the majority of the talks and the last minute attitude swing.

It is the general expectation that China needs to accept that those who receive benefits from global cooperation must share in the burden of providing "global public goods."<sup>27</sup> While China has many poor people and must give priority to addressing their plight, poverty can no longer be accepted as an excuse. China has great wealth today and must therefore be prepared to contribute financially and otherwise as a middle-income country (of great size) to global problem solving.

Nevertheless, as observers have pointed out, over the past decade China has shifted its posture from that of an aggrieved victim of Western imperialism to that of an increasingly responsible member of the international community. Moreover, in the foreseeable future, China will further integrate itself with the international system of which it has become an indispensable part. As it is gradually getting accustomed to the norms, it will become bolder to use norms to reap benefits. In the meantime, China will not give up any opportunity of reforming the norms. It will become clearer if the issue is observed against the backdrop of China's attitudes towards international institutions, which can be summarized by general compliance with international

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<sup>25</sup> Joshua Cooper Ramo, 'The gap between how China sees itself and others see it is wide and dangerous', *Newsweek*, Sept. 25, 2006 issue.

<sup>26</sup> Iain Johnston, "An Overview of Studies of American Scholars on the Relationship between China and International Organizations" (in Chinese), Institute of World Economics and Politics, Chinese Academy of Social Sciences, 2004.

<sup>27</sup> According to the International Energy Agency, China overtook the US as the world's biggest source of greenhouse gases in 2007. China is a signatory to the Kyoto Protocol on reducing greenhouse gases, but it is exempted from its restrictions because it is a developing country.



norms, increasing interest in using norms to its advantage and outspoken aspiration for a change towards a balanced order.

It should be pointed out that international participation in the WTO poses challenges and opportunities to China as a new member. China's experience in the WTO was a mixture of monitored adaption, eagerness to peruse, aspiration to change, which in fact boils down to the ability to learn. There have been glory and frustration. What is more important are the lessons learned from its experience in the WTO, the Doha Round and beyond. As explained earlier, China's inexperience should be responsible for its inconsistent behavior in the WTO. Its support for India's position at the last moment of the Doha Round was viewed as a misperception on the part of China.<sup>28</sup> In this context, the issue at stake is how to balance between compliance and reform, and how to prioritize between adaption and exploration. While international participation invites sophisticated knowledge and skills, China, as the first step, should learn how to assess and calculate interests and costs.

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<sup>28</sup> Andrew Batson, "China Casts Its Lot With Developing Nations," *Wall Street Journal*, July 31, 2008, available at <http://online.wsj.com/article/SB121744098021997539.html>.

**Appendix: China's involvement in the WTO dispute settlement mechanism,  
as at March 2008**

| <b>Dispute</b>  | <b>Complainant<br/>(WTO document)</b> | <b>Request for<br/>consultation</b> | <b>Panel<br/>established</b> | <b>Panel report<br/>circulated</b> | <b>Appeal<br/>requested</b> | <b>Appellate<br/>Body Report<br/>adopted</b> |
|---|---------------------------------------|-------------------------------------|------------------------------|------------------------------------|-----------------------------|--|
| <b>Against China</b>  |                                       |                                     |                              |                                    |                             |  |
| Value-added tax on integrated circuits <sup>a</sup>   | United States<br>(WT/DS309/1)         | 18/03/2004                          |                              |                                    |                             |  |
| Measures affecting imports of automobile parts  | EC<br>(WT/DS339/1)                    | 30/03/2006                          | 26/10/2006                   |                                    |                             |  |
| Measures affecting imports of automobile parts  | United States<br>(WT/DS340/1)         | 30/03/2006                          | 26/10/2006                   |                                    |                             |  |
| Measures affecting imports of automobile parts  | Canada<br>(WT/DS342/1)                | 13/04/2006                          | 26/10/2006                   |                                    |                             |  |
| Certain measures granting refunds, reductions or exemptions from taxes and other payments <sup>b</sup>                      | United States<br>(WT/DS358/1)         | 02/02/2007                          | 31/08/2007                   |                                    |                             |  |
| Certain measures granting refunds, reductions or exemptions from taxes and other payments <sup>c</sup>                      | Mexico<br>(WT/DS359/1)                | 26/02/2007                          | 31/08/2007                   |                                    |                             |  |
| Measures affecting the protection and enforcement of intellectual property rights   | United States<br>(WT/DS362/1)         | 10/04/2007                          | 25/09/2007                   |                                    |                             |  |
| Measures affecting trading rights and distribution services for certain publications and audiovisual entertainment products | United States<br>(WT/DS363/1)         | 10/04/2007                          | 27/11/2007                   |                                    |                             |  |
| Measures affecting financial information services and foreign financial information suppliers                               | EC<br>(WT/DS372/1)                    | 03/03/2008                          |                              |                                    |                             |  |
| Measures affecting financial information services and foreign financial information suppliers                               | United States<br>(WT/DS373/1)         | 03/03/2008                          |                              |                                    |                             |  |
| <b>By China</b>   |                                       |                                     |                              |                                    |                             |  |
| Definitive Safeguard Measures on Imports of Certain Steel Products  | China<br>(WT/DS252/1)                 | 26/03/2002                          | 24/06/2002                   |                                    | 11/08/2003                  | 10/12/2003                                   |

| <b>Dispute</b>   | <b>Complainant<br/>(WTO document)</b> | <b>Request for<br/>consultation</b> | <b>Panel<br/>established</b> | <b>Panel report<br/>circulated</b> | <b>Appeal<br/>requested</b> | <b>Appellate<br/>Body Report<br/>adopted</b> |
|--|---------------------------------------|-------------------------------------|------------------------------|------------------------------------|-----------------------------|--|
| Preliminary anti-dumping and countervailing duty determinations on coated free sheet paper from China                              | (WT/DS368/1)                          | 14/09/2007                          |                              |                                    |                             |  |
| <b>China as a third party</b>  |                                       |                                     |                              |                                    |                             |  |
| United States– Tax Treatment for "Foreign Sales Corporations" <sup>nd</sup>  | EC<br>(WT/DS108/27)                   | 05/11/2004                          | 02/05/2005                   | 30/09/2005                         |                             |  |
| European Communities - Protection of Trademarks and Geographical Indications for Agricultural Products and Foodstuffs <sup>c</sup> | United States<br>(WT/DS174/1/Add.1)   | 04/04/2003                          | 01/10/2003                   | 15/03/2005                         |                             |  |
| United States– Countervailing Measures Concerning Certain Products from the European Communities <sup>c</sup>                      | EC<br>(WT/DS212/14)                   | 17/03/2004                          | 27/09/2004                   | 17/08/2005                         |                             |  |
| United States – Rules of Origin for Textiles and Apparel Products  | India<br>(WT/DS243/1)                 | 11/01/2002                          | 24/06/2002                   | 20/06/2003                         |                             |  |
| Japan – Measures Affecting the Importation of Apples   | United States<br>(WT/DS245/1)         | 01/03/2002                          | 03/06/2002                   | 15/07/2003                         | 28/08/2003                  | 10/12/2003                                   |
| United States – Definitive Safeguard Measures on Imports of Certain Steel Products   | EC<br>(WT/DS248/1)                    | 07/03/2002                          | 03/06/2002                   | 11/07/2003                         | 11/08/2003                  | 10/12/2003                                   |
| United States – Definitive Safeguard Measures on Imports of Certain Steel Products   | Japan<br>(WT/DS249/1)                 | 20/03/2002                          | 14/06/2002                   | 11/07/2003                         | 11/08/2003                  | 10/12/2003                                   |
| United States – Definitive Safeguard Measures on Imports of Certain Steel Products   | Korea<br>(WT/DS251/1)                 | 20/03/2002                          | 14/06/2002                   | 11/07/2003                         | 11/08/2003                  | 10/12/2003                                   |
| United States – Definitive Safeguard Measures on Imports of Certain Steel Products   | Switzerland<br>(WT/DS253/1)           | 03/04/2002                          | 24/06/2002                   | 11/07/2003                         | 11/08/2003                  | 10/12/2003                                   |

| <b>Dispute</b>   | <b>Complainant<br/>(WTO document)</b> | <b>Request for<br/>consultation</b> | <b>Panel<br/>established</b> | <b>Panel report<br/>circulated</b> | <b>Appeal<br/>requested</b> | <b>Appellate<br/>Body Report<br/>adopted</b> |
|--|---------------------------------------|-------------------------------------|------------------------------|------------------------------------|-----------------------------|--|
| United States – Definitive<br>Safeguard Measures on<br>Imports of Certain Steel<br>Products                              | Norway<br>(WT/DS254/1)                | 04/04/2002                          | 24/06/2002                   | 11/07/2003                         | 11/08/2003                  | 10/12/2003                                   |
| United States – Final<br>Countervailing Duty<br>Determination with respect to<br>Certain Softwood Lumber<br>from Canada  | Canada<br>(WT/DS257/1)                | 03/05/2002                          | 01/10/2002                   | 29/08/2003                         | 02/10/2003<br>21/10/2003    | 17/02/2004                                   |
| United States – Definitive<br>Safeguard Measures on<br>Imports of Certain Steel<br>Products                              | New Zealand<br>(WT/DS258/1)           | 14/05/2002                          | 08/07/2002                   | 11/07/2003                         | 11/08/2003                  | 10/12/2003                                   |
| United States – Final<br>Dumping Determination on<br>Softwood Lumber from<br>Canada <sup>b</sup>                         | Canada<br>(WT/DS264/16)               | 19/05/2005                          | 03/06/2005                   |                                    |                             |  |
| European Communities –<br>Export Subsidies on Sugar  | Australia<br>(WT/DS265/1)             | 27/09/2002                          | 29/08/2003                   | 15/10/2004                         | 13/01/2005<br>25/01/2005    | 19/05/2005                                   |
| European Communities –<br>Export Subsidies on Sugar  | Brazil<br>(WT/DS266/1)                | 27/09/2002                          | 29/08/2003                   | 15/10/2004                         | 25/01/2005<br>13/01/2005    | 19/05/2005                                   |
| United States – Subsidies on<br>Upland Cotton  | Brazil<br>(WT/DS267/1)                | 27/09/2002                          | 18/03/2003                   | 08/09/2004                         | 18/10/2004                  | 21/03/2005                                   |
| European Communities –<br>Customs Classification of<br>Frozen Boneless Chicken<br>Cuts                                   | Brazil<br>(WT/DS269/1)                | 11/10/2002                          | 07/11/2003                   | 30/05/2005                         | 13/06/2005<br>27/06/2005    | 27/09/2005                                   |
| Australia – Certain Measures<br>Affecting the Importation of<br>Fresh Fruit and Vegetables                               | Philippines<br>(WT/DS270/1)           | 18/10/2002                          | 29/08/2003                   |                                    |                             |  |
| Korea – Measures Affecting<br>Trade in Commercial Vessels  | EC<br>(WT/DS273/1)                    | 21/10/2002                          | 21/07/2003                   | 07/03/2005                         |                             |  |
| Canada – Measures Relating<br>to Exports of Wheat and<br>Treatment of Imported Grain                                     | United States<br>(WT/DS276/1)         | 17/12/2002                          | 11/07/2003<br>31/03/2003     | 06/04/2004                         | 01/06/2004                  | 27/09/2004                                   |
| United States – Investigation<br>of the International Trade<br>Commission in Softwood<br>Lumber from Canada <sup>e</sup> | Canada<br>(WT/DS277/8)                | 14/02/2005                          | 02/03/2005                   |                                    |                             |  |

| <b>Dispute</b>  | <b>Complainant<br/>(WTO document)</b> | <b>Request for<br/>consultation</b> | <b>Panel<br/>established</b> | <b>Panel report<br/>circulated</b> | <b>Appeal<br/>requested</b> | <b>Appellate<br/>Body Report<br/>adopted</b> |
|---|---------------------------------------|-------------------------------------|------------------------------|------------------------------------|-----------------------------|--|
| United States –<br>Countervailing Duties on<br>Steel Plate from Mexico  | Mexico<br>(WT/DS280/1)                | 21/01/2003                          | 29/08/2003                   |                                    |                             |  |
| United States - Anti-Dumping<br>Measures on Cement from<br>Mexico   | Mexico<br>(WT/DS281/1)                | 31/01/2003                          | 29/08/2003                   |                                    |                             |  |
| United States - Anti-Dumping<br>Measures on Oil Country<br>Tubular Goods (OCTG) from<br>Mexico                                    | Mexico<br>(WT/DS282/1)                | 18/02/2003                          | 29/08/2003                   | 20/06/2005                         | 04/08/2005<br>16/08/2005    |  |
| European Communities –<br>Export Subsidies on Sugar   | Thailand<br>(WT/DS283/1)              | 14/03/2003                          | 29/08/2003                   | 15/10/2004                         | 25/01/2005<br>13/01/2005    | 19/05/2005                                   |
| European Communities –<br>Customs Classification of<br>Frozen Boneless Chicken<br>Cuts  | Thailand<br>(WT/DS286/1)              | 25/03/2003                          | 21/11/2003                   | 30/05/2005                         | 13/06/2005<br>27/06/2005    | 27/09/2005                                   |
| Australia – Quarantine<br>Regime for Imports  | EC<br>(WT/DS287/1)                    | 03/04/2003                          | 07/11/2003                   |                                    |                             |  |
| European Communities –<br>Protection of Trademarks and<br>Geographical Indications for<br>Agricultural products and<br>Foodstuffs | Australia<br>(WT/DS290/1)             | 17/04/2003                          | 02/10/2003                   | 15/03/2005                         |                             |  |
| European Communities –<br>Measures Affecting the<br>Approval and Marketing of<br>Biotech Products                                 | United States<br>(WT/DS291/1)         | 13/05/2003                          | 29/08/2003                   |                                    |                             |  |
| European Communities –<br>Measures Affecting the<br>Approval and Marketing of<br>Biotech Products                                 | Canada<br>(WT/DS292/1)                | 13/05/2003                          | 29/08/2003                   |                                    |                             |  |
| European Communities –<br>Measures Affecting the<br>Approval and Marketing of<br>Biotech Products                                 | Argentina<br>(WT/DS293/1)             | 14/05/2003                          | 29/08/2003                   |                                    |                             |  |
| United States – Laws,<br>Regulations and Methodology<br>for Calculating Dumping<br>Margins ("Zeroing")                            | EC<br>(WT/DS294/1)                    | 12/06/2003                          | 19/03/2004                   |                                    |                             |  |

| <b>Dispute</b>   | <b>Complainant<br/>(WTO document)</b> | <b>Request for<br/>consultation</b> | <b>Panel<br/>established</b> | <b>Panel report<br/>circulated</b> | <b>Appeal<br/>requested</b> | <b>Appellate<br/>Body Report<br/>adopted</b> |
|--|---------------------------------------|-------------------------------------|------------------------------|------------------------------------|-----------------------------|--|
| Mexico – Definitive<br>Anti-dumping Measures on<br>Beef and Rice   | United States<br>(WT/DS295/1)         | 16/06/2003                          | 07/11/2003                   | 06/06/2005                         | 20/07/2005                  |  |
| United States –<br>Countervailing Duty<br>Investigation on Dynamic<br>Random Access Memory<br>Semiconductors (Drams)<br>from Korea | Korea<br>(WT/DS296/1)                 | 30/06/2003                          | 23/01/2004                   | 21/02/2005                         | 11/04/2005<br>29/03/2005    | 20/07/2005                                   |
| European Communities –<br>Countervailing Measures on<br>Dynamic Random Access<br>Memory Chips from Korea                           | Korea<br>(WT/DS299/1)                 | 25/07/2003                          | 23/01/2004                   | 17/06/2005                         |                             |  |
| European Communities –<br>Measures Affecting Trade in<br>Commercial Vessels  | Korea<br>(WT/DS301/1)                 | 03/09/2003                          | 19/03/2004                   | 22/04/2005                         |                             |  |
| Dominican Republic –<br>Measures Affecting the<br>Importation and Internal Sale<br>of Cigarettes                                   | Honduras<br>(WT/DS302/1)              | 08/10/2003                          | 09/01/2004                   | 26/11/2004                         | 07/02/2005<br>24/01/2005    | 19/05/2005                                   |
| Mexico – Tax Measures on<br>Soft Drinks and Other<br>Beverages   | United States<br>(WT/DS308/1)         | 16/03/2004                          | 06/07/2004                   |                                    |                             |  |
| Korea – Anti-dumping Duties<br>on Imports of Certain Paper<br>from Indonesia   | Indonesia<br>(WT/DS312/1)             | 04/06/2004                          | 27/09/2004                   |                                    |                             |  |
| European Communities –<br>Selected Customs Matters   | United States<br>(WT/DS315/1)         | 21/09/2004                          | 21/03/2005                   |                                    |                             |  |
| European Communities and<br>Certain Member States –<br>Measures Affecting Trade in<br>Large Civil Aircraft                         | United States<br>(WT/DS316/1)         | 06/10/2004                          | 20/07/2005                   |                                    |                             |  |
| United States – Measures<br>Affecting Trade in Large<br>Civil Aircraft   | EC<br>(WT/DS317/1)                    | 06/10/2004                          | 20/07/2005                   |                                    |                             |  |
| United States – Continued<br>Suspension of Obligations in<br>the EC – Hormones Dispute   | EC<br>(WT/DS320/1)                    | 08/11/2004                          | 17/02/2005                   |                                    |                             |  |

| <b>Dispute</b>  | <b>Complainant<br/>(WTO document)</b> | <b>Request for<br/>consultation</b> | <b>Panel<br/>established</b> | <b>Panel report<br/>circulated</b> | <b>Appeal<br/>requested</b> | <b>Appellate<br/>Body Report<br/>adopted</b> |
|---|---------------------------------------|-------------------------------------|------------------------------|------------------------------------|-----------------------------|--|
| Canada – Continued<br>Suspension of Obligations in<br>the EC - Hormones Dispute                 | EC<br>(WT/DS321/1)                    | 08/11/2004                          | 17/02/2005                   |                                    |                             |  |
| United States – Measures<br>Relating to Zeroing and<br>Sunset Reviews                           | Japan<br>(WT/DS322/1)                 | 24/11/2004                          | 28/02/2005                   |                                    |                             |  |
| Japan – Import Quotas on<br>Dried Laver and Seasoned<br>Laver                                   | Korea<br>(WT/DS323/1)                 | 01/12/2004                          | 21/03/2005                   |                                    |                             |  |
| Egypt – Anti-Dumping Duties<br>on Matches from Pakistan   | Pakistan<br>(WT/DS327/1)              | 21/02/2005                          | 20/07/2005                   |                                    |                             |  |
| Brazil — Measures<br>affecting imports of<br>retreaded tyres                                    | EC<br>(WT/DS332/1)                    | 20/06/2005                          | 20/01/2006                   | 12/06/2007                         |                             |  |
| Turkey — Measures<br>affecting the importation of<br>rice                                       | United States<br>(WT/DS334/1)         | 02/11/2005                          | 17/03/2006                   | 21/09/2007                         |                             |  |
| United States —<br>Anti-dumping measure on<br>shrimp from Ecuador                               | Ecuador<br>(WT/DS335/1)               | 17/11/2005                          | 19/07/2006                   |                                    |                             |  |
| Japan — Countervailing<br>duties on dynamic random<br>access memories from Korea                | Korea<br>(WT/DS336/1)                 | 14/03/2006                          | 19/06/2006                   | 13/07/2007                         |                             |  |
| European Communities —<br>Anti-dumping measure on<br>farmed salmon from Norway                  | Norway<br>(WT/DS337/1)                | 17/03/2006                          | 22/06/2006                   |                                    |                             |  |
| Mexico — Definitive<br>countervailing measures on<br>olive oil from the European<br>Communities | EC<br>(WT/DS341/1)                    | 31/03/2006                          | 23/01/2007                   |                                    |                             |  |
| United States — Measures<br>relating to shrimp from<br>Thailand                                 | Thailand<br>(WT/DS343/1)              | 24/04/2006                          | 26/10/2006                   |                                    |                             |  |
| United States — Final<br>anti-dumping measures on<br>stainless steel from Mexico                | Mexico<br>(WT/DS344/1)                | 26/05/2006                          | 26/10/2006                   |                                    |                             |  |

| <b>Dispute</b>  | <b>Complainant<br/>(WTO document)</b> | <b>Request for<br/>consultation</b> | <b>Panel<br/>established</b> | <b>Panel report<br/>circulated</b> | <b>Appeal<br/>requested</b> | <b>Appellate<br/>Body Report<br/>adopted</b> |
|---|---------------------------------------|-------------------------------------|------------------------------|------------------------------------|-----------------------------|--|
| United States — Customs bond directive for merchandise subject to anti-dumping/countervailing duties                              | India<br>(WT/DS345/1)                 | 06/06/2006                          | 21/11/2006                   |                                    |                             |  |
| European Communities and certain member States — Measures affecting trade in large civil aircraft (second complaint) <sup>f</sup> | United States<br>(WT/DS347/1)         | 31/01/2006                          | 09/05/2006                   |                                    |                             |  |
| United States — Continued existence and application of zeroing methodology  | EC<br>(WT/DS350/1)                    | 02/10/2006                          | 04/06/2007                   |                                    |                             |  |
| United States — Measures affecting trade in large civil aircraft — second complaint   | EC<br>(WT/DS353/1)                    | 27/06/2005                          | 17/02/2006                   |                                    |                             |  |
| United States – Subsidies and other domestic support for corn and other agricultural products                                     | Canada<br>(WT/DS357/1)                | 08/01/2007                          | 17/12/2007                   |                                    |                             |  |
| United States – Domestic support and export credit guarantees for agricultural products   | Brazil<br>(WT/DS365/1)                | 11/07/2007                          | 17/12/2007                   |                                    |                             |  |
| Colombia – Indicative prices and restrictions on ports of entry   | Panama<br>(WT/DS366/1)                | 12/07/2007                          | 22/10/2007                   |                                    |                             |  |

- a On dispute WT/DS309, no panel was established. On 14 July 2004 China and the United States signed a Memorandum of Understanding (MOU). On 5 October 2005, the parties notified the DSB that a mutually agreed solution had been reached.
- b On 19 December 2007, the United States and China informed the DSB of an agreement in the form of a MOU.
- c On 7 February 2007, Mexico and China informed the DSB of an agreement in the form of a MOU.
- d Consultations or panels requested pursuant to Article 21.5 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU).
- e The first request for consultations by the United States regarding the European Community's protection of trade marks and geographical indications for agricultural products and foodstuffs (WT/DS174/1) was made on 1 June 1999. The second request was made on 4 April 2003 (WT/DS174/1/Add.1).



- f On 9 October 2006, the Chairman of the Panel informed the DSB that the United States had requested the Panel on 6 October 2006 to suspend its work, in accordance with Article 12.12 of the DSU. The Panel had agreed to this request. The authority for the establishment of the panel lapsed as of 7 October 2007.

Source: WTO Secretariat