

ECONOMY AND FINANCE

CHINA'S ROLE IN THE MULTILATERAL TRADING SYSTEM

Emerging Trends, Driving Forces, and Implications for Germany and European Union

Stefan Pantekoek, Yvonne Bartmann and Hajo Lanz (eds)
May 2022



China's foreign economic policy strategy has shifted from convergence to divergence.



China has shown a willingness to be more flexible in ongoing WTO multilateral and plurilateral negotiations.



On WTO reforms, the EU should continue its role as a bridge between China and the US. Siding with either party could be dangerous for the entire system. At the same time, the EU must prepare for increasing geopolitical and economic tensions with China with an even broader set of instruments.



Content

	FOREWORD	3
1	INTRODUCTION	4
2	OVERVIEW OF CHINA'S TRADE POLICY HISTORY	5
3	CHINA'S CURRENT TRADE AND INVESTMENT POLICY STRATEGY ON MULTILATERAL AND REGIONAL LEVELS	7
	3.1 WTO reforms	7
	3.2 WTO negotiations	8
	3.3 China's regional economic order: Belt and Road Initiative and web of FTAs	11
4	THE 14TH FIVE-YEAR PLAN AND VISION FOR 2035	15
5	SUMMARY AND RECOMMENDATIONS	16
	References	19

**It doesn't matter whether a cat is black
or white, as long as it catches mice.**

Deng Xiaoping (1962)

FOREWORD

The People's Republic of China has long followed the first part of Deng Xiaoping's foreign policy maxim: "Hide your power, bide your time." It seems as though the time has come under Xi Jinping's leadership. With its growing economic and political power, China has changed the logic of its foreign policy and reprioritized security and economic interests.

Previously, China's foreign policy predominantly took place within the institutional framework of the post-war order established by the US. In many spheres, leadership by the US has not been questioned, in part out of self-interest. Now, the world is being brought into line with Chinese ideas rather than China constantly adapting to international norms and rules. While the previous structures of international order are not to be completely replaced, the Chinese Communist Party (CCP) is shaping world politics to their will. Interests are being more articulately and sustainably; in recent years, the discourse on a growing system of competition between the Chinese model of authoritarian state capitalism and the Western model of a democratic constitutional state and free-market economy has gained momentum.

This analysis addresses the changes in Chinese foreign policy and focuses explicitly on China's growing role in the multilateral trading system. First, background research and a large number of interviews with actors from politics, business, and academia illuminate the primary elements driving China's new foreign policy: (1) a shift in foreign economic strategy from convergence to divergence; (2) selective decoupling from the World Trade Organisation (WTO), including the creation of new rules and new spaces; and (3) the development of a new China-centric regional governance system, characterized by state-led infrastructure development.

China's present strategy is expected to continue for at least another five to ten years. Second, this analysis reflects on how the European Union (EU) could respond to China's new multi-level strategy bilaterally within the WTO and other international fora. On the global level, Europe needs to assume a stronger leadership role on issues of socially sustainable development and conduct a deeper analysis of and implement a more strategic response to China's Belt

and Road Initiative (BRI). Simultaneously, the EU should prepare an extensive toolbox to handle increasing geopolitical and economic tensions with China. Moreover, Europe should continue playing the role of mediator between China and the US on reforms at the WTO. Unilateral reliance on China or the US could cause the system to implode. This analysis underlines China's overall willingness to be more flexible in ongoing multilateral and plurilateral WTO negotiations as it continues to benefit from the system, both directly and indirectly.

The overarching question at this paper's centre revolves around the future of multilateralism in the face of China's rise and increasing competition for values and norms. This analysis is part of a publication series by the Friedrich-Ebert-Stiftung (FES), which looks at Chinese approaches to action in a range of global policy fields. To what extent is it possible to initiate constructive political negotiations between Europe and China on global governance and its framework? In which areas is more coordination and cooperation with China possible? In contrast, where should Europe take up countermeasures and do its homework to be received as a reliable partner in emerging and developing countries or more strongly assert its ideas on the design of a system for multilateral trade system?

With this publication series, the FES wants to contribute to an informed approach to China. The aim is to enable European actors to gain a deeper understanding of key terms and associated hot button topics as well as concepts and their implementation in international relations to develop effective strategies and be exceedingly prepared for dialogue with Chinese partners.

We hope you find these readings interesting and informative!

Stefan Pantekoek

China-Desk, Friedrich-Ebert-Stiftung, Berlin

Yvonne Bartmann

Senior Program Officer, Friedrich-Ebert-Stiftung, Geneva

Hajo Lanz

Director, Friedrich-Ebert-Stiftung, Geneva

1

INTRODUCTION

China's accession to the World Trade Organization (WTO) in 2001 has generated unprecedented economic impacts. In economic terms, China has emerged as the world's biggest export nation and second-largest economy only after the United States of America (US) on a purchasing power parity (PPP) basis. China is also one of the top three destinations for foreign direct investment and one of the largest sources of international tourists for the last decade.

Impacts of China's membership in the WTO go beyond business and economics. In the past 20 years, China has gained enormous political weight inside the WTO, the United Nations (UN) system, and in other trade negotiation environments such as in regional or bilateral trade and investment negotiations. Arguably, China's success after it joined the WTO boosted confidence in the organization. As a result, the WTO has become an important arena for China to promote its political and economic interests externally. At home, such achievements can further strengthen the Chinese ruling party's legitimacy, which otherwise might be challenged.

China's foreign economic strategy has not stopped at its accession to the WTO — China has been developing a two-pronged paradigm for international economic policies and governance. In the first prong of its paradigm, China has launched new initiatives and institutions such as the Belt and Road Initiative and the Asia Infrastructure Investment Bank, and promoted its own concepts like the "Community of Shared Mankind Destiny" (Mardell 2017). In the second prong, China is becoming a more active participant in existing international institutions so as to advance its influence in global governance. This includes efforts to get senior posts in the United Nations and specialised agencies such as the World Bank, International Monetary Fund (IMF), and WTO.

Nevertheless, there is little systematic analysis and understanding of these new developments and emerging trends. While much research exists on China's accession to the WTO 20 years ago, more evidence-based research is badly needed to examine what drives China's new foreign economic policies and how China's growing (economic) power inside and around the multilateral trading system may impact China's future relationship with other regions and economic powers like the European Union.

This report aims to fill this gap. It will start by briefly reviewing *China's trade and economic policy history*, highlighting key features of the latest phase since 2012. Then, it will give a detailed analysis of *China's current trade and investment policies*. Moreover, the various negotiations at the WTO, including those related to the ongoing WTO reforms debate, and key bilateral and regional trade relations will be addressed. This will be followed by a discussion about the *implications of China's policies and strategies* for its trading partners in bilateral, regional, and multilateral arenas. In closing, the paper will offer *key recommendations* for Germany's multi-level engagements with China, touching on recommendations for its bilateral relationship, within the European Union, at the WTO, and other international forums.

2

OVERVIEW OF CHINA'S TRADE POLICY HISTORY

China's foreign trade and economic policies have evolved substantially over the past three decades. Such changes are based on both China's domestic reforms process and its increasing competitiveness in global markets.

Since the 1949 establishment of the People's Republic of China, these policies can be understood as passing through five distinct phases.

The first phase, from 1949 to 1978, featured a command-and-control economy. As China had a state-dominated, centrally planned economy, foreign economic policies functioned to protect its market.

The second phase was from 1978 to 1992. In this era, China promoted foreign exchange reforms, introduced the Special Economic Zone, and gradually opened itself to foreign investment. Trade policies remained highly protective, but vigorous debates about domestic market-oriented reforms and the pros and cons of integration into the international economy emerged.

From 1993 to 2001, China embarked on a substantial transition to trade liberalisation, resulting in China's accession to the WTO in 2001 after 15 years of negotiations. Notably, in 1994 China issued its Foreign Trade Law. This opened up trading rights to private companies, among other liberalisation measures required by trading partners during its accession negotiations in GATT and its successor, the WTO. In addition to WTO accession, China also strengthened regional trade and economic cooperation and became an active participant in APEC (China joined in 1991) and the Bangkok Agreement (China joined it in 2001).

The fourth phase, from 2002 to 2012, saw the promotion of trade liberalisation in China based on the WTO rules. China expressed its full intention to adopt a rules-based free trade system by following the WTO framework and translating the WTO rulebooks into domestic policy. Chinese officials, researchers, and the business community were enthusiastic about learning and following WTO rules. During this period, the whole society appeared to believe that abiding by these WTO rules and opening its markets would bear more advantages than disadvantages. Officials and researchers advocated for the WTO roles, asserting that they were advanced and could be useful for China's

market-oriented reforms. Officials asserted that the changes would bolster China's competitiveness in the long-term despite short-term pains. While China's trading partners expressed several complaints both in bilateral dialogues and in the WTO dispute settlement, in general, China and the other major economies were on quite amicable terms. Everyone seemed to be happy until the honeymoon was over.

In 2012, China's trade policy entered its fifth and current phase. This features what is called a socialist free trade policy with Chinese characteristics. The explanation of this phase's characteristics, and name, are two-fold. Firstly, the US and Europeans increasingly criticise China's economic policies that are couched in China's political ideology and economic model. The most prominent criticism is that China's state heavily-handedly intervenes in its economy and subsidizes its industries to the extent that it distorts market competition and poses serious challenges for foreign competitors. Secondly, the Chinese government and researchers become more confident in their own political and economic models than before the 2008–2009 global financial crisis. China's economy recovered more quickly and strongly out of that financial crisis than that of the US and EU.

A key feature of this latest phase is that the change of China's perceptions about the WTO rulebooks. China initially believed that the WTO rulebooks that Western teachers had brought to China were useful. However, over time, Chinese economists and politicians observed that these rules did not always serve China's best interests. Western countries have their own social, financial, and economic problems, such as inequality, racism, polarisation within the society. As a result, China began to take advantage of both Western rulebooks and China's own strengths rooted in its political and economic system. The media portal "The Observer"¹ is symbolic of this transition. This semi-official web portal was established in 2012 in Shanghai. It sharply criticizes the Western freedom-and-democracy system while systematically promoting China's current political and economic system.

¹ The Chinese name of the web portal is *Guanchazhe* and can be found online at www.guancha.cn.

The overarching trend within China's new strategy is the development of a more ambitious, multi-layered, China-centric economic order through investing in existing institutions and building new ones.

First, **China aims to play a bigger role in existing multi-lateral economic institutions.** China can benefit from current international institutions directly and indirectly and is becoming more assertive in advancing its interests and influences in these institutions. For example, China secured a Deputy Director General's position at the WTO in 2013 and again in 2021. The Chinese government is pushing Chinese officials to hold high positions in World Bank and IMF. It has recently been successful in winning top positions at the UN in the International Telecommunication Union (ITU), the Industrial Development Organization (UNIDO), and Food and Agriculture Organization (FAO).

Second, building on existing international institutions, **China is working to create an ambitious, China-centric regional economic order, employing trade, and investment initiatives as means to this end** (Shaffer & Gao, 2020). This includes memoranda of understanding between governments, contracts between companies, trade and investment treaties under the Belt and Road Initiative, and many new free trade agreements such as the Regional Comprehensive Economic Partnership (RCEP).

Under Xi's leadership, China is becoming increasingly involved in regional and global affairs. Two significant actions include the launching of the "Belt and Road Initiative" and the successful establishment of the Asian Infrastructure Investment Bank. The Western reaction to these developments varies, with some commenting that it is part of a 'much bigger master plan' to build its own international institutions" (Raby 2015). Third, with these additional layers, **China is creating a new China-centric regional governance ecosystem featuring state-led infrastructure development.** To a large extent, this approach reflects China's internal development experience. China's modernisation started with the financing of infrastructure through Chinese state-owned banks and was later supplemented by economic reform and the gradual opening of policies. This new regional ecosystem has three objectives: 1) directly export China's excess steel, concrete, and other products and services; 2) export Chinese standards for telecommunications networks, roads, airports, and ports, which Chinese companies build; 3) increase China's political and economic influence on partner countries.

In essence, **China's approach to the global and regional economic order since 2012 is both a reinstatement of the status quo power structures and a revisionist approach.** China projects itself as a keen supporter of the WTO and the multilateral system and, in this sense, as a supporter of the status quo. Simultaneously, China is seeking to end US and European dominance in the WTO and is building institutions and transnational economic ties that, collectively, can be viewed as revisionist of the existing order.

A revisionist model is also an insurance policy. If the multilateral system continues to erode or even fail, China aims to default to its own regional economic order and globalise it. China has labelled its foreign policy a vision of "a community of shared future for mankind," which President Xi Jinping first announced at the 70th Session of the UN General Assembly in 2015 and then reiterated at the United Nations Office in Geneva in 2017. From the surface, this concept offers nothing new, as it emphasizes mutual respect and inclusive development. This is a position China has taken since its announcement of the Five Principles of Peaceful Co-existence in the 1950s. Nevertheless, from interviews with Chinese experts, this shared future concept can be seen as a revival and continuity of the traditional conception of Chinese Tianxia, meaning "All Under Heaven" world system, where China is at the centre. Some experts suggest the new order should be interpreted as the 21st-century version of China's historical "tributary system" (Doğan 2021).

Since the beginning of 2021, **China has been calling for "true multilateralism"**, criticising "fake multilateralism" (Wang 2021). For instance, at the 76th UNGA, Xi Jinping called for genuine multilateralism and stressed that the international community needs to improve its global governance. According to Xi, the essence of true multilateralism is that "a world of peace and development shall accommodate different civilizations and diversified paths towards modernization. Democracy is not the patent of certain countries, but the rights of peoples of all the countries." Xi said we shall "advocate the common values of the humankind such as peace, development, equity, justice, democracy and freedom, and abandon fake multilateralism, by which one powerful country or a small number of countries organize their closed-door club, make certain rules and impose them to other countries." Xi insinuates that the US speaks in the name of multilateralism but acts out fake multilateralism by playing zero-sum games, instigating ideological confrontation, and encouraging de facto unilateralism.

In his most recent speech at the China Import Expo, Xi elaborated the concept of true multilateralism in the trade context. Xi said that "China will firmly safeguard true multilateralism. The multilateral trading regime with the WTO at its core is the cornerstone of international trade". He highlighted China's support to "the inclusive development of the multilateral trading regime", referring to the rights and interests of the developing members. He also mentioned China's "active and open attitude" in negotiations on issues such as the digital economy, trade and the environment, industrial subsidies and state-owned enterprises, which is likely to give more discretion powers to China's negotiators in Geneva. (Xi, 2021)

3

CHINA'S CURRENT TRADE AND INVESTMENT POLICY STRATEGY ON MULTILATERAL AND REGIONAL LEVELS

3.1 WTO REFORMS

Discussions about WTO reforms are not new. Most recently, the Doha Round that was launched in 2001 was meant to further eliminate barriers for trade and update the rulebooks for development and the environment, including fisheries subsidies and environmental goods and services. Unfortunately, the negotiations as a whole became stuck and closed without a successful conclusion. At the WTO Ministerial Conference in Nairobi in 2015, only the need to address “remaining Doha round issues” was mentioned.

The latest interest in WTO reforms has been largely driven by the US-China trade and geopolitical tensions. In a draft resolution submitted by the US, the Trump Administration proposed that the WTO express serious concerns with non-market-oriented policies and practices, targeting China. The US highlighted that such policies “have resulted in damage to the world trading system and lead to severe overcapacity, create unfair competitive conditions for workers and businesses, hinder the development and use of innovative technologies, and undermine the proper functioning of international trade” (WTO 2020a).

On the WTO reform subject, China's response is both offensive and defensive: The US is a problem. Before the draft submitted by the Trump Administration, China submitted a paper to the WTO in 2019. Therein, China said that WTO reforms should be based on its core values of the multilateral trading system, such as non-discrimination and openness, safeguards for the development interests of developing Members, and decision-making by consensus. China made clear in its paper that it is the US that created the impasse of the Appellate Body, abused the use of national security exceptions, and imposed unilateral measures that violate WTO rules (WTO 2019a). China also suggested improving trade remedies rules, for example, on price comparison in anti-dumping proceedings, or subsidy identification, and calculation of benefits conferred. This is the “offensive” side of China's response.

On the “defensive” side, China highlighted the need to “respect members’ development models.” In practice, this means that “China opposes special and discriminatory disciplines against state-owned-enterprises in the name of WTO reform” (MOFCOM 2018). China takes an adamant

position on this issue, as China sees SOEs as a cornerstone of its political and economic system. Under the control of the ruling Party, SOEs operate trillions of dollars of wealth and are one of the policy tools used to support “stable” economic growth, economic “independence”, and “national security”, according to a report by State-owned Assets Supervision and Administration Commission of the State Council (SASAC 2021).

China does not want to give in on SOEs, but shows its willingness to compromise on industrial subsidies. For China, SOEs and industrial subsidies that concern the US, EU, and other trading partners are of different nature, and China treats the two issues differently. In responding to accusations against China's industrial subsidies, China gives three types of responses. First, subsidies are an important subject for many members, not just China. For example, many nations subsidize agriculture, aircraft manufacturing, financial systems such as the government bailouts during the 2008–2009 financial crisis, green infrastructure, and other items at the subnational level. Second, China has fulfilled its notification commitments by publishing all required information on the website and Official Gazette of the Chinese Ministry of Commerce. China can make further efforts to improve its notification within its capacity, citing the capacity limitation it has to report all sub-national level subsidies in a timely fashion. Third, there is no consensus about the scope of subsidy notification. For example, Article 25 of the current WTO subsidies agreement does not specify which types of subsidies should be notified beyond those listed under Articles 1 and 2 of the Agreement on Subsidies and Countervailing Measures (ASCM). The agreement also does not specify any consequences for incomplete notifications either (ICTSD 2018).

The EU manifests its autonomy and cooperative position in supporting engagements among all members and seeking solutions to challenges. The EU, including Germany, was sympathetic to the US' views but did not co-sponsor the proposal. EU Director-General for Trade, Sabine Weyand, remarked on the US-China tension at the event celebrating WTO's 25th anniversary. Weyand said that “the WTO is not the place to drive systems change. It's not about regime change. This is about dealing with the consequences of certain economic systems and to make sure that these are being dealt with in a manner that everyone can

live with. And that requires compromise on all sides” (Hoekman, Tu & Wang, 2021). The EU prefers to focus on concrete, negative spill-over effects of non-market practices rather than China’s regime change. Two main reasons behind European’s position are: the US also violates its obligations in the WTO, including bluntly applying tariffs unilaterally under the Trump administration; fighting China again without a tangible solution on the table might make some irreversible damages to the multilateral trading system.

The EU has taken actions to work on China’s SOEs and industrial subsidy issues, such as by starting a trilateral process with the US and Japan to address topics related to China. In a May 2018 statement, the three ministers endorsed a joint scoping paper defining the basis for the development of stronger rules on industrial subsidies and SOEs. They also mentioned technology transfer and non-compliance with WTO transparency obligations by some governments (Joint Statement 2018). In November 2021, the trade ministers of the US, EU and Japan met and agreed to renew their trilateral partnership to “address global challenges posed by non-market policies and practices of third countries”, which is the first time since the Biden Administration took office². Meanwhile, the EU and China have established a bilateral working group on WTO reforms, which has had held four sessions at the time of writing this report (MOFCOM 2021).

These efforts are expanding the EU’s leadership role in the WTO. The EU is trying to keep the US and China engaged in the process of designing the WTO reform agenda while aiming to gain reasonable outcomes through joint efforts with like-minded countries that support the multilateral trading system. One example is that the EU actively supports and participates in the Ottawa Group. The Ottawa Group includes Canada, the EU, Australia, Brazil, Chile, Japan, Kenya, South Korea, Mexico, New Zealand, Norway, Singapore, and Switzerland. This small but representative group of WTO members aims to address specific challenges that are putting the multilateral trading system under stress.

To address SOEs and subsidy issues as potential WTO reforms, **European experts**, including former WTO Director-General Pascal Lamy, **suggest potentially updating the WTO’s Agreement on Subsidies and Countervailing Measures (Subsidies Agreement)**. Lamy made this comment in a workshop³ organised by Bruegel, a think tank based in Brussels. In fact, negotiating this Subsidies Agreement was already part of the Doha Round mandate, but at that time, the US and EU did not want to engage because they were worried the new rules might be used against their

aircraft manufacturing subsidies, for example. Now, with new provisions on SOEs and subsidies in regional and bilateral FTAs, it is arguable that these regional and bilateral provisions could provide a useful reference for multilateral discussions on these subjects.

3.2 WTO NEGOTIATIONS

MULTILATERAL FISHERY SUBSIDIES NEGOTIATIONS.

Reaching agreements on harmful fishery subsidies is one of WTO Director-General Madame Ngozi’s priorities. It is also an area that the US, EU, and China have agreed to have serious negotiations on at this multilateral forum. The new chief of WTO organised the first Minister meeting in mid-July 2021, and members have not yet found a landing zone.

As one of the largest fishery subsidy providers, China’s role is critical. In July 2020, former Ambassador Zhang Xiangchen said China supported the timetable of work towards a deal and was “ready to fully engage in intensive negotiations”⁴. At the July Ministers meeting, Chinese Commerce Minister Wang Wentao reconfirmed China’s firm support and readiness to make many concessions, as a multilateral agreement will boost the confidence of the international community in multilateralism. In the meantime, subsidies will be “mainly provided for poor and vulnerable artisanal fishers” in developing and least developed countries. China, however, continues to insist on “meaningful and effective” special and differential treatment (SDT) for developing countries such as China. This issue is sensitive in Washington and could be a hurdle. Earlier in the negotiations, the EU highlighted a high-level ambition to ban all harmful fishery subsidies and suggested that a low-level agreement could be worse than no agreement. However, the EU is willing to show flexibilities on the road to the 12th Ministerial Conference (MC12). This event was originally planned for November 29th– December 3rd, 2021 in Geneva but was cancelled and postponed due to the COVID-19 emergency. The challenge remains that developing economies, including large developing countries, argue for looser rules, longer implementation timeframes, and more flexibility and capacity support for their implementation. A final agreement is still possible if political wills are in place by the MC12.

PLURILATERAL NEGOTIATIONS.

In 2017, many WTO members decided to launch plurilateral talks, shifting gears away from negotiations involving all members of the organization. There are currently “joint statement initiatives” (JSIs) on four subjects at the WTO: e-commerce, domestic regulation of services, investment

2 U.S., EU, Japan trade ministers agree to renew three-way partnership – statement, <https://www.reuters.com/world/asia-pacific/us-eu-japan-trade-ministers-agree-renew-three-way-partnership-statement-2021-11-17/>.

3 The event titled “China and the WTO: (How) can they live together?” Was held on April 28th, 2021. Video and audio recordings from the event can be found online at <https://www.bruegel.org/events/china-and-the-wto-how-can-they-live-together/>.

4 China agrees to ‘intensive’ WTO talks on fisheries, <https://www.reuters.com/article/us-trade-wto-fish-idUSKCN24M2JF>.

facilitation, and measures to support micro and small and medium enterprises. These initiatives include a cross-section of the WTO membership. China was an initiating co-sponsor of three of the four JSI groups and joined the fourth group on e-commerce soon after deliberations commenced. The EU also participates in all four groups, while the US presently only participates in one JSI (e-commerce). Given the relatively recent change of administration in the US, the US may revisit the decision to join JSIs in the near future.

China actively participates in JSIs for three main purposes. According to the literature, public speeches, and interviews conducted for this research, China has joined the JSIs in order to engage the US and as many members as possible to ensure the WTO is kicking and alive. Given that the Doha Round on the multilateral front is deadlocked, the WTO may lose its relevance for the 21st-century economic reality. China recognises the value of the existence and relevance of the WTO because it can benefit from a predictable and liberal world market. Secondly, China participates in order to advance and defend its interests. On e-commerce, China has offensive interests in market access of e-commerce-related services, such as cross-border e-commerce, logistics, and digital payments. China also has defensive interests, for example, in preferring the localisation of servers and public security exceptions for the free flow of data. Thirdly, China participates so as to use JSI as a springboard to make JSI rules multilateral in future. For example, in investment facilitation JSI, of which China is the main co-sponsor, Chinese experts explained that China's strategy is to begin with rather unambitious rules to get more members on board, like the US and India (though, this has been without success so far). However, the ultimate goal is to update those rules and turn them into a multilateral rulebook on investment.

The Chinese position aims to advance its main interests by defining the scope of the negotiations in its favour, just as other trading partners do. For example, in negotiations on e-commerce, the US highlights the topics of free flow of data, protection of data privacy, and prohibition of requiring localisation of servers among the central issues of future agreements (Bloomberg, 2019). In the same negotiations, while expressing its openness to discuss the issues raised by the US, Chinese proposals focus on "cross-border trade in goods enabled by the Internet" and related issues like payment and logistics, where China has competitive advantages and export interests (WTO, 2016).

SPECIAL AND DIFFERENTIAL TREATMENT (SDT)

Special and differential treatment (SDT) for developing countries is part of WTO theology, meaning that in trade negotiations, developing countries are permitted to provide less than full reciprocity vis-à-vis developed members. For example, developing countries can commit fewer tariff cuts, have a longer period to implement, or both. However, none of those rules provides a true definition of

what a "developing country" is. Instead, each member is able to "self-designate" themselves as such, which is then subject to challenges from other members.

When China joined the WTO, **China was not given many of the special and differential treatments** reserved for developing countries because of other members' concerns over China's size and unique economic system. For example, China agreed to forgo the special treatment under Articles 27.8, 27.9, and 27.13 of the Agreement on Subsidies and Countervailing Measures, which provide more accommodation to subsidies by developing countries. Similarly, on agricultural subsidies, China agreed to cap its de minimis level at 8.5 per cent, which is lower than the 10 per cent allowed for developing countries.

SDTs have long been a bone of contention in the WTO (Hoekman 2012) and have recently become a rising source of division. Under the Trump Administration, the US proposed several criteria to move the larger developing countries out of the developing countries category and to give up SDT for good (WTO 2019b). According to the US proposal, any WTO members that meet one of four criteria would not be treated as a developing country. The criteria suggested by the US are: the G20 membership, OECD membership, being classified as "high income" by the World Bank, and over 0.5 per cent share of global goods trade. Should this proposal become policy, China and many other WTO members would lose their developing country status and, consequently, the SDT. It is too early to say whether and in what ways this position might change under the Biden Administration.

The EU and Canada have called for the rejection of "blanket flexibilities" for all WTO Members. Instead, their joint proposal suggested "a needs-driven and evidence-based approach" that "recognizes the need for flexibility for development purposes while acknowledging that not all countries need or should benefit from the same level of flexibility" (WTO 2018).

This EU approach has been advocated by former WTO officials (Low, Mamdouh and Rogerson 2019). These experts pointed out that over the years, SDT has become a political football tossed between "them" and "us" in the WTO. This has resulted in increasing reluctance on one side and clung to as an article of faith by the other. SDTs originated as part of a trade-off in a context that no longer exists, if it ever did. In this context, proposals suggest a reconceptualization of SDT so that it might be transformed from a negative, confrontational term into a constructive one that promotes both the progress of the multilateral trading system and the developing countries within it. Experts suggest that it would be impractical to try to negotiate the development status of countries (Brandt & Cheng, 2019). A better option would be to approach SDTs in terms of specific individual country needs at the sectoral or activity level. Moreover, discussions on this topic shall emphasize fuller participation of developing members, rather than their exemptions from the system, which makes

technical assistance and capacity building support a key enabling component of fuller engagement.

China is taking a two-pronged approach. As a matter of principle, China has made clear that special and differential treatment is an “entitlement”, and “China will never agree to be deprived of its entitlement to special and differential treatment as a developing member” (MOFCOM, 2018). At the same time, China has suggested that, rather than revisiting the current practice of self-designation of developing country status, members with developing country status in a position to do so should be encouraged to make a greater contribution to the best of their capabilities, which China was willing to do (WTO 2020b).

China claims that its participation in the WTO's Trade Facilitation Agreement is an example that it has made a greater contribution to the best of its capacity. China actively participated in the negotiations of the Trade Facilitation Agreement (TFA) that aims to accelerate customs clearance and is among the first developing members who ratified the agreement. China's implementation was almost on par with developed members; they asked for very little SDT. The TFA includes three categories of measures: Category A includes provisions that the member will implement by the time the Agreement enters into force, Category B includes provisions that the member will implement after a transitional period following the entry into force of the Agreement, and Category C includes provisions that the member will implement on a date after a transitional period following the entry into force of the Agreement and requiring the acquisition of assistance and support for capacity building.⁵ China did not designate any Category C measures and agreed to implement 94.5 per cent of the measures immediately upon ratification. All measures in Category B were fully implemented by January 2020.

NOTIFICATIONS AND TRANSPARENCY

Transparency and high-quality notification are core requirements of the WTO. Its agreements have dozens of formal notification obligations; compliance varies by committee and by member. One-time obligations to notify existing legislation can be simpler than ad hoc ex-ante notifications of new regulations, which in turn are often easier to prepare than regular ex-post notifications of subsidies.

Inadequate notification of trade policies is an old issue. Its inclusion on the “WTO reform” agenda originates

⁵ The TFA contains provisions for expediting the movement, release and clearance of goods, including goods in transit. It also sets out measures for effective cooperation between customs and other appropriate authorities on trade facilitation and customs compliance issues. It further contains provisions for technical assistance and capacity building in this area. After the Agreement was successfully signed in 2013, China became one of the first developing countries to ratify the agreement. More information on this TFA, see the WTO website's section on trade facilitation (https://www.wto.org/english/tratop_e/tradfa_e/tradfa_e.htm).

at the 2017 Ministerial Conference when Robert Lighthizer, the then United States Trade Representative, said that “it is impossible to negotiate new rules when many of the current ones are not being followed” (Lighthizer 2017). The US then presented a detailed proposal that reviewed how compliance with notification obligations under the Trade in Goods agreements is unsatisfactory. This proposal included punishment for members who are behind in their notifications (WTO 2017a). A revised version of that proposal, with several co-sponsors including the EU, suggests consideration of both systemic and specific improvements that could help members improve compliance with notification obligations (WTO 2020c).

China is one of the main targets of the mounting pressures for better notification and transparency in the WTO. The primary challenge is that why China fails to meet some of WTO's notification requirements are unclear. Some of the problems with notifications may be due to a conscious unwillingness to provide the information or due to a general lack of transparency in China's governing institutions. Otherwise, it may have little to do with the Ministry of Commerce in Beijing because more powerful domestic ministries such as the National Development and Reform Commission or the Ministry of Information, Industry and Technology may not see any benefit to themselves in preparing such information. This applies a fortiori to countries that have weaker institutional capacity than China. If the problem is a lack of capacity, then technical assistance may be needed. If the real difficulty is that the notification requirements are outdated and overly complex, a thorough review is warranted. Penalties, as suggested by the US, are only appropriate if the reason for a poor notification record is bad faith. EU and the US are highly converged on the issues of notification and transparency. Most recently, in June 2021, the EU, US, and other members jointly submitted a proposal on “Procedures to Enhance Transparency and Strengthen Notification Requirements under WTO Agreements.”⁶

China has a two-pronged approach to subsidy notifications. For developing countries, China suggests that they comply with obligations “on a best-endeavour basis and that they should receive more technical assistance” for that purpose (Gao, 2020). Developed countries, according to China, should lead by example by submitting high-quality, prompt, and comprehensive notifications.”

China has a two-pronged approach to subsidy notifications. China argues that as a developing country, China complies with obligations “on a best-endeavour basis” and that they should receive more technical assistance” for that purpose (Gao, 2020). Developed countries, according to

⁶ The WTO announced that members are considering a new joint proposal online in July 2021. The announcement can be found here: https://www.wto.org/english/news_e/news21_e/good_09jul21_e.htm. The full proposal is available at <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/JOBS/GC/204R5.pdf&Open=True>.

China, should lead by example by submitting high-quality, prompt, and comprehensive notifications

DISPUTE SETTLEMENT AND APPELLATE BODY

As discussed above, while the US' proposal of WTO reforms singles out China as a major source of the problems in the WTO, **China counters that the US' blocking of the appointment of the Appellate Body poses an existential challenge to the WTO.** By the end of 2020, sixteen appeals were pending before the dysfunctional Appellate Body and only five new cases had been filed, the lowest in all of the WTO's 25 years. If an appeal "into the void" remains possible, issued panel reports will have no legal value, unless the disputing parties forego their right to appeal, and will have to accept the panel report as the final word in their dispute. The interim Multiparty Interim Appeal Arbitration Arrangement (MPIA), which includes the EU and China, provides a short-term alternative. It is, however, not a long-term solution.

According to Chinese experts interviewed for this research, **China values a functioning dispute settlement system that gives them some protection from other trading partners**, particularly the US, where the anti-China tide ebbs and flows at a phenomenal rate. While insisting on the permanent revival of the Appellate Body, China has decided to join the MPIA in the interim to ensure the possibility to continue to appeal panel reports in disputes among signatories. Having invested considerable effort in developing trade law expertise in government and academia, China has become a sophisticated user of dispute settlement to push back on US and EU use of trade remedy law (Shaffer / Gao 2018). Although China lost many of the cases brought against it, Appellate Body rulings on key matters such as what constitutes a public body under the ASCM and against certain measures from the US in anti-dumping investigations fuelled US frustration (Ahn 2021). The US alleged that the Appellate Body has too frequently "overstepped its mandate" and created new obligations for Members that were not in the agreements. To some extent, this alleged problem does exist. Nevertheless, asking the Appellate Body to let the US win all-important disputes is not a solution for the rest of the membership.

Addressing the crisis in dispute settlement is a top priority for Chinese experts and officials, because when it is a functioning system, it gives them some protection from the US. At a minimum, it provides at least some recourse if the US does act unilaterally. Since the US and EU do not perceive this as being that urgent, it might be possible for the EU and the US to ask China for more concessions in the WTO reforms and negotiations in exchange for reviving the Appellate Body. For example, if China makes commitments to follow through with submitting higher-quality notifications of its subsidies, the US and EU could reopen substantial discussions about reforming the Appellate Body.

3.3 CHINA'S REGIONAL ECONOMIC ORDER: BELT AND ROAD INITIATIVE AND WEB OF FTAS

While claiming to be a firm supporter of the multilateral trading system and multilateralism, **China has spared no efforts in developing regional and bilateral initiatives.** These initiatives create additional layers to existing international economic institutions and form an alternative ecosystem featured by heavy state interventions.

BELT AND ROAD INITIATIVE (BRI)

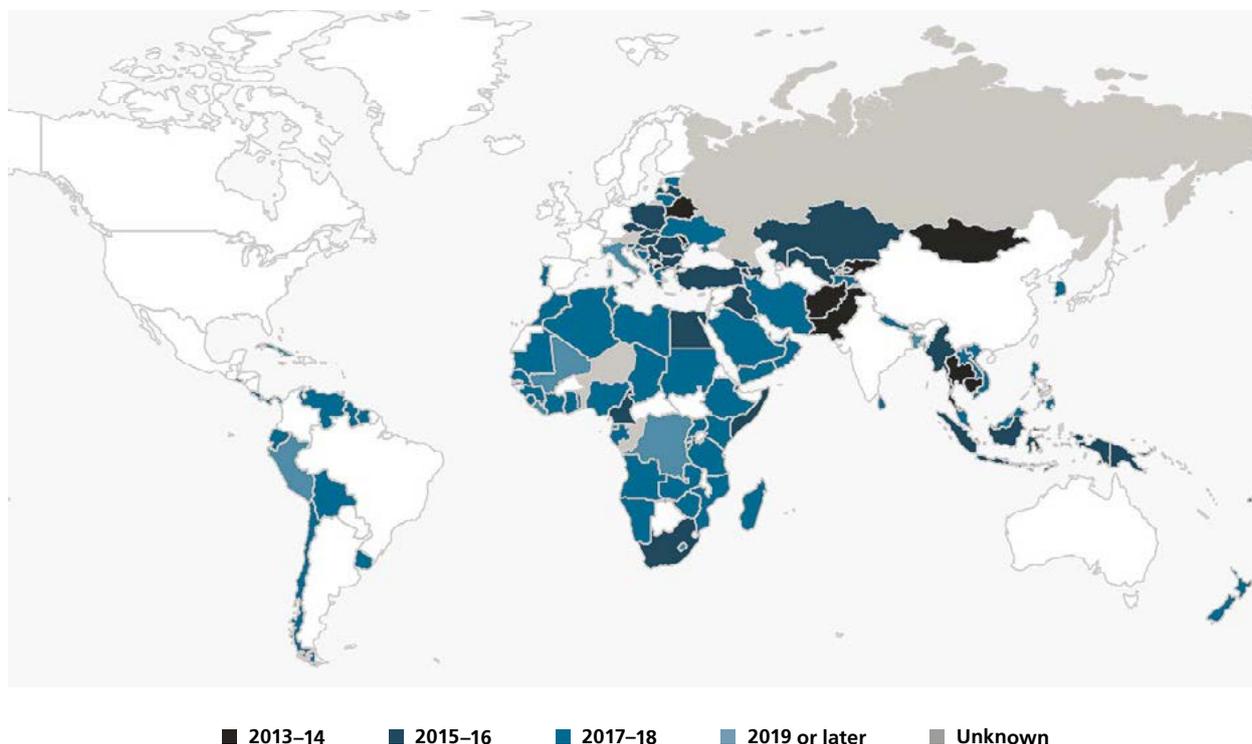
First proposed by President Xi Jinping in 2013, it has five explicit and formal objectives: (1) To enhance policy coordination; (2) To improve infrastructure connectivity; (3) To reinforce unimpeded trade; (4) To move forward with financial integration; and (5) To create people-to-people bonds. In this way, China can create a network of strategic partnerships grounded in economic ties that enhance regional and global economic integration.

The BRI can help partner countries, but it is not a philanthropic endeavour. It aims to develop new markets, enhance the security of China's access to resources, and facilitate the internationalization of the Renminbi (China's currency), all while building new institutions and governance mechanisms.

China has other implicit intentions. Namely, the plan will increase BRI countries' economic reliance on China and further Chinese political and economic influence. Some of the BRI projects facilitate China's projection of military strength, including by providing the Chinese navy with access to deep-water ports and thus protecting trade routes to and from China. Finally, China aims to project counter-power in BRI regions vis-à-vis the West through a combination of political alliance, financing, migration, trade, and cultural exchange.

It is important to note **China's four key strategies and policy tools for the BRI.** First, China prefers signing bilateral MOUs and agreements rather than multilateral agreements for the BRI so that China can handle issues bilaterally in favour of China. In total, China has signed 145 bilateral investment treaties, with 110 in force (Investment Policy Hub 2021). That is more than any other country except Germany. Its partners include all major economies in the world, with the exception of the United States. In addition to investment agreements, bilateral arrangements also include customs clearance, investment promotion and facilitation, trade and investment treaties, dispute resolution mechanisms, visa agreements, memoranda on standardization, special economic zones, special tax regimes, and academic and student exchanges. These agreements are focused on building infrastructure to facilitate trade, investment, and migration in ways that have complementary effects. Each economic corridor in the BRI has a different cooperation modality and package, subject to local negotiations and adaptation to different geopolitical and economic conditions.

Figure 1
Official BRI Participating Countries by the year of joining



Note: This map from the Council on Foreign Relations' Independent Task Force Report shows the countries that have joined the BRI by the year of joining (Hillman / Sacks 2021)
Source: Green Belt and Road Initiative Center, Belt and Road Portal

Secondly, **building free trade zones or industrial parks through the BRI is one of the key policy tools being used to expand Chinese global trade and production networks.** China worked with its state-owned companies to finance and build huge industrial parks in new economic and trade cooperation zones. By January 2019, China announced that it had built eighty-two such zones within BRI countries with a total investment of 29 billion USD. By building key infrastructures like roads and ports and helping to revamp customs processes in these countries, these projects help achieve key BRI objectives, such as facilities connectivity and increased trade.

Thirdly, **the exportation of Chinese standards may have strategic economic implications.** Through investments in roads, ports, power plants, and telecommunications, Chinese standards will be exported to the BRI countries, directly challenging American and European dominance in standard-setting. Although standards often are not legally binding (formally), they can be integral parts of contracts and thus have real and long-term impacts on economic activities on the ground. As the BRI increases the scale of infrastructure projects abroad backed by Chinese money, China is well-positioned to shape international and regional standards in practice, such as for infrastructure. With growing influences, Chinese standards are going beyond infrastructure to include agricultural machinery, animal disease vaccines, digital payment, and more. Some of these standards contain patented technology and intellectual

property; this means that Chinese companies will have a first-mover advantage and that they also will be able to receive royalties under contract, including from other companies that bid for BRI projects.

Fourthly, **dispute settlement schemes under the BRI are built on the existing international legal regime, repurposed to support China's state-led economic system.** For transnational dispute settlement, BRI contracts generally stipulate that arbitration will be held in hubs outside of China. Singapore is the designated hub for contracts in Asia, and London and Paris for contracts in Europe, Africa, and South America. In 2018, China established the China International Commercial Court, which has two branches based in Shenzhen and Xi'an. Unlike in Singapore, the regulations of the China International Commercial Court require that judges be able to use at the same time Chinese and English as their work languages (Shaffer & Gao, 2020). By the end of 2018, the China International Commercial Court announced that it had accepted a variety of cases involving foreign companies and Chinese companies. These developments form part of an ongoing shift toward Asia as a centre for transnational dispute settlement, whether through arbitration or special international commercial courts, with China aiming to play a more important role.

China's interest in designing its own dispute settlement mechanism has three motivations. The first motivation is for commercial interests. Not only is it culturally in favour of Chi-

nese entities in their host country, but it also will attract and help China develop other related professional services. The second motivation is related to China building and leveraging its soft power. This was partly inspired by the US and European soft power approach under the umbrella of the rule of law. The third reason is linked to China's proactive position of promoting investment facilitation negotiations in the WTO. Although ongoing investment facilitation negotiations focus only on guaranteeing a central point of information on investment procedural requirements in a country and do not cover issues such as investment protection, market access, or dispute settlement, once the current phase is completed, dispute settlement can be part of the deal in future.

The COVID-19 pandemic has had mixed impacts on the BRI. Fewer contracts have been signed in the past year due to COVID-19 travel restrictions, deteriorating financial conditions, and disruptions in trade. The rate of contract signing was already decreasing even before the pandemic began because of long-lasting concerns in recipient countries about debt. China's common practice of holding debt renegotiations, rather than debt forgiveness, creates a further disincentive to sign a contract. Conversely, new BRI projects have arisen in the areas of public health cooperation under the umbrella of the so-called "Health Silk Road" (Mouritz 2020).

FREE TRADE AGREEMENTS (FTAS)

As early as the 18th Party Congress in 2012, former President Hu Jintao emphasized an interest in accelerating the "implementation of the FTA [free trade agreement] strategy." In response, the State Council issued several opinions on accelerating the FTA strategy implementation in 2015. This laid out a comprehensive blueprint for China's trade agreement strategy.

As of November 2021, China has signed 19 FTAs. The most recent of which is the Regional Comprehensive Economic Partnership (RCEP). China is presently carrying out ten ongoing negotiations, including between China, Japan, and Korea, and is conducting feasibility studies of 8 FTAs, such as with Canada, Bangladesh, and Columbia.

According to an announcement at the APEC leaders' summit in November 2020 by Chinese President Xi Jinping, **China "will actively consider" joining the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP).** After the Trump Administration pulled the US from the already signed Trans-Pacific Partnership (TPP) agreement, the rest of the TPP members decided to continue their agreement without the US. China had been watching the relationship between the US and CPTPP and investigated the pros and cons of joining the CPTPP. According to the analysis by Wang Huiyao, a counsellor for the State Council, this endeavour is both an end and a means. Wang argues that, as an end itself, joining the CPTPP can deepen China's domestic reforms, further integrate into the regional markets, and is well in line with China's high-level ambition FTA strategies. Moreover, it can also be a means to a

distinct end. Namely, that joining CPTPP and following some rules that were originally proposed by the Obama Administration, such as digital trade, SOEs, and labour and environmental rights, would provide an opportunity for China and the US to have discussions on these issues in the WTO, which could be conducive for WTO negotiations on these topics (Wang 2020b).

EU-CHINA BILATERAL INVESTMENT AGREEMENT

EU-China Comprehensive Agreement on Investment (CAI) is a "strategic opportunity" in China and "strategic autonomy" in the EU, rather than a commercial pursuit. Negotiations for the CAI between the EU and China concluded on 30 December 2020, before the Biden Administration was sworn into the White House. The EU hailed it as "the most ambitious agreement [with] China", and China described it as a "high-level" agreement that matches "international high-level economic and trade rules". CAI reflects EU values and proposals such as technology transfer and labour rights on the one hand, while also overlapping with other strategies undertaken by China at an international level, such as the Belt and Road Initiative, on the other. Rather than engaging with narrow commercial interests, the CAI brings together the broader strategic and geopolitical considerations of both the EU and China. This EU-China agreement, as well as the BRI, can be seen as part of a trend in which China is moving from a paradigm of "selective adaptation" to a paradigm of "selective reshaping", as described by Heng Wang, a Chinese law professor teaching in Australia. According to Wang, "selective adaptation is concerned with the 'downloading' of external norms, in the form of 'rules, structures, processes, and practices.' Selective reshaping is the 'uploading' of China-led institutions and China-preferred rules at the extra-regional level" (Wang 2020a).

The CAI ratification is on hold for three reasons. The EU's first reason is as a countermeasure against Chinese sanctions. In May 2021, the EU Parliament passed a resolution with a large majority⁷ that states that any consideration by the European Parliament on the EU-China CAI, as well as any discussion on its mandatory ratification by Members of the European Parliament (MEPs), have "justifiably been frozen" because of the Chinese sanctions. MEPs also remind the European Commission that they will take the human rights situation in China, including in Xinjiang and Hong Kong, into account when deciding whether to endorse the agreement or not. As a background, the Chinese government imposed sanctions in March 2021 on several European entities and political representatives, including five MEPs and the EU Parliament Subcommittee on Human Rights. These sanctions were in retaliation to the EU's response to human rights abuses in China's Xinjiang. The EU targeted

⁷ The resolution was approved with 599 votes in favour, 30 against, and 58 abstentions.

four Chinese officials with restrictive measures over abuses against the Muslim Uyghur minority. Secondly, China used weak language, from a legal perspective, when committing to “working towards” ratifying International Labour Organization (ILO) conventions regarding forced labour. It is also a highly contentious topic given the present allegations of human rights abuses and forced labour of the Uyghur minority. Critics question if China has any serious intention to implement these ILO standards. In the meantime, the US, UK, and Canada have imposed sanctions on potentially responsible parties and taken measures to block imports of products that may have been produced as the result of forced labour. Thirdly, the EU’s economic rationale for the CAI may not stand. While the EU wanted Chinese State-Owned Enterprises (SOEs) to be treated like private companies within the CAI framework, this is a sticking point for China. This conflict can be best seen through the example of subsidy transparency; China has pledged openness with regards to the services sector but does not intend to report its industrial or manufacturing subsidies. Another sticking point is the EU’s request for China to stop forcing European firms working in China to share their technology. In an awkward double-bind, China has pledged to stop forcing the transfer of technology while also repeatedly denying that these transfers even happen (Every et al, 2021).

4

THE 14TH FIVE-YEAR PLAN AND VISION FOR 2035

In March 2021, the Chinese National Congress endorsed “The 14th Five-Year Plan for National Economic and Social Development and the Long-Term Vision for 2035” (Xinhua 2021). The latest five-year plan has 65 chapters and covers 19 different themes. Themes include innovation, industries, domestic market, digitisation, market-oriented reforms, rural and agriculture development, urbanisation, (domestic) regional coordination, culture and soft power, green development, opening up and win-win cooperation, public services, defence and military, democracy, and the rule of law, one country two systems, and national reunification.

THREE KEY SIGNALS FROM THE 14TH FIVE-YEAR PLAN ARE WORTH NOTING WITH RESPECT TO TRADE, THE WTO, AND THE INTERNATIONAL ECONOMY.

First, the plan promotes domestic and external “dual circulation”. The phrase “dual circulation” was introduced at a Chinese Communist Party politburo meeting in May 2020. Since then, the new “dual circulation strategy” has been further elaborated and reflected upon. Finally, it found its place in the 14th Five-Year Plan. This is a new economic development strategy wherein China’s domestic markets are expanded, and the nation avoids relying excessively on external markets. “Based on domestic grand circulation” and massive domestic market power and attraction, the latest Plan aims to “develop (China) as a *strong magnetic field* for global factors (of production) and foster *new competitive advantages* in international cooperation” (Xinhua, 2021). Two main factors behind this Dual Circulation strategy are, first, rising global economic uncertainties and an increasingly hostile external environment politically, and second, sectoral monopoly and local protectionism in the domestic market.

Second, the plan works to “maintain and improve” multilateral economic governance mechanisms. The Plan puts WTO in a central position as the global economic governing body, stating China’s aim to “maintain multilateral trading system, actively participate in the WTO reforms, and firmly maintain its developing country status”. The previous 13th Five Year Plan only mentioned maintaining and strengthening the multilateral trading system.

This latest Five-Year Plan highlights that China will “propose more China initiatives and China solutions” at the G20, APEC, BRICS, and other economic cooperation platforms, with a view to maintaining the stability and development of “global production chains and global financial markets”. It highlighted its motivation to “spearhead the rule-making of economic governance in emerging areas”. The Plan did not specify in which areas; they might include the internet, deep sea, polar regions, and outer space.

Third, the Plan signals an “upgrading” of the Belt and Road Initiative and the network of FTAs. The new Five-Year plan stressed three high-level principles of the BRI: green, open, and clean, referring to environmental pollution, black-box operations, and corruption, respectively. It aims to deepen pragmatic cooperation, strengthen security assurance, and promote co-development. The Plan proposes a “Silk Road in the air” in addition to already formulated silk roads on the land and on the sea. In terms of social and cultural cooperation, it specifies the creation of a digital silk road and health silk road.

In terms of FTAs, the new Five-Year Plan highlights two aspects of “the FTA-upgrading strategy”. The new Plan indicates a desire to create a global network of FTAs. In contrast, the 13th Five-Year Plan did not focus on global-level structures. Moreover, the Plan mentions “high-standard FTAs”. While China mentioned “high standard FTAs” in the 13th Five-Year Plan, most FTAs are based on low standards. This time, the term “high standards” may carry more weight, as it reconfirms that China will accelerate the negotiations for the FTA between China, Japan, and Korea and actively consider joining the CPTPP, according to the 14th Five-Year Plan.

5

SUMMARY AND RECOMMENDATIONS

China celebrated the 20th anniversary of its WTO membership in December 2021. The transformation of China's participation in global economic governance can be understood as following three new major trends.

First, China's foreign economic policy strategy has shifted from convergence to divergence. China has become more sceptical to the existing WTO rules that were dominated by Western rule-makers, such as the US and European countries. During the first ten years in the WTO, China fully embraced trade liberalisation, at least in terms of policy intention. China has implemented measures systematically at home, including changing legislation and regulations, conducting training and advocacy about WTO principles, and academic and professional capacity building in the WTO laws. These actions were part of the policy convergence. However, since 2012, China's trade policies have tended to be more nuanced and trended towards policy divergence. On the one hand, China continues to accept the rulebooks of the WTO and advocates for rule-based trade liberalisation. The nation has supported the pragmatic values of the WTO that create a predictable trade environment for China's exports and provide a space for solving trade disputes with big trading partners, particularly the US and EU. On the other hand, China recognises that trade liberalisation could have serious consequences, as shown in the US and in China as well, particularly inequality and social exclusion. More significantly, the US, which for decades has been a champion of this system, wants to weaken the dispute settlement mechanism and single out China as a problem-maker in the system. This has pushed China to look for alternatives in case the WTO system collapses or becomes irrelevant.

Secondly, the past decade has seen China performing a selective de-coupling with the WTO by exploring new rules and new spaces. China is transitioning from selective adaptation (wherein it applies external rules to its own policies) to selective reshaping (wherein it applies Chinese rules elsewhere) as part of China's effort to transition global economic governance. In contrast to the early years of China's membership in the WTO, China's main question is no longer how to best comply with WTO rules, but what new rules does China need to advance its interests both within and outside the WTO. For example, China has become more passive in agriculture domestic support negotiations because it has significantly increased its own subsidies

in agriculture, not to mention industrial subsidies. China is a major agriculture importer and can benefit from low world market prices of food commodities. Since joining the WTO, China has been an advocate of investment rules. These efforts were met with some success at the G20 summit in 2016, where China gradually moved the G20 towards investment facilitation and an international investment framework (Sauvant, 2018). Subsequently, at the WTO Ministerial Conference in 2017, China and over 70 members (including Argentina, Brazil, Russia, and the European Union) started a Joint Initiative Statement on investment facilitation, with the aim of setting multilateral rules in this area (WTO 2017b). Now, over 100 members participate in the investment facilitation negotiations. The US, India and South Africa are some of the large economies that do not participate. Outside of the WTO, China is exploring new spaces where it can lead the rule-making. For example, the Belt and Road Initiative is based on its own assessments and the demands of partner countries, not following the guidance of the Bretton Woods Institutions such as the World Bank or IMF, which are led by Americans and Europeans.

Thirdly, China is developing a new China-centric regional governance ecosystem that features state-led infrastructure development. China's involvement in regional and global affairs is expanding under Xi's leadership. Notably, China launched the BRI and successfully established the Asian Infrastructure Investment Bank. To a large extent, this approach reflects China's internal development experience. China's modernization started with the financing of infrastructure through Chinese state-owned banks, supplemented by economic reform and opening policies. This new regional ecosystem has three objectives: 1) to directly export China's excess capacity of steel, concrete, and other products and services; 2) to export Chinese standards, particularly in telecommunications networks, roads, airports, and ports, which Chinese companies build with Chinese standards; and 3) to increase China's political and economic influence in partner countries.

It is important for German and European political leaders to understand these changes in Chinese international economic policies and the driving forces behind them so that they thus may take measures to advance Europeans strategic interests and global development. Four key considerations are as follows:

First, China's increasingly high-profile approach and a multi-layer foreign economic strategy will last for at least five to ten years.

This change is not only rooted in its domestic political economy but also reflects Chinese elites' new understanding of the nation's own history and recent experience in international economic governance, including the past 20 years of membership in the WTO. First, President Xi Jinping is keen to play a leadership role at the global stage to prove his charisma and power to remain at the top of the government for a longer period, which is, of course, supported by the strength and competitiveness of the Chinese economy. Second, for the Communist Party to continue to be the ruling party, it needs to generate national pride through being heard and respected in global affairs. A high profile approach also demonstrates to the Chinese people the advantages of the Chinese political system compared to the weaknesses of the Western political system, particularly in juxtaposition with the Anglo-Saxon model championed by the US. Third, China's strategy has both multilateral and regional layers to increase its power and influence in existing economic institutions, to change and challenge dominant roles of the US and Europe in these organizations, and to create new regional initiatives such as BRI and network of FTAs to promote China's commercial and political interests.

The EU could leverage its respected social values and experiences to influence China's international strategies towards peace, sustainability, and inclusiveness.

The fact that Chinese leadership would like to take more international responsibilities and demonstrate its leadership at the global stage presents opportunities for the EU. For that, there is potential to see China's convergence to some extent with policies advocated by Europeans, particularly with regards to environmental standards. For example, environmental initiatives such as the WTO Trade and Environmental Sustainability Structured Discussions (TESSD)⁸, the plastics pollution proposal co-sponsored by China and Fiji, and the US proposal on circular economy could be low-hanging fruit for EU-China-US engagement and cooperation.

In addition, the EU can initiate serious discussions among its members and prepare to address challenges that may arise from China's new multi-layer strategy.

Particularly, the EU can prepare for potential geopolitical tensions with China regarding the BRI's collaboration with Russia and its extension in central Asia and European countries. Second, the EU can initiate discussions on economic challenges in the wake of China's exports of products and services, particularly exporting its standards. And finally, the EU should prepare to address governance challenges that may arise as China promotes its own state-led development model and multi-layer China-centred regional economic order through the BRI and FTAs.

⁸ In the first week of November 2021, China and the United States joined as new co-sponsors for the TESSD. Members express broad support for a draft ministerial statement that would set out future work for the initiative in areas such as trade and climate change as well as fix a road map for advancing discussions in 2022. For more on these talks, see the WTO's November 4th news briefing on trade and environmental sustainability structured discussions.

The 14th Five-Year Plan (2021–2025) prioritises the WTO.

In its section on global economic governance, the latest plan puts the WTO before the G20, APEC, or BRICS. The three keywords in the Plan related to the WTO are that China aims to "*maintain*" the multilateral trading system, "*actively participate in*" the WTO reforms, and "*firmly keep its developing country status*". China is likely to invest more energy and resources in maintaining the WTO systems, as it can benefit from the system directly and indirectly. Direct benefits include stable and predictable trading relations with trading partners, particularly the US, EU, and Japan. Indirect benefits include a potentially increasingly and substantially stronger say and influence in the WTO system because of its large trade volumes, its central position in many global and regional value chains, and massive domestic markets that attract foreign investors and exporters. Regarding WTO reforms, China sees them as a double-edged sword: many issues raised by the US target China (such as SOEs, industrial subsidies), but China can take advantage of this debate to keep the US in the system while putting reasonable pressures on the US (such as dispute settlement mechanisms). With regards to China's developing country status in the WTO, this is not an economic decision. Rather, it is political. For China, it needs to have wider political support from the developing countries camp. A senior policy advisor interviewed for this project supports this strategy by saying that China can "*yield its interest, but not yield its seat (as a developing country).*"

On the WTO reforms, the EU can continue its role as a bridge between China and the US by working with them and other members and developing an agenda of common interests.

Completely siding with China or the US could be dangerous for the system. A possible list of common interests could include: a timetable for the discussion about resuming the Appellate Body (an issue high on many members' agendas, but a low priority for the US); a roadmap for renegotiations on the subsidies agreements, including SOEs (mixed bag for US, China, and the EU because of its complexity, but some provisions in FTAs can be a good basis to start the discussion); notification and transparency (high priority for EU and US, low to medium priority for China); special and differential treatment (high priority for the US, of low to medium important for China and the EU).

Third, China is showing a willingness to be more flexible in the ongoing WTO multilateral and plurilateral negotiations.

By stating that "China will firmly safeguard true multilateralism" in its opening speech at the 4th China Import Expo, Xi Jinping highlighted that "China will take an active and open attitude in negotiations on issues such as the digital economy, trade and the environment, industrial subsidies and state-owned enterprises, uphold the position of the multilateral trading regime as the main channel for international rules-setting, and safeguard the stability of global industrial and supply chains." (Xi, 2021). In this context, Chinese negotiators are very likely to make substantial compromises in fisheries subsidies talks, give new offers in e-commerce negotiations, open to discussions on SOEs and industrial subsidies.

The EU could have informal consultations with China, the US, and Japan on the fisheries negotiations, focusing particularly on a landing zone for an agreement and how to bring India and African countries on board. On fisheries, the challenges include defining a respected deadline for everyone to show their real bottom line and putting the necessary political and financial resources together to solve the blockages from other developing countries, particularly India and some African countries.

The EU could organize more bilateral deliberations and workshops with Chinese stakeholders on e-commerce negotiations, including data flow and privacy. This could help China develop their capacity and confidence in these areas.

The EU could also consider bringing environmental standards and labour rights issues to the WTO. It is time to rekindle the environmental and human face of trade because, apart from government subsidies, China's relatively lower environmental and social standards have contributed to its market competitiveness in many economic sectors. This presents three challenges for Europeans, including a race to the bottom risks on environmental and labour practices; competition in the EU markets and in third markets (America, Asia, and Africa); and development implications for Africa (a lack of opportunities to develop manufacturing).

Fourth, at the regional level, the China-centred regional economic order requires further analysis and a strategic response. Through the massive BRI and a global network of high-standard FTAs, China's efforts to develop a new regional economic order are historic. In addition to its grand geographic scale on land, ocean, and air, this economic order has three main characteristics from the political economy perspective: it's based on governments' bilateral agreements and MOUs, without multilateral legal frameworks; government agreements are complemented by private companies' contracts, which are in most cases financed by Chinese State banks, to export Chinese products, services, capital, and standards; and it also functions to "export" China's government-led development model.

It is critical for German and European political leaders to further build up their global leadership on social values and economic development, including in Africa. In this regard, China's proactive policies, including the BRI, present both opportunities and challenges.

The EU could welcome the positive impacts of BRI's investment in infrastructures on local economic development while highlighting the need to address some risks associated with the partnership with China and BRI partner countries. Risks are a neutral term to engage China and partner countries.

The EU could support its institutions and private companies in joining the BRI projects. This would allow the region to not only benefit from some commercially viable projects but also to break into black-box

operations and better understand the business models of BRI. The EU could finally also strengthen its advocacy on key issues that are of interest to the EU and related to BRI, such as low-carbon infrastructure, inter-operability of standards, anti-corruption, and labour rights.

REFERENCES

- Ahn, Dukgeun** (2021): Why Reform Is Needed: WTO “Public Body” Jurisprudence. In: *Global Policy* 12/53, p. 61–70.
- Bloomberg** (2019), “U.S. WTO E-Commerce Offer Reflects USMCA Digital Trade Chapter”, <https://news.bloombergtax.com/international-trade/u-s-wto-e-commerce-offer-reflects-usmca-digital-trade-chapter>.
- Brandi, Clara & Wallace Cheng** (2019): “The disputed status of developing countries in the WTO”, German Development Institute, <https://blogs.die-gdi.de/2019/03/14/the-disputed-status-of-developing-countries-in-the-wto/>.
- Doğan, Asım** (2021): *Hegemony with Chinese Characteristics: From the Tributary System to the Belt and Road Initiative*. New York, Routledge
- Every, Michael et al** (2021). “Implications of the EU China investment deal (CAI)”, <https://economics.rabobank.com/publications/2021/january/implications-of-the-eu-china-investment-deal-cai/>.
- Gao, Henry** (2020): Economic Development and Trade: The Challenge of a Rising China, <https://www.cigionline.org/articles/economic-development-and-trade-challenge-rising-china/>.
- Hillman, Jennifer / Sacks, David** (2021): *China’s Belt and Road: Implications for the United States*. Independent Task Force Report No. 79. Co-chairs: Lew, Jacob J. / Roughead, Gary. Council on Foreign Relations.
- Hoekman, Bernard** (2012): “WTO Reform: A Synthesis and Assessment of Recent Proposals.” In: Narlikar, Amrita / Daunton, Martin / Stern, Robert M. (eds.): *The Oxford Handbook on the World Trade Organization*. Oxford, Oxford University Press.
- ICTSD** (2018): “Reforming fossil fuel subsidies through the trade system”. Policy Brief, March 2018. International Centre for Trade and Sustainable Development, Geneva; <https://www.greengrowthknowledge.org/sites/default/files/downloads/resource/Reforming%20Fossil%20Fuel%20Subsidies%20through%20the%20Trade%20System.pdf>.
- Hoekman, Bernard, Tu Xinquan, & Wang Dong,** (2021): “Rebooting Multilateral Trade Cooperation: Perspectives from China and Europe”, <https://voxeu.org/content/rebooting-multilateral-trade-cooperation-perspectives-china-and-europe>.
- Investment Policy Hub** (2021): “China: Bilateral Investment Treaties (BITs)”. International Agreements Navigator. Investment Policy Hub. UNCTAD.
- Joint Statement** (2018): “Joint Statement on Trilateral Meeting of the Trade Ministers of the United States, Japan, and the European Union”. Press Release. May 31, 2018; https://trade.ec.europa.eu/doclib/docs/2018/may/tradoc_156906.pdf.
- Sauvant, Karl P.** (2018): “China moves the G20 toward an international investment framework and investment facilitation”. In: Chaisse, Julien (ed.): *China’s Three-Prong Investment Strategy: Bilateral, Regional, and Global Tracks*. London, Oxford University Press.
- Lighthizer, Robert** (2017): “Opening Plenary Statement of USTR Robert Lighthizer at the WTO Ministerial Conference.” USTR Press Release. December 11, 2017. <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2017/december/opening-plenary-statement-ustr>.
- Low, Patrick / Mamdouh, Hamid / Rogerson, Evan** (2019): “Balancing Rights and Obligations in the WTO – a Shared Responsibility”. Stockholm, Government Offices of Sweden.
- Mardell, Jacob** (2017): The ‘Community of Common Destiny’ in Xi Jinping’s New Era. In: *The Diplomat*, October 2017; <https://thediplomat.com/2017/10/the-community-of-common-destiny-in-xi-jinpings-new-era/>.
- MOFCOM** (2018), China’s Position Paper on WTO Reform. http://ft.china-embassy.org/eng/xwdt/201811/t20181128_2710643.htm.
- MOFCOM** (2021): The 4th Meeting of China-EU Joint Working Group for WTO Reform held Via Video. Ministry of Commerce People’s Republic of China. September 26, 2021; <http://english.mofcom.gov.cn/article/news-release/significantnews/202109/20210903203580.shtml>.
- Mouritz, Frank** (2020): Implications of the COVID-19 Pandemic on China’s Belt and Road Initiative. In: *Journal of Connections* 19/2, The Security Impacts of the COVID-19 Pandemic, Spring 2020, pp. 115–124.
- Raby, Geoff** (2015): China’s AIIB Bank: Part of a Much Bigger Master Plan. In: *The National Interest*, April 28, 2015; <https://nationalinterest.org/blog/the-buzz/chinas-aiib-bank-part-much-bigger-master-plan-12748>.
- SASAC** (2021): SOEs Play a Full Role in Economic Growth. SASAC, May 2021; <http://www.sasac.gov.cn/n2588025/n2588134/c18585538/content.html>.
- Shaffer, Gregory & Gao, Henry** (2018): China’s Rise: How It Took on the U.S. at the WTO. In: *University of Illinois Law Review* 2018/1, pp. 115–184.
- Shaffer, Gregory & Gao, Henry.** (2020). A New Chinese Economic Order?. *Journal of International Economic Law*. 23. 10.1093/jiel/jgaa013.
- USTR** (2017): “Opening Plenary Statement of USTR Robert Lighthizer at the WTO Ministerial Conference.” Press Release. United States Trade Representative. December 11, 2017.
- Wang, Heng** (2020). Selective Reshaping: China’s Paradigm Shift in International Economic Governance Author Notes. In: *Journal of International Economic Law* 23/3, September 2020, pp. 583–606; <https://doi.org/10.1093/jiel/jgaa021>.
- Wang, Huiyao** (2020b) “From CEP to Striving to Join CPTPP.” In: *Beijing Youth Daily*. September 23, 2020.
- Wang, Zihui** (2021): When learning is in progress – Why Xi Jinping has repeatedly emphasized ‘true multilateralism.’ In: *Xinhua News*. September 22, 2021. Xihuanet; http://www.news.cn/politics/xxjxs/2021-09/22/c_1127889987.htm.
- WTO**
- (2016): “Proposal for e-commerce discussions draws interest”; https://www.wto.org/english/news_e/news16_e/good_17nov16_e.htm
 - (2017a): “Procedures to Enhance Transparency and Strengthen Notification Requirements under WTO Agreements”. Communication from the United States. JOB/GC/148, JOB/CTG/10. October 30, 2017.
 - (2017b): “Joint Ministerial Statement on Investment Facilitation for Development.” Ministerial Conference, Eleventh Session. WT/MIN(17)/59. December 13, 2017.
 - (2019): “Strengthening and Modernizing the WTO: Discussion Paper”. Communication from Canada. WTO Document, JOB/GC/201. September 28, 2018.
 - (2019a): “China’s Proposal on WTO Reform”. General Council, Communication from China. WT/GC/W/773. May 13, 2019.
 - (2019b): “Draft General Council Decision from the United States: Procedures to Strengthen the Negotiating Function of the WTO – Decision of X Date”. WT/GC/W/764. February 15, 2019.
 - (2020a): “The Importance of Market-Oriented Conditions to the World Trading System”. Draft General Council Decision, Communication from the United States. WT/GC/W/796. February 20, 2020.
 - (2020b): “Minutes of Meeting Held in the Centre William Rappard and in Virtual Format on 22–23 July 2020.” General Council. WT/GC/M/186. September 28, 2020.
 - (2020c): “Procedures to Enhance Transparency and Strengthen Notification Requirements under WTO Agreements--Communication from Argentina, Australia, Canada, Costa Rica, the European Union, Israel, Japan, New Zealand, the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu, and the United States.” General Council, Council for Trade in Goods. JOB/GC/204/Rev.3, JOB/CTG/14/Rev.3. March 5, 2020.
- Xi, Jinping** (2021): “Let the Breeze of Openness Bring Warmth to the World”, <https://www.chinadaily.com.cn/a/202111/04/WS6183e82fa310cdd39bc73672.html>.
- Xinhua** (2021): The Fourteenth Five-Year Plan for the National Economic and Social Development of the People’s Republic of China and the Outline of Long-term Goals for 2035. Xinhua News Agency. March 12, 2021.

ABOUT THE EDITORS

Stefan Pantekoek holds the China Desk in the Asia and Pacific Department of the Friedrich-Ebert-Stiftung (FES). Previously, he held various positions at FES headquarters and abroad, including managing the Foundation's office in Shanghai, PR China.

Yvonne Bartmann is Senior Program Officer for Trade and Development as well as Employment and Social Policy at the FES office in Geneva. Previously, among others, she worked for a member of the German Bundestag and the World Health Organization.

Hajo Lanz is head of the FES office in Geneva. Previously, he held various positions at FES headquarters and abroad, including head of the Department for Middle East and North Africa as well as the FES offices in Kenya, Uganda, Morocco, Costa Rica, Panama, and Nicaragua.

IMPRINT

Published by:
Friedrich-Ebert-Stiftung e. V.
Godesberger Allee 149
53175 Bonn
Germany

Email: info@fes.de

Issuing Department: Division for International Cooperation,
Department for Asia and the Pacific

Responsibility for content and editing:
Stefan Pantekoek, Head of China Desk
Dept. for Asia and the Pacific

<https://www.fes.de/referat-asien-und-pazifik>

Contact:
Meike.Adam@fes.de

Design: pertext, Berlin | www.pertext.de

Covergestaltung: © Dominik Ziller | DZGN
Illustrationen: © istock | SurfUpVector

The views expressed in this publication are not necessarily those of the Friedrich-Ebert-Stiftung. Commercial use of media published by the Friedrich-Ebert-Stiftung (FES) is not permitted without the written consent of the FES. Publications by the Friedrich-Ebert-Stiftung may not be used for electioneering purposes.

© 2022



CHINA'S ROLE IN THE MULTILATERAL TRADING SYSTEM

Emerging Trends, Driving Forces, and Implications for Germany and European Union



China's foreign economic policy strategy has shifted from convergence to divergence. The past decade has seen China performing a selective de-coupling with the WTO by exploring new rules and new spaces. The focus is on developing a new China-centric regional governance ecosystem that features state-led infrastructure development.



China's increasingly high-profile approach and a multi-layer foreign economic strategy will last for at least five to ten years. China is showing a willingness to be more flexible in ongoing WTO multilateral and plurilateral negotiations. This is where the EU needs to leverage its influence.



On WTO reforms, the EU should continue to serve as a bridge between China and the US. Completely siding with either party could be dangerous for the system. At the same time, the EU must prepare to deal with increasing geopolitical and economic tensions with China with an even broader set of instruments. At the global level, it is critical that Europe further builds its global leadership on social values and economic development. A more strategic response to China's BRI is also needed.

Further information on the topic can be found here:
<https://www.fes.de/referat-asien-und-pazifik>