

China vs. The WTO: Two Decades of Disassembling and Dysfunction: *Systemic Interface and Reform Options*

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Principles Underpinning Trade Agreements



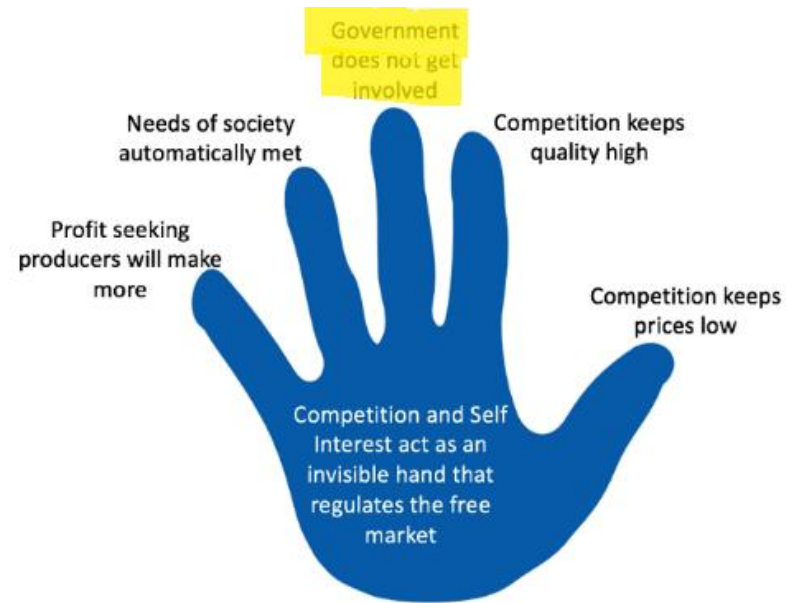
Observations

1. In order to maintain stability in trade relations, any agreement governing international exchange must reflect agreed principles that lead to outcomes that are considered fair and mutually beneficial
2. If the parties' commitment to implementing the agreed principles changes, the form and constellation of the agreement has to change to track these realities

GATT/WTO Legal Framework Around Economic System

Since 1947 based on “market orientation”

- Legal framework of agreed restrictions
- Nondiscrimination
- Transparency / Trust
- The “invisible hand” of the market determines trade outcomes



<https://www.theproducthub.io/2021/01/01/agile-companies-do-better/>

Explicit Commitments on Non-Interference in the Market

GATT 1947 and China's Protocol on Accession confirm "market orientation"

Any government intervention applied in favor of (or against) a WTO Member violates the MFN principle

- Phase I Agreement
- Trade coercion

Any government intervention that accords less favorable treatment to foreign products violates National Treatment

- Dual circulation / imposed self-sufficiency
- StateParty influence on SOEs and "private" companies

Protocol on Accession, paragraph 46

"the Government of China would not influence, directly or indirectly, commercial decisions on the part of state-owned or state-invested enterprises, including on the quantity, value or country of origin of any goods purchased or sold, except in a manner consistent with the WTO Agreement."



China's Invisible Thumb

From “invisible hand” to “invisible thumb” on the scale through ubiquitous intervention in the market

- China no longer hiding capabilities and biding time...
- Holding out an alternative economic system based on “Grand Steerage” by the State Party
- In this sense, there is no policy dissemblance on the part of China
- But the “facts” have not been established in Geneva, and the system remains paralyzed





Options for Systemic Interface

- Lack of multilateral engagement by trading partners has led to dysfunction
- Even for Members that wish to trade with China and to respect its economic management choices, the WTO systemic interface must reckon with China's choices
- Because the market is not free to determine outcomes in Chinese trade relations, we can either:
 1. Develop a new system to accommodate China's "hybrid" approach within the WTO based on non-MFN, managed trade; or
 2. Establish a separate trading system for countries that remain committed to market orientation of trade relations, and adjust WTO rules accordingly
- Include discussion of facts and architectural options as part of WTO Reform

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THANK YOU

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