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Taming the Dragon: The WTO after the Accession of China

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The accession of China to the WTO may take place in the near future. While much attention has been given to the effect this will have on international trade and the Chinese economy, less attention has been given to the effect on the WTO. China is a large, developing, transition economy that is likely to alter the WTO in a number of ways. The paper examines three aspects of China's accession and their implications for the WTO: (1) will China play by the rules?; (2) market socialism in the WTO's market-based system; and (3) the organisation's decision-making process.

Keywords: accession, China, decision making, unequal treaties, WTO

> *The principal feature of the year has been the eagerness of foreign capitalists to place their services at the disposal of the Chinese Government. After the termination of hostilities with France the idea got abroad that China was about to take a great step in advance, and the Viceroy who is regarded by foreigners as the leader of the party of progress, has had submitted to him schemes and projects without number. The competition was so keen among the rival bidders that it was even said that one would-be concessionaire had offered to construct 80 miles of railway for nothing.*
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> *Since Syndicate after Syndicate has been arriving, China's attitude has been that of a rich heiress, who, with self-complacent smile, sees suitor after suitor come to bend the knee. To disinterested lookers-on the performance has been equally amusing. What is passing through the mind of Chinese statesmen may*

> *be imagined from the remark made to me by an intelligent Chinese official, who said that if Chinese would only wait a little, foreign capitalists would not only offer to lend capital for nothing but to pay interest into the bargain.*
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> *Her Britannic Majesty's Consul in Tientsin, 1886*[1]

China's huge potential market has long had a mesmerising effect on western businessmen. They are often blinded to the difficulties of doing business in China by the sheer numbers involved—*if each potential Chinese customer would buy one widget per year we would have sales exceeding 1.2 billion*—and throw caution to the wind in their haste to carve out their piece of the market. Capitalising on the apparent potential of the Chinese market, however, has always proved extremely difficult and western business interests have lobbied their governments to find ways to compel the Chinese government to adopt and play by western commercial norms. In the 19th century governments responded with gunboat diplomacy, opium wars, territorial acquisitions, treaty ports, national spheres of interest, and economic concession areas. China grudgingly agreed to all of this in what they refer to as the "unequal treaties". In the 20th century, western governments largely replaced their imperialist commercial model with one based on incentives and potential for mutual gains through bilaterally trading technology and investment capital in return for market access.[2] The current negotiations surrounding China's accession to the WTO represent a new phase in the attempt to *tame the dragon* by formally bringing China into the "club" that governs international commercial relations. Formally accepting China into the WTO, however, rather than changing China's approach to international commercial relations, may alter the nature of the WTO. It is important that the lure of the Chinese market does not create a situation whereby the WTO is altered in ways that weaken it irrevocably.

China's modern trade relations with Europe, the United States, and Japan have not, on balance, been happy. The lessons of history weigh heavily on the current Chinese leadership—remember that the last vestiges of the "unequal treaties" imposed on China in the 19th and 20th centuries were only removed with the return of Hong Kong and Macau to Chinese sovereignty in 1997 and 1999 respectively (Hobbs and Kerr, 2000a). Over the last two centuries, China's trade policy has exhibited violent swings between xenophobic attempts at autarky and relatively open periods when trade and other forms of international commerce were seen as means to modernise the economy. While such radical changes in trade policy are not unexpected in developing countries (Kerr and Anderson, 1991), they have been most pronounced in China.

After almost thirty years of development based on self-reliance during the Maoist era, the past two decades have again seen trade and foreign investment accepted as a means of modernising the Chinese economy. Chinese trade policy is, however, simply an adjunct to overall development policy rather than being seen as welfare enhancing in its own right.

While the Chinese leadership has abandoned formal economic planning and allocation by command, it has not embraced allocation by markets, preferring, rather, the continually evolving and indefinable official policy of *market socialism.* The government remains far more interventionist than is the case in modern market economies. Further, a considerable portion of the economy remains under state ownership and control. The Chinese government would probably like to divest itself of many of the remaining state enterprises; they are inefficient, unprofitable, and overstaffed. However, the government fears the social consequences, particularly widespread unemployment, that would arise from market disciplines being applied to these enterprises.

The state enterprise sector of the Chinese economy, therefore, remains large. Allocation among enterprises in the state enterprise sector, and between the state enterprise sector and the private sector, continue to be made on the basis of command and fiat rather than market prices, although less and less is directly controlled by the central government. This approach to allocation means that prices do not represent the opportunity cost of resources. Further, the lessening of control from the centre has meant that local officials (often Communist Party members) and managers of state enterprises are able to use their control of business permits and resources for personal gain. This *licensing economy* is the basis of Chinese corruption and, because so many Party members have a vested interest in it, will be hard to reform (Kerr and MacKay, 1997). Privatisation and the removal of bureaucratic controls on business activity threaten the livelihood of those officials that currently have the allocative rights.

Thus, China's economy remains in a grey area between command and the market. As a considerable proportion of the economy, approximately one-third, remains subject to non-market forces, the costs in the more market-oriented segments of the economy are not based on market prices and are further distorted by the transaction costs associated with corruption (Kerr and MacKay, 1997). The rules of trade embodied in the WTO, on the other hand, are firmly rooted in market prices (Annand et al., 2001). The "fair trade" concepts such as antidumping and countervailable subsidies embedded in the WTO system are all premised on systems of prices based on market forces. As China's industrial strategy (and corruption income) are to a considerable degree based on the provision of inputs such as steel, electricity and credit at concessionary prices from state-owned enterprises, "unfair" trade disputes are likely to be endemic once China has acceded to the WTO unless China can find ways to lessen WTO disciplines.

The Chinese leadership will also want to strengthen the exceptions granted to WTO members for development purposes, as this fits into their perception that trade should be an adjunct to development policy rather than a direct means of enhancing social welfare. They will also want to keep the WTO rules relating to state trading enterprises and government procurement ineffective. This will put them in direct conflict with influential members of the WTO such as the United States that are currently seeking stronger disciplines on these aspects of trade. China is also less willing to grant concessions in the service sector of its economy and will resist any attempts to strengthen the international protection of intellectual property. Developed countries will want to broaden and extend the General Agreement on Trade in Services (GATS) because services represent the most rapidly increasing sector of their economies. As the proportion of the value of goods comprised of intellectual property has been rising steadily and is the basis of both the information economy and the revolution in biotechnology (Gaisford et al., 2001), developed countries will also wish to strengthen the Agreement on Trade-Related Aspects of Intellectual Property (TRIPS) in the near future.[3] To realise its objectives within the WTO, China will have to build alliances within the organisation.

The WTO can be characterised as a political negotiating forum as well as an institution governing the rules of international trade. Its predecessor, the General Agreement on Tariffs and Trade (GATT), operated largely as a "rich man's club", creating rules for the management of trade to suit the advanced developed countries that dominated its initial membership. As the "club" expanded and, over time, its commonality of purpose faded, progress required the formation of strategic alliances among its members.

The WTO inherited some of the GATT's characteristics, with coalitions and alliances predominating in decision making and governance. The most important of these groupings of states has been the *Quadrilateral Group*, or "Quad", of developed and leading trading nations, comprising the United States, the EU, Canada, and Japan. Together these countries have worked as an "informal steering committee" for the operation of the WTO (Das, 2000) and therefore exert a very powerful influence over policy decisions. The Quad plays a vital role in the so-called *Green Room* meetings of select WTO members—another functional structure left over from the GATT and from which the WTO has found it hard to distance itself.

Traditionally, Green Room consultations have taken place between the most active participants in international trade negotiations, including the Quad, Australia, New Zealand, Switzerland, Norway, several transition countries, and some developing countries. Participating developing countries in the past have included Argentina, Brazil, Chile, Colombia, Egypt, Hong Kong, India, Mexico, Pakistan, South Africa, and at least one country from the ASEAN grouping (Schott and Watal, 2000). Delegations involved in this process meet to reach decisions on various issues before offering their collective decisions to the members of the WTO as a whole. This is clearly a selective and potentially divisive process. A large number of developing countries have been effectively excluded from decision making and have had a minimal influence in negotiations.

Other coalitions are important for the resolution of specific issues within the WTO. The Cairns Group of agricultural exporting nations[4] has considerable weight in the ongoing negotiations on agricultural trade liberalisation. They offer an effective counterweight to the powerful Quad nations, particularly the EU, in pushing for new rules on market access, export subsidies, and domestic support policies. The success of the Cairns Group reveals the importance of alliances between countries for the effective operation of the WTO. It has also encouraged other countries to group together to produce a coherent collective voice in order to improve their bargaining positions in multilateral negotiations. In the negotiations on agriculture that commenced in 2000, representatives of some of the poorest developing members of the WTO worked together to produce proposals and response statements on various issues (Hobbs and Kerr, 2000b).[5] It is therefore clear that while the WTO is supposed to work on the basis of consensus among individual nations, in reality it functions through the formation of ad hoc alliances and coalitions among subsets of countries. As a result, decision making has become a complex and complicated affair.

Problems with decision making in the WTO were highlighted during the failed ministerial meetings in Seattle in November/December 1999. While much media attention has been given to the anticapitalism/antiglobalisation protests that took place on the streets outside the conference, the real problems lay behind the closed doors of the conference hall. There is growing acceptance that the WTO is suffering from structural weakness as its membership encompasses increasing numbers of trading countries. The lack of agreement on any substantive issues at Seattle indicates that the WTO consensus process is not functioning as it should. As Schott and Watal explain, this process has “fallen victim to the GATT’s success in integrating developing countries more fully into the trading system and requiring them to be full partners in new trade agreements” (2000, p. 2). As the WTO’s membership has expanded, two problems have emerged. First, as developing countries become more actively involved in international trade, they desire to participate more in the negotiations that underlie it. With their economies increasingly integrated into the world economy, they feel they have more to gain (and consequently to lose) from international trade practices and therefore demand more input into decision-making processes. Secondly, as full-fledged members of the WTO, developing countries are no longer entitled to “free-ride” on the negotiated international trade agreements. The Uruguay Round Agreement stated that members must participate in all negotiated agreements as part of a “single undertaking”. As a result, developing countries are more actively involved in the WTO’s decision- and policy-making negotiations than ever before (Schott and Watal, 2000). Since developing countries account for over 70 percent of WTO membership, the dynamics of the WTO system are being altered dramatically. Indeed, Seattle made it evident that “the decision-making process that was developed half a century ago was found to be unsuitable for the contemporary period" (Das, 2000, p. 192). Consensus is inherently difficult to achieve in an organisation with 140 members,[6] all of whom are demanding more of a say in the way trade is governed.

Add to this mix China—a huge developing nation, largely dependent on agriculture, but with an increasingly important industrial base and in the process of transition from a socialist to a market economy—and conditions to fundamentally alter the organisation are created. China will bring numerous specific concerns to the WTO. These issues are likely to have important ramifications for the operation of coalitions within the WTO framework. Further, given its historical perspective on trade treaties with foreign powers, China will come to the table with little respect for the motivations and precedents of a "club" designed by its former adversaries.

The impact of China on governance structures in the WTO is likely to manifest itself in a number of ways. For example, China will most likely demand a presence in the Green Room consultations. This may antagonise certain members not involved in the Green Room who may feel they have been "bypassed" by the larger, more powerful player. Other countries will welcome the participation of China as they believe it will strengthen their own position in negotiations. Adding yet another powerful trading nation to the Green Room, however, will exacerbate existing problems. The Green Room started out being comprised of approximately 8 country delegations, but has since grown to 25 or 30, thus making it increasingly difficult to reach agreement on complex and contentious issues.

China is likely to transform the position and status of the growing coalition of developing countries in general. For example, China will be particularly concerned with securing *special and differential treatment* rights for developing countries in areas of trade liberalisation. Acting as a leader among other developing countries, China may be able to act as a potential counterweight to the traditional power of the Quad; indeed, "together they reflect strength in numbers" (Das, 2000, p. 192). In particular, there may be considerable convergence of interests between China and India. In the past, India played only a marginal role in the GATT because its economy remained largely closed to trade (Kerr et al., 2000). Since the conclusion of the Uruguay Round, it has unilaterally begun to liberalise and increasingly finds the WTO's deliberations of concern. India and China share considerable common interest surrounding their large public sectors and a development- rather than consumer-oriented approach to trade policy. High-profile statesmen in both countries have commented on the inequitable treatment of developing countries in the WTO decision-making procedures and have implied that developing nations should act in accordance with one another to strengthen their collective voice. Brazil also shares some similar interests pertaining to trade disciplines on its relatively inefficient public enterprises, thus raising the spectre of an alliance among the three largest developing economies over select issues.

In addition to its broad concerns as a developing country, China is also likely to share some interests with other WTO members. For example, the issue of state trading enterprises is important to several developed countries as well as China. The United States, on the other hand, has been pushing hard in recent years for their abolition or, failing that, for increased disciplines on their operations. Canada, Australia, and New Zealand, in particular, are interested in maintaining the existence of state trading enterprises in agriculture and other industries; China also wants to preserve its numerous state trading enterprises in its ongoing transition from a centrally planned economy. There is, therefore, the possibility of forming a coalition on this specific issue in future negotiations. From this example, it is evident that the issue of China and WTO coalitions is not clear-cut; indeed, there is potential for a broad array of coalitions on any number of trade issues to be formed, thus increasing the complexity of WTO decision making.

The accession of China is therefore likely to have a strong impact on the operation of the WTO. The existing governance structures, put in place from the times of the GATT, are proving dysfunctional even before accession takes place. Chinese entry can only add to the deeply embedded structural problems the WTO is facing. Decision making is likely to become even more complex and subject to intense wrangling between countries with different interests. In particular, the existing (im)balance between developed and developing countries will undergo transformation; developing countries seeking a greater stake in trade liberalisation negotiations are likely to have their position strengthened by the addition of a powerful leader in the shape of China.

It remains to be seen how the WTO, as an institution, will cope with this evolution in the world trading system. Will its negotiating forums be flexible enough to deal with the rising demands of increasingly powerful and organised developing country coalitions, or will more paralysis of the Seattle variety become endemic to the world trading system during the 21st century? The United States has set a worrying precedent in tending to ignore and financially starve international organisations such as the United Nations that it perceives to be dominated by developing country interests. If the United States believes that the WTO no longer serves its interests, the organisation may be relegated by neglect to a status similar to that of the United Nations Conference on Trade and Development (UNCTAD) with the United States (and other major trading powers such as the EU and Japan) giving increased importance to (more malleable) regional trade agreements in their trade policy. As a result, China may find that much of the protection it has sought from WTO membership is illusionary. Thus, once it becomes a member, China must find a way to continue to work with existing influential coalitions to maintain the pre-eminent role of the WTO in the international trading system.

Developed countries have followed a traditional pattern in their dealings with China over accession to the WTO. They have used their unequal bargaining power as existing members of the organisation (and gatekeepers for "club" membership) to wring major concessions from the applicant (or supplicant). The existing influential WTO members are attempting to bind China to commitments that will constrain it to the organisation's norms prior to accession. The *unequal treaties* of the 19th and 20th centuries had, at best, fleeting success in *taming the Chinese dragon* for western commercial interests. Believing that prior commitments will act as significant constraints on a Chinese leadership made cynical by history, and the fifteen-plus years of the accession process, seems particularly naïve. Instead of concentrating on pre-accession concessions, the member countries of the WTO should have given some considerable thought to reforming the internal workings of their organisation.

China's accession will change the operation of the WTO. China will want to alter WTO norms to make them more in tune with its own perceptions of the role of trade in its economy. In particular, this will mean a movement away from "markets" as the basis for trade towards trade being an adjunct to domestic development priorities. Once China has acceded there is no going back. No matter how poor China's compliance with WTO commitments is in the future, it is inconceivable that the members could expel such an important and influential trading nation. The central question is whether the WTO is robust enough to accommodate a sufficient number of China's priorities without producing a decision-making gridlock or a loss of interest by the world's major trading countries. This is as much a challenge for the Chinese as it will be for the existing members.

Endnotes

1. Foreign Office, UK (1886), p. 4.
2. Of course, in the case of Japan this change did not come about until the middle of the 20th century.
3. While the TRIPS remains untested at the WTO dispute settlement system due to the phase-in provisions negotiated during the Uruguay Round, theoretical work suggests that the TRIPS may be largely ineffective in inducing developing countries to protect intellectual property (Yampoin and Kerr, 1998; Tarvydas et al., 2000).
4. The Cairns Group currently includes Argentina, Australia, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Fiji, Guatemala, Indonesia, Malaysia, New Zealand, Paraguay, Philippines, South Africa, Thailand, and Uruguay.
5. These countries can be grouped under the name "Developing-11" for ease of reference and include Cuba, Dominican Republic, Honduras, Pakistan, Haiti, Nicaragua, Kenya, Uganda, Zimbabwe, Sri Lanka, and El Salvador.
6. As of December 2000.

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