

WTO Reform and China

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EU: WTO modernisation

- Rule-making:
 - Substantive issues:
 - Creating rules that rebalance the system and level the playing field
 - Subsidy notifications, SOEs & stricter disciplines on subsidies
 - New rules on services and investment:
 - Forced technology transfers, digital trade barriers
 - SDG issues: fisheries subsidies
 - Development:
 - Graduation
 - SDT: Needs-driven and evidence-based approach
 - Decision-making process:
 - Allowing plurilaterals
 - Strengthening the role of the WTO Secretariat
- Regular work and transparency:
 - Sanctions for willful and repeated non-compliance; counter-notifications; Secretariat assessment in TPRM
- Dispute settlement:
 - 90-day rule; 7-9; full-time; strengthened Secretariat; Findings unnecessary for the resolution of the dispute; meaning of municipal law as the issue of fact; Member commenting on AB jurisprudence; 1-term for AB members.

Canada:

Strengthening and Modernising WTO

- Improve the monitoring function:
 - Notifications and transparency; deliberations; dealing with specific concerns
- Dispute Settlement:
 - Diverting issues from adjudication; AB over-reaching; Members providing guidance to AB.
- Modernising trade rules:
 - Issues: digital trade, SOE, ind. subsidies, tech transfer, etc.
 - Means: plurilaterals
 - Development: TFA approach; no blanket SDT for all devg Members

US?

- No formal proposal
- But agrees with EU & Canada on many issues:
 - rules on new issues such as digital trade; rules to address distortions such as SOE, ind. Subsidies, tech transfer etc.;
 - Pluri-laterals;
 - Development
 - Better notification, transparency and monitoring
- But disagrees with EU on AB reform:

China

- Three principles:
 - Preserve the core values of the multilateral trading system: MFN
 - Safeguard the development interests of developing members
 - Follow the practice of decision-making by consensus
- Five suggestions:
 - Primacy of the WTO: can't sneak in other issues
 - Solve the AB crisis first
 - Fairness: agricultural subsidies; NME methodology; investment facilitation, MSMEs
 - Development: no discrimination
 - Respecting different development models: SOE, ind subsidy, export control etc.

Remaining questions

- Can the big guys even agree among themselves?
- How do you get China to sign on to any plurilateral deal?
- What about other countries?
- Bad precedent for China?
- Back to the past?

Thanks!

- Zhou, Weihuan and Gao, Henry S. and Bai, Xue, China's SOE Reform: Using WTO Rules to Build a Market Economy (July 1, 2018). International and Comparative Law Quarterly, 2019, Vol 68, Issue 3 (Forthcoming). Available at SSRN: <https://ssrn.com/abstract=370452>.
 - Shaffer, Gregory C. and Gao, Henry S., A New Chinese Economic Law Order? (April 11, 2019). Available at SSRN: <https://ssrn.com/abstract=370452>.
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