

China's Process of Accession to WTO: Obstacles and Challenges*

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Abstract

The article analyzes the process of accession in detail. It not only provides a historical overview of the negotiation process but also examines how the internal decision-making process is vital to initiating various accession commitments. It identifies and explains number of barriers that China had to face to join the WTO. It assesses the agreements and disagreements over the critical issues that led to the signing of bilateral agreements between the major trading partners like the US, EU, Canada, and Japan as these were mandatory for its accession to the WTO. It also explains why the terms of agreement proved more costly for China compared to other developing countries in trying to accede to the WTO. It takes into account the commitments China had to make to get an entry into the WTO. The paper finally makes an attempt to explain why it is still important to analyze China's accession to WTO; the key reasons behind it; and the commitments that China had made while acceding to WTO. Whether China had implemented such commitment by fully complying with rules and objectives of the WTO. It captures the impact of such delayed liberalization of commitments and suggests the lessons for other developing and transitional economies trying to accede to the WTO.

I Introduction

China's accession to the WTO on 11 December 2001 signifies international acknowledgement of its integration with the world economy. A 15 year-long quest finally came to an end, depicting a rich learning experience mainly for China and other important countries like the US, the EU, Canada, etc. Many viewed this entire accession process with an element of surprise. Surprise, because they believed that as a major trading nation China would have joined the WTO as a matter of its economic significance that it exuded in world economy. Whereas others observed that its sheer size and importance in the world economy encouraged the WTO to take utmost care unlike for others. Whatever may have been the compulsions such as the issue of transparency, rule of law, role of institutions in the eyes of WTO members; 15 years of intense negotiations seemed too far to achieve such a goal compared to the average time taken by others¹ to join the WTO.

The article analyzes the process of China's accession to the WTO in detail. First, it points out the barriers that China had to face to join the WTO. Secondly, it takes into account the commitments and changes that it had to make to get an entry and carry them out further in joining the WTO. The article endeavours to answer questions such as what more China did than other developing countries to accede to the WTO (did the terms of agreement prove to be more costly for China vis-a-vis other developing countries?). Thirdly, it depicts how China domestically prepared itself for the accession. It describes the internal decision making process besides detailing the agreements and disagreements over the critical issues that led to the signing of bilateral agreements with the major

*The article benefited from a field trip to China in 2009.

¹ Albania applied for GATT membership in 1992 and became a member of the WTO in 2000. Similarly Armenia completes her accession in 2002 whereas it applied in 1993.

trading partners like the US, EU, Canada and other countries, as these were mandatory for its accession.

Fourthly, it China's entry into the WTO has been long and arduous. It's a journey that raised many complex issues which remain even critical now for any developing or transitional economies acceding to WTO. China's terms of agreement proved much more costly for China than other countries that joined the WTO. This is one of the major concerns why the paper has been attempted now to analyze the issue. The paper further highlights the significance of taking up this study now; more than a decade later by looking at the commitments it made to WTO while joining the WTO. What many researchers, academicians and policy makers take surprise to, is why some of the commitments China agreed to implement in a period of 5 to 6 years after its entry into the WTO in 2001 haven't been implemented so far. Ideally speaking they should have come into force in 2007. As a result the paper attempts to assess what has been the impact of such delayed liberalization in certain sectors. Lastly, it provides a summary assessing the significance and difficulties that it had to face to accede to the WTO.

II Barriers China Faced to Enter the WTO

China faced number of trade barriers while trying to join the WTO. Tariff reduction constituted an important facet of trade obstacles China faced during the negotiation. Bringing it down to a single digit level in sensitive sectors like agriculture and Non-Agricultural Market Access (NAMA) was a great challenge for China. During the years of negotiations industrialized countries had asked for substantial tariff reduction in these sectors while protecting their own sectors through agricultural and export subsidies. Tariff barriers were raised essentially to provide protectionist measures to different sectors of the Chinese economy. China before negotiating for entry into the WTO had maintained a high tariff wall in agriculture and manufacturing sectors knowing fully well that it is heavily dependent on agriculture. Similarly non-tariff barriers (NTBs) are imposed by importing countries to curtail significant export drive of the exporting countries to protect their own sectors. China had faced number of NTBs while trying to enter the WTO.

According to Nicholas Lardy (1994:110), China, in some respects, is one of the more open economies in Asia: "Its economy is more open than that of other East Asian economies at comparable stages of economic development and in certain respects is even more open than they are now." What, then, are the main barriers or obstacles for China's accession to the world trading system? Many differences cropped up between China's position and the demands made by the US. Firstly, China wanted a gradual adjustment whereas the US wanted a rapid change. In relation to gradual vs. rapid change dynamics, it was the tariff reduction that held the centrestage of negotiations. In the area of tariff reduction, China has reduced its average tariff rate from 47.2 percent to 21.5 percent in less than six years; but its rate is still high compared to other developing countries in the WTO. China has indicated a willingness to cut its average tariff rate to 15 percent in three years for industrial products and six years for agricultural products; but the US wanted a 7 percent tariff rate as a precondition to accession, and the EU wanted an 8 percent rate. With regard to the trading license system, China had offered to phase out the then existing trading license system in five years, but the US tried to push it for two to three years. The US and the EU countries had demanded that import licensing system must be sufficiently liberalized early. The existing export and import policies have been

liberalized in China. In addition, the OECD countries wanted that China to open up its distribution sector within a few years but China does not want do so until 2020. Finally, with regard to discriminatory industrial policies, China initially refused but later on accepted to treat them at par, which is otherwise known as *national treatment* in the WTO's parlance. The US, the EU and Japan wanted China to change these policies upon accession, but China however, subsequently implemented these conditions in the assumption that it would get an early entry.

Secondly, the US and other developed countries wanted to have special safeguard options to protect their own industries against future import surges from China, but it did not however, initially accept these conditions. Industrialized countries were aware that China had comparative advantage in the world market in many manufacturing products, especially in the area of low technology sectors like textiles, toys, footwear etc. Developed countries wanted to protect their industries against China's surge in imports; hence they wanted to impose safeguard measures. As a condition of accepting China into the WTO, the EU wanted to have the right to impose "safeguard" tariffs or quotas on China's exports. China objected to this as a violation of the MFN principle, which is fundamental to the functioning of the WTO. China understood that as a precondition, the safeguard option would undermine the objective of its accession. China would be easily discriminated against even as a member of the WTO. China eventually had to agree to such demands of the developed countries.

Thirdly, China was keen to maintain protective measures for its "infant industries" as a developing country but the US did not agree to grant the full range of protective measures to China as it did to other developing countries. During the process of negotiations, it insisted joining the WTO on *developing-country status*, but the US wanted China to enter the system as a developed country. As a developing country, China can take longer time to liberalize international trade and have more time to protect its "infant" industries. By the World Bank's definition, China is a developing country but the US, however, argues that China is an "export powerhouse" (Chong 1995: 7). The US has argued that it is so big and so significant in the world market already that China cannot be treated as a regular developing country. In short, the US wanted China to liberalize trade and foreign investment before it became a member of the WTO. The US and other OECD countries pointed out that China was still not a market economy.

However, a full market economy was not a necessary precondition for accession into the GATT/WTO. When Poland joined the GATT in 1967, it was a centrally planned economy. Poland undertook no tariff reductions, but pledged to increase imports from the Western market economies by 7 percent per year. When Hungary entered the GATT in 1973, its tariff rate was 32 percent and it promised to reduce it to 21 percent. Compared to these countries, China is a far more open and decentralized market economy, in terms of importing goods and attracting investment from developed countries. China's imports from the world market grew at almost a 17 percent annual rate. Its average tariff rate was already reduced to 21.5 percent in 1999 which further came down to less than 10 percent in 2007. More importantly, China has been carrying out a market-oriented reform for more than two decades. China has also announced that it is slowly giving up its central planning in favour of a market economy with the Chinese characteristics. According to the Chinese negotiators, the WTO demands were much greater than they were in the late 1980s when China's economy was much less open and

free. As Lardy (1994: 121) has pointed out: “It is time to recognize that the US has already demanded and received more from China in terms of economic reforms than was demanded of other comparatively developed countries when they entered the GATT.” Regarding the *developing-versus developed-country argument*, it is true that China is a large exporting country but it should not be penalized for its good performance. The GATT’s definition of a “developing country” (or less-developed country) is based on standards of living, not on export performance. Therefore, the US interpretation of China’s case is untenable. It is clear that China has experienced a much more complicated entry process into the GATT/WTO than many other countries. Now, the question is, why did the US and other WTO member countries push so hard and demand so much? There are both economic and political reasons. Economically, China was growing at a rapid pace and becoming increasingly important in the Asia and Southeast Asian region. Politically, it is too independent and is still led by a Communist Party. From an economic point of view, the recent growth in China’s economy and the rapid increase in exports have made developed countries feel jittery about the future challenge from China. The earlier situation of the US in the early 1980s having trade deficit with Japan in a way haunted the leaders of America and the US felt that with the current exports of China to the US, China might become another Japan. To prevent such a scenario from emerging, the US wanted to access the Chinese market before this concern became a reality.

A World Bank study pointed out that under the Uruguay Round of trade liberalization, China’s exports to the US, the EU and Japan would increase by 40 percent (World Bank: 1993). Many WTO member countries believed that China would receive large benefits by joining the WTO. This belief gives a strong incentive to the US and other countries to use this opportunity to demand more from China. Politically, the US and other developed countries wanted to ensure that China’s market-oriented economic reforms continue. After the collapse of the former Soviet Union, China remained a powerful country in Asia. In order to have their sphere of influence in China, the US and some other OECD countries were interested in China joining the WTO. Thus, they can maximize their access to the Chinese market and shape the Chinese trade structure. Besides, as a developing country and a former planned economy, China had a large number of inefficient industrial sectors. To avoid sudden social and political change, China had adopted a gradual approach in its economic reforms. The Chinese government too realized the cost of slow reform in its state-owned enterprises (SOEs), but social stability too remained a top priority for the then political regime under the leadership of Deng and Jiang Zemin.

III Process of Accession

China has been more than keen to join the multilateral trading system; first the GATT and then the WTO. This is evident from the fact when China had initially become a founding member of the GATT in 1945. However, after the Chinese revolution in 1949, the then KMT government was defeated and was driven out by the communists from the mainland. It had left for Taiwan where it established its regime as the Republic of China (ROC) and had then announced its withdrawal from GATT in 1950. Since the establishment of People’s Republic of China (PRC) in 1949, China remained engaged in its nation building by resorting to indigenous planning and acquiring support from the former Soviet Union. With the Sino-Soviet rift in the 1950s, China’s relationship with the

former Soviet Union turned sour and China distanced itself from her. It remained a closed society having limited interaction with the outside world. Only around the mid-1980s when it became economically stable and strong, it wanted to integrate itself with the world economy. It was convinced that integration with world economy is a necessary condition to remain economically powerful. Such considerations enhanced the urgency for joining the world trading system governed under the WTO. China's leadership came to view membership in the WTO as central to the country's economic future.

China's application to join the GATT was a positive step and is now moving in the right direction (Zhu 2009: Personal Interview). It is also the continuity of reforms, which projected China as moving closer to capitalism. This dimension interested particularly the US and other developed countries to look favourably towards China as a potential partner in the global trading regime (Yong 2002: 20). It was also felt that the practice under which every year China had to negotiate with the US for renewal of Normal Trade Relation (NTR) had created too much irritation in the Sino-US trade relationship. Once it becomes a WTO member such renewal will not be required (Lei 2009: Personal Interview). China was a major exporting country even before joining the WTO when exports were contributing two thirds of its GDP. With the entry into the WTO, it is expected to perform better in terms of exports as it will gain market access to most of the countries. Such a step is in the interest of China (Lei 2009: Personal Interview). China's accession to the WTO became a necessity for China, as it will remain a part of the international community where it can fight for its trade disputes. Besides it will be able to attract more FDI for its economic growth and internal development (Ho 2009: Personal Interview). China's initiative to launch economic reforms from early 1980s was an important consideration for major industrialized countries to seek China's entry into the WTO. Its accession in 2001 is still heralded as a significant step towards global integration (Song 2009: Personal Interview).

China's process of accession had found positive expressions from various quarters such as Foreign Invested Enterprises (FIEs) already operating since Eighties and some sections of corporate sector who had developed global competitiveness then (Tao 2009: Personal Interview). The Protocol of Accession was a long-standing process as it involved a whole lot of political and economic programmes such as structural adjustment, establishment of transparent judicial system, economic reforms pertaining to internal domestic preparation, handling of human rights issues, and bilateral negotiations. The terms of China's Protocol of Accession to the WTO reflect a series of development that have been unparalleled in its history. Its overall commitments have been much more far-reaching than those who acceded to the multilateral trading regime under the WTO. As a condition for membership, it was required to make protocol commitments that substantially exceeded those made by any other member of the WTO, including those that have joined since 1995. The Chinese leadership has increasingly come round to the view that one of the principal benefits of becoming a member of the WTO is the increased competition it would bring to China's domestic market. Increased competition is seen as an essential additional source of pressure on the government institutions, state-owned banks and enterprises forcing them to undertake badly needed structural reforms. The arduous process of accession which involved 15 years of hectic negotiations revolved around the major trading partners of China such as the US, EU, Canada, Japan, etc.

III.1 *The WTO Procedure for New Membership*

The accession to the WTO at the same time is no less bureaucratic as the country has to pass through many tests. *First*, the government applying for membership has to describe all aspects of its trade and economic policies that have a bearing on the WTO agreements. This is submitted to the WTO in a memorandum, which is examined by the Working Party dealing with the country's application. This Working Party dealing with accession procedures is open to all the WTO members to seek any clarification from the acceding country. *Second*, when the Working Party has made sufficient progress on principles and policies; parallel bilateral talks begin between the prospective new member and individual countries. These talks cover tariff rates and specific market access commitments and other policies in goods and services. *Third*, once the Working Party has completed its examination of the applicant's trade regime, and the parallel bilateral market access negotiations are complete, the Working Party finalizes the terms of accession. These appear in a report, a draft membership treaty ("Protocol of Accession") and lists ("schedules") of the member-to-be's commitments. *Finally*, the decision is taken when the final package, consisting of the report, protocol and lists of commitments, is presented to the WTO General Council or the Ministerial Conference. If a two-thirds majority of the WTO members vote in favour, the applicant is free to sign the protocol and to enter the organization.

III.2 Establishment of Working Party

A Working Party was established on March 4 1987 to start the process of China's re-entry into the GATT. The Working Party was assigned with the task of examining and evaluating China's trading regime, defining areas and timetables for negotiation and adjustment, and preparing a report for the GATT Council. The Working Party met for the first time in October that year. The Working Party had conducted several meetings about twenty by 1989. Soon after the Tiananmen Square massacre, it was suspended and was not reconvened until 1992, when, it made serious efforts to re-enter the GATT. The Working Party held a number of meetings and completed the general hearing and assessment of China's trading system. Negotiations on the commitment and conditions for entry into the GATT also started in 1992 with other GATT members as it was mandatory for the acceding country to conclude bilateral negotiations with other countries. More significantly, China accelerated its reform programme in the direction of a market economy. Following the conclusion of the Uruguay Round in 1994, China launched a major campaign to join the GATT. Like the 23 founding members of the GATT, it had shown keenness to become a founding member of the WTO. China had launched a nationwide propaganda to promote the internationalization of the economy and disseminate knowledge on the GATT. During this period China made many adjustments to carry forward its accession to GATT/WTO.

III.3 Domestic Preparation

China was engaged with two sets of domestic preparation. First one was in the sphere of commitments and the second one was relating to the structural and institutional adjustments required to accede to the WTO. First, in order to acquire the right to the WTO membership and to comply with the WTO rules and standards, China made numerous commitments before and after joining the WTO. These can be divided into two broad categories. First, adherence to the international rules and practices and second, to gradually open up its market to the outside world. Commitment to international rules and practices demanded certain fundamental structural changes to be addressed with

immediate effect. Challenges that unfolded through these economic reforms and opening up process became daunting for the leadership. First, the market economy that China was forced to evolve as part of the WTO requirement was based on the rule of law. Industrialized countries spearheaded by the US had seriously objected to the prevailing legal regime of China. Lack of transparency was highlighted in major negotiating forums as a serious drawback in the functioning of the state.

During the 1980s and the 1990s lack of adequate of rules was felt in the functioning of administrative procedures. The planned economy pursued for several decades had concentrated on 'rules of men'(Yongtu 2002: 27)². When negotiations for the WTO began, an urgency for revising these laws gathered significance. Establishing rule of law became an essential element for the new economic system. It is in this regard that China's commitment to international rules and regulations became an integral feature of its economic reform process. As China began to revise its rules and laws according to the requirement of the WTO, it had to engage in an extensive clean-up of its existing legal system. This change in the legal system had propelled the Chinese leadership to look for reasonable legal measures to protect its domestic industries and the domestic market. It resorted to the so-called "Safety Valve" mechanism which was directed to be set up concurrently with the lowering of tariffs and opening of the market once China is in the WTO (Zagha et al. 2005: 142). These measures include modifying and drafting anti-dumping regulations, anti-subsidy regulations, and special safeguards.

Secondly, in its opening-up to the outside world, China figured as a premier location for FDI among the developing countries, with a yearly average of US\$ 40 billion in the 1990s. Today the FDI plays an important role in China's economic development, contributing 50 percent of its imports and exports, 20 percent tax revenue, 30 percent of its industrial output and, more importantly, generating more than 20 million jobs every year. It is of paramount importance to keep up the volume of FDI and improve the quality of the investment. In spite of all the efforts already made by the government, including an array of preferential treatments, there is still much room for improvement in China's investment environment. The chief concern that an increasing number of foreign investors had, was whether their investments would be protected in the absence of a transparent, predictable and stable legal environment, and called for an early action from the Chinese government. The importance of FDI is well known to the government. Hence, the establishment of a transparent, legal regime became a pressing concern and the WTO accession provided a timely framework to improve the business environment for FDI flows.

III.3.1 Non-discrimination

China committed itself to provide non-discriminatory treatment to all WTO Members. With respect to the right to trade, all foreign enterprises, including those not invested or registered in China, will be accorded treatment no less favourable than that accorded to enterprises in China. In its Accession Protocol, China has also agreed to undertake additional commitments in order to ensure smooth application of non-discrimination principles including eliminating dual price systems, phasing out restrictions on trading, and introducing more administrative arrangements (Protocol of Accession WTO: 2001).

III.3.2 Improving the Environment for FDI

Recognizing FDI as a tool for economic development, the Chinese leadership had taken

² <http://news.bbc.co.uk/2/hi/business/1702241.stm>

several measures to attract FDI. The measures that were introduced included improvement in the political and legal environment, and enhancement of legal administration level. Promises were made to make legal system steady, consistent, and predictable. It was proposed that efforts would be made to further simplify the examination and approval procedures for foreign investment, and adopt a standardized examination and approval system. A sense of legality and openness in relation to administrative environment for foreign investment was promised to be fostered. Such services include efficient and transparent government services, reform of administrative approval systems, and sound legal and business environments. All these administrative and policy changes formed part of China's accession, which have been stipulated in the provisions of the Protocol of Accession. Some of them are discussed below.

III.3.2.1 Transparency

Transparency is crucial to ensure certainty in business. It is understood that foreign investors would demand transparent laws, regulations and other elements of the operating environment. In view of the specific conditions of China, the protocol on the accession of the PRC states that:

- China undertakes to enforce only those laws, regulations and other measures that are published and readily available to other WTO members;
- China shall establish or designate an official journal for the publication of all laws, regulations and other measures, and provide a reasonable period for comment before such measures are implemented (except those involving national security and those whose publication would impede law enforcement); and
- China shall establish a designated enquiry point to provide timely information on relevant laws and regulations.

III.3.2.2 Independent Judicial Review

China in the late 1990s advocated that a transparent legal framework should entail equal access to the law for companies in their commercial activities. These activities should not just be ones between companies, but also activities by companies against the government. In this connection, the protocol states:

- China should establish or designate and maintain tribunals and contact points for the prompt review of all administrative actions relating to the implementation of laws. Such tribunals should be impartial and independent of the agencies entrusted with administrative enforcement;
- If the initial right of appeal is to an administrative body, there should always be the opportunity to choose to appeal the decision to a judicial body.

III.3.3 Uniform Application

As implementation of national laws by the national government has been one of the pressing concerns of foreign investors, China has committed itself in the protocol to a special section on “uniform application.” This is not only important to eliminate conflicts between local regulations and national laws but also essential to root out all kinds of local protectionism at various levels. The section provides:

- China should apply and administer all its laws, regulations and other measures of the central government as well as the local ones in a uniform, impartial and reasonable manner;
- China's local regulations, rules and other measures shall conform to the obligations undertaken in the WTO Agreement and the accession protocol.

In a nutshell, it is argued that China's WTO commitments to observe international rules would help China to build a market economy based on the rule of law, on order and one with a transparent, stable and predicable legal environment. All these are not only fundamental for China to move to a truly market-driven economic system but also hold importance in the perspective of building an image in the outside world as an orderly, transparent, and predictable market for potential investors, and also help in avoiding unnecessary trade disputes with the rest of the WTO members.

III.3.4 Two-Way Process

China's commitments to a gradually more open market have thrown up some concerns. China realizes that in an interdependent world both partners have duties to respect and show concern towards each other. It believes that market opening is a two-way process. As an increasingly important trading country in the world, China can not just take advantage of the markets of others; it has to open its own market. This is the principle of mutual benefit and it has no scope for discrimination. It is also of fundamental importance to reduce trade related frictions and disputes. However, China has held the view that the opening of the domestic market, especially by developing countries should be a gradual process. The extent of opening should be in line with the level of development of the individual countries concerned. That is why China insisted very firmly on developing-country status for itself during the whole period of negotiations. China has successfully convinced its negotiating partners that market opening is not an objective by itself. Rather it should be a favourable condition for market growth and be conducive to domestic economic development. China and its negotiation partners, especially those from developed world have come to a common understanding that only a gradual opening of the Chinese market can bring a win-win outcome for all parties concerned. However, China insists following provisions need to be looked into while negotiating for entry.

- In financial services, the capital market in local currency will not be opened to foreign competition;
- In telecommunications and life insurance, only 50 percent foreign ownership is allowed. Management control by the foreign partners is excluded (Report of the Working Party on the Accession on China: (<http://docsonline.wto.org/DDFDocuments/t/WT/ACC/CHN49A2.doc>));
- In agriculture, China should be entitled to grant a higher level of subsidies as compared to developed countries (8.5 percent *vis-a-vis* 5 percent ceiling for the latter).

In addition to the aforementioned, many arrangements for the transitional period have been stipulated to ensure a gradual opening. Here are some examples:

Services

- In telecommunications, geographic restrictions on paging and value-added services will be phased out two years after the WTO accession, while the phasing-out period for mobile and domestic fixed line services will be five and six years respectively.
- In banking, foreign banks will be allowed to conduct local currency business with Chinese enterprises two years after entering and with individual Chinese citizens after five years ((Report of the Working Party on the Accession on China: <http://docsonline.wto.org/DDFDocuments/t/WT/ACC/CHN49A2.doc>)).

Such mutual agreements have shown the level of maturity reached in each and every

sector under negotiation. It was believed at the time of negotiation that these arrangements would not jeopardize the development of these industries. On the contrary, they would promote their development by means of healthy and appropriate competition from outside. Secondly, China believes that the main benefit of opening up to trade and investment flows is to catalyze change in the Chinese domestic industries not just to generate foreign exchange. It is opening up not only to satisfy the consumers' demands for a wide range of products or services but also to enhance the competitiveness of its domestic industries.

As a result of the WTO market access negotiation, China has made the most significant offer of opening up the service sector. The service sector is relatively undeveloped in China, accounting for only 35 percent of its gross domestic product (GDP) — a lower ratio than in some developing countries and even more so with respect to the developed countries, where the service sector accounts for 65–85 percent of the GDP. From the Chinese Government's standpoint, the services sector has more opportunities for employment. Therefore, the Chinese government is determined to restructure the economy and make special efforts to develop its service sector industries. Its experience in developing some of its most advanced manufacturing sectors such as electronic home appliances has led the government to believe that the Chinese service sector will also follow the same road by opening up to foreign competition. This is the reason why so many major market openings are slowly taking place in banking, insurance, telecommunications, distribution, tourism, transportation, and professional services.

It is widely believed that the opening-up of these service sectors will generate several opportunities, especially middle- and high-income jobs, which is important to ensure work prospects at home for the talented young Chinese rather than compelling them to seek jobs abroad. The paramount consideration of creating more jobs is not only reflected in opening up the service sector, but also in some of the major manufacturing sectors. The impact of the refusal to accept the WTO commitments has been costly for China. China was given the status of 'non-market economy,' which gives advantage to the other WTO members to impose anti-dumping duties at their whims. Due to lack of opening in services sector, China has not been able to integrate better in services markets of world economy. Insurance and telecommunications facilities are still costly and not available to the poorer sections.

III.3.5 Dual Pricing Practices

China practiced dual pricing as well as differences in treatment accorded to goods produced for sale in China in comparison to those produced for export. Price controls will no longer be used for purposes of affording protection to domestic industries or services providers. Within three years of accession, all enterprises will have the right to import and export all goods and trade them throughout the customs territory with limited exceptions reserved for state trading.

III.3.6 Agriculture

As part of its commitments relating to agriculture, China's average tariff on agriculture imports fell to 15 percent from 22 percent in trade-weighted terms, affecting mainly wheat, maize, rice, and vegetable oil. It was also agreed that the tariff should be further reduced to 14.5 percent on agriculture in 2004, and eliminate non-tariff barriers like quotas, liberalizing trading rights, and export subsidies (Yang 2003: 7). Sensitive and livelihood sectors like agriculture being opened to international market had aroused

public anger. However, final decision of joining the WTO convinced the Chinese people, that such entry provides a real opportunity to restructure its agricultural sector, which has been the least opened and lags relatively behind other industries in the reform process. Compared with advanced countries, China's agriculture does not enjoy comparative advantage in producing some foodstuffs from wheat, corn, soyabeans and other vegetable oil crops. China has only 7 percent of the world's arable land (Mitra 2003: 85) but has to feed 20 percent of the world's population. In addition, many areas of China are short of water supply. Therefore, as some agricultural experts argue China should import more grain as this is tantamount to the import of scarce land and water resources. Given China's dimensions, even if it imports the full tariff-quota volume of grains (about 22 million tons a year), such imports would still amount to less than 5 percent of its total production of these crops. This means that food security could be guaranteed even in the very unlikely event of a food embargo.

China is resolute in restructuring its agricultural sector so as to move to its more competitive areas such as fruits, vegetables, and meat as the WTO membership will bring greater access to foreign markets. The WTO entry certainly exerted a major influence on the government to introduce a more rational and fair policy towards agriculture strengthening it with better infrastructure and services and by alleviating the financial burden and increasing the incomes of the farmers. The development of the agricultural sector after the WTO accession could prove that the WTO entry was a turning point for China's agricultural policy and the driving force behind a new phase seeking to achieve world standards of competitiveness. China believes that another key benefit of opening up to world trade and investment flows is the nurturing of new industries in order to generate massive employment, which is critical for China's sustainable economic development as well as social stability. In addition to taking on the obligations of the WTO agreement relating to agriculture, China made several additional commitments in its accession agreement, that will help to rectify numerous agricultural policies upon accession or after limited transition periods. For example:

- China has committed not to provide export subsidies;
- It has also committed to a cap for trade-and production-distorting domestic subsidies that is lower than the cap permitted developing countries, and that includes the same elements that developed countries use in determining whether the cap has been reached;
- It has also lifted long-standing ban on the importation of agricultural products such as corn, wheat, citrus products and meat (during the course of the US-China bilateral negotiations as a sign of good faith);
- It has implemented tariff-rate quotas that provide significant market access for bulk goods of special importance to the American farmers such as grains, soyabean oil and cotton upon accession; and
- It has also agreed to eliminate import monopolies maintained by state trading enterprises on agricultural goods such as wheat, rice and corn, and to permit non-State trading enterprises to import them.

While free trade would improve on account of reduction of tariffs, it may be thwarted due to the application of non-tariff barriers (NTBs). Various NTBs include: *Sanitary and Phytosanitary Measures (SPS)*, rules of origin, technical barriers to trade (TBT), labeling,

product standards, etc. China has undertaken obligations of the WTO agreement relating to SPS, TBT, etc.

III.3.7 Sanitary and Phytosanitary Standards (SPS) and Technical Barriers to Trade (TBT)

As a part of the commitment, China is committed to apply science-based SPS standards to all agricultural goods, including grains, meats, and fruits. China is required to ensure that its conformity assessment bodies operate with transparency, apply the same technical regulations, standards, and conformity assessment procedures to both imported and domestic goods and use the same fees, processing periods and complaint procedures for both imported and domestic goods. In addition, China must ensure that all of its conformity assessment bodies are authorized to handle both imported and domestic goods within one year of accession. While taking on the obligations of the WTO agreement relating to rules of origin, China specifically agreed to adopt internationally harmonized non-preferential rules of origin, once they were completed. China also confirmed that it would use rules of origin, equally for all purposes and that it would not use rules of origin as an instrument to pursue trade objectives either directly or indirectly. By the time of its accession to the WTO, China was required to establish a mechanism to provide, upon request, an assessment of the origin of an import or export.

China is committed to the phase-out of trade-distorting non-tariff measures (NTMs) such as quotas and licenses covering hundreds of products. Most of these NTMs must be eliminated upon accession, while the remainder of them must be eliminated within three years after accession. China signed a series of accession commitments, of which other important ones are the following.

III.3.8 China Specific Safeguard

China's accession agreement includes a unique, China-specific safeguard provision allowing a WTO member to restrain increasing Chinese imports that disrupt its market. This mechanism will be available for 12 years after accession.

III.3.9 Textiles Safeguard

The accession agreement also includes a special textiles safeguard, which was available for 7 years after accession (until December 31, 2008). This safeguard covers all products subject to the WTO Agreement on Textiles and Clothing as of 1 January 1995. Under the WTO commitments, China had to further reduce its average tariff rate to 10 percent by 2005. On 1 January 2004 China lowered its average tariff rate by 0.6 percentage points to 10.4 and then to 10 percent. China also signed another important agreement known as the WTO Information Technology Agreement (ITA) which will result in the elimination of IT products.³

China continued to implement its further commitments after joining the WTO as it was a part of the accession commitments. During 2006–2007, China further lowered its tariff rate, increased market access to trade in services, and enhanced the transparency of its trade policy. During the same year, China reduced the tariff rate of 187 items in accordance with its accession commitments. Until 1 January 2008, China's overall tariff level had been reduced from 15.3 percent at the time of accession to 9.8 percent, among which the average tariff rate of industrial products had been cut from 14.8 percent to 8.95 percent, and the rate for agricultural products from 23.2 percent to 15.2 percent.

³ Under the ITA, developed countries are bound to eliminate tariff on IT products by 2002 and developing countries by 2005 on some products.

Such long-standing commitments and intense negotiations establish that China joined the WTO under difficult circumstances. That is why it is argued that the terms of agreement that China had to agree to for accession to the WTO have proven too costly for her as against other countries. Prominent reasons for this delay and onerous agreements are explained here to provide significance to the study.

First, developed countries' insistence on reducing agricultural import tariffs to less than 15 percent whereas for other developing countries this remained higher around 22 percent. Second, after the accession China was forced to commit to implement a series of tariff cuts to allow private enterprises to participate in trade activities, and to eliminate NTBs by 2004. Third, in addition, China committed to establish tariff-rate quotas (TRQ) for wheat, corn, rice, soyabean oil and cotton with gradually increasing quota levels; which means limited amount of products of the Chinese exports can enter developed countries market at lower rate and then products will be exported at a higher rate. This was bilaterally agreed under the Sino-US deal during its negotiations for accession whereas the US has not imposed such measure against other developing countries. Fourth, agricultural subsidy was a focal point in the negotiation process where China had to agree to limit domestic agricultural subsidies to 8.5 percent of the value of production (i.e. less than the 10 percent limit allowed for developing countries under the WTO Agreement on Agriculture) and to eliminate all agricultural export subsidies upon WTO entry. Fifth, transitional product-specific safeguard mechanism as provided under the WTO Agreement on Safeguards, a country may impose restrictions on imports if it can demonstrate that they cause or threaten to cause serious injury to domestic firms producing similar products. Special safeguard mechanism for China's textile and clothing exports was imposed for eight years from the date of accession unlike for the acceding countries. Sixth, under the WTO agreement, other members can invoke "non-market economy" provisions to determine dumping cases for 15 years following accession. Non-market economy provisions imply that domestic prices cannot be used as a reference point and make it much easier to reach a positive finding in an antidumping investigation. A third country's domestic price may be taken into account to locate the case of dumping. Seventh, in relation to Trade-Related Investment Measures (TRIMs) foreign investment approvals will no longer be subject to domestic mandatory requirements (e.g., technology transfer or local content requirements). Eighth, trade liberalization commitments in services are extremely large relative to almost all other countries and they are more often subject to qualifications and reservations than those of other developing countries. Lastly, a special WTO procedure, the Transitional Review Mechanism (TRM), was established to review China's compliance with the WTO agreement. China's Protocol of Accession provides that, the TRM will review China's compliance on an annual basis in the first eight years of WTO membership. Reviews are conducted separately by sixteen WTO sectoral councils. Rather than simple "pass or fail" tests, these reviews are opportunities for stocktaking on past progress and areas for further efforts (Rumbaugh and Blancher 2004: 8).

III.4 Structural and Institutional Changes

Second set of domestic preparation engaged China to introduce changes to orient itself to requirement of the WTO. China introduced a series of reforms in line with the GATT rules. China's bold reforms programme included a series of structural and institutional changes in its foreign trade regime. First, to begin with China had to bring in

decentralization of foreign trade. Prior to the reform, the Ministry of Foreign Trade conducted and controlled all trade. Since 1988, foreign trade has been decentralized and handed over to local authorities and foreign trade corporations (FTCs). In 1980, the Central government controlled about 98 percent of the total trade. By 1991, only 11 percent of foreign trade was still controlled by the Ministry of Foreign Trade and Economic Cooperation (Garnaut and Huang: 1995; Zhang: 1993). China promised that it would cease to exercise control on all trading rights after it became a member.

Secondly, China undertook the demand set in by the US and EU to eliminate export subsidies. In 1991, the Chinese government abolished all explicit export subsidies. From then onwards the Foreign Trade Corporations (FTCs) were responsible for their own losses. Thirdly, foreign investors demanded transparency in the investment regime. China issued a Foreign Trade Law on 1 July 1994 to make regulations more transparent. It also started to change the method of allocating license from bureaucratic application procedure to open competition. Fourthly, reforms in foreign exchange market converted the Renminbi (RMB) official exchange rate to the market rate and abolished the dual exchange rate system on 1 January 1994. In spite of China's regular efforts and keenness, the bilateral and multilateral negotiations were not producing satisfying results till 6 November 1995. The US attitude toward China was firm: "China must follow the rule of the WTO if it wants to join the international trade body," remarked the chief US negotiator, Charlene Barshefsky (Chong 1995: 18). The US insisted that China must meet all the WTO's rules for accession. On 10 November 1995 Barshefsky provided a "road map" for China's accession.⁴ China found it as a positive initiative but admitted that the US is trying to negotiate too hard (Wen 1997: 5).

However, after conclusion of a successful meeting with Charlene Barshefsky in 1995, China made a constructive move by applying formally to the WTO. As the WTO became the successor to the GATT, it became mandatory for China to apply formally again to accede to the WTO. On 7 December 1995, the Government of China applied for accession to the Marrakesh Agreement establishing the World Trade Organization ("WTO Agreement") pursuant to Article XII⁵ of the WTO Agreement. Following China's application and pursuant to the decision of the General Council on 31 January 1995, the existing Working Party on China's status as a GATT 1947 Contracting Party was transformed into a WTO Accession Working Party effective from 7 December 1995 (WTO: Report of the Working Party on the Accession of China).

During 1996–97 negotiations between China and the US witnessed significant exchanges relating to memorandum on China's foreign trade regime, which is the basic document to be debated in the negotiations forum. Many queries relating to transparency in foreign trade regime were asked and China had to clarify them in due course. China argued that the US was obstructing China's accession to the WTO for political reasons and that China's economic system was much closer to the WTO requirements than what the US seeks to portray. To this recalcitrant attitude of the US, many experts like Panitchpakdi and Clifford (2002: 18) had felt that "China is too big to be changed and too important to be ignored. Keeping China outside the WTO, which no longer prevents it from playing a

⁴ "It doesn't matter whether you are Bangladesh or Brussels. There are rules. These will be the rules for China." – Ms. Charlene Barshefsky, United States Trade Representative, Chong (1995).

⁵ Accession process set out in the WTO is dealt under Article XII of the Marrakesh Agreement, which led to the establishment of the WTO.

major role in real global trade, has become more costly for the multilateral trading system.”

Members of the Working Party welcomed China's accession to the WTO Agreement and considered that its accession would contribute to strengthening of the multilateral trading system, enhancing the universality of the WTO, bringing mutual benefits to China and to the other Members of the WTO and ensuring the steady development of the world economy. Even the then US Vice-President, Al Gore had pledged his support for the Clinton Administration's China Trade Bill and vowed to persuade the Congress to permanently normalize trade relations with China. He pointed out: “If China joins the WTO and has normal trade relations with other members of the WTO and not with us, then our ability to get improvements in the WTO in the future is limited.” He also emphasized that he would work with the administration's economic team “in trying to bring people together around a formula that gets a majority.” Thomas J. Donohue, President and Chief Executive Officer of the US Chamber of Commerce, stated in an article in the *Journal of Commerce* that: “business must win” the congressional approval of permanent normal trade relations because “billions of dollars” and “millions of jobs” are at stake (*Beijing Review* 27 March 2000: 7).

III.4.1 Decentralization of the Administrative System

As China embarked on a progressive path, it undertook a number of initiatives to reform its central administration. The initial outlook of the Chinese planners was quite conservative and they resisted any kind of decentralization taking place in the power structure as that would dilute their authority. When the move for entry into the WTO was initiated and was discussed, the idea of decentralization came to the fore. In order to break the monopoly run by the central planners, China's reformers introduced local and other central players into the process and allowed the new players to push for decentralization. This strategy is defined as “playing to provinces” by Shirk (1993: 47–50). It is essentially meant that the government approved industrial ministries had to find their trade companies specialized in the trade of industry related products. The first one came in the provinces of Guangdong and Fujian in 1979, and then it spread to other coastal provinces in 1982. By June 1984, the industrial ministries had set up 23 general trading companies with 52 subsidiaries. More importantly, the trading rights of provinces by then had greatly expanded. Gradually in early 1990s these trading companies had spread to all other provinces. The new policy delegated to local trading companies, the power to do business in all categories of products. By June 1984, local trade companies increased to 125 and the direct trade plan was replaced by directive on foreign currency earning.

In the realm of state trading, only state-owned companies were qualified to establish foreign trade companies. The government carried forward reform of state trading sector in order to improve efficiency of the whole sector. These reforms included contractual system, separation of government from enterprises, increase of foreign exchange earnings retention to firms, and gradual withdrawal of state subsidy. Further, reforms took place in the area of expansion of trading rights to manufacturing sector. In 1987, China made a decision to accelerate export processing, to improve market share of ‘Made in China’ products. Export processing firms gained trading rights which were restricted to processing and export. More importantly, foreign invested enterprises (FIEs) automatically received trading rights limited to their own products and parts needed for

further manufacture of products. The expansion of trading rights to manufacturing enterprises significantly boosted China's exports and FDI into the country.

With the accession process in progress, substantial liberalization of trade regulations became a necessary condition for China's entry into the WTO. This led to dilution of power exercised by the agencies. Especially under the General Agreement on Trade in Services (GATS) and the Agreement on Trade-Related Investment Measures (TRIMs), the agencies were in charge of liberalizing the procedure felt further dilution of power and authority. Internal bureaucracy had initially resisted the opening up of China to the world economy, because, this not only demanded liberalization in trade in goods but also in services and investment. These broad areas of negotiations involved a large number of economic agencies in the Central Government that were drawn into the WTO negotiations.

The bureaucracy in China is characterized by overlapping jurisdictions partly due to its sheer size (Yong 2002: 21). Before the launch of the government restructuring in 1998, there were more than 40 ministries, commissions, and agencies, and more than half were directly related to economic and industrial affairs. For example, the State Council Commission on Tariffs (affiliated with the State Economic and Trade Commission, or SETC) and the General Administration of Customs had together undertaken responsibility for tariffs but they had to consult with other agencies when setting new rates. In other words, they had to deal with pressures from other government agencies that wanted to protect domestic industries. The power to determine quotas was divided between the Ministry of Foreign Trade and Economic Cooperation (MOFTEC) and the State Planning Commission (SPC). The MOFTEC was in charge of export quotas while the SPC took care of import quotas. The Chinese bureaucracy had undergone substantial transformation as part of the requirements for accession to the WTO.

III.5 The Role of US in China's Entry into the WTO

Though reforms were mandatory for China to kick-start the accession process, yet the political dimensions between China and the US significantly influenced the pace of accession process. The process began smoothly in 1987 but took a dramatic turn in 1989. The Sino-US relationship changed significantly when the Tiananmen incident broke out in 1989. China developed strained relationship with the US thereafter. It's not only the US Government, but also the US trade and industry advocated about the use of economic and political pressure to bring about structural change in China's domestic political and economic systems. The American measures that were imposed on China included ban on exports of military and nuclear technology, restriction of loans to China from international financial institutions and restriction on export financing, linking renewal of MFN status with improvements in human rights conditions, threats of economic sanctions for violation of intellectual property rights (IPRs), textile export restrictions and insistence on tough conditions for China's entry into the WTO. These measures combined with the US policy towards Taiwan had severely damaged the prospects for China to get an early entry into the WTO. Simultaneously, in the 1990s when the former Soviet Union disintegrated and the end of Cold War was announced, the US emerged as the only superpower. However, the US was fully aware that the rising economic power of China would put up a formidable challenge for her in the Asian region. A Chinese historian saw the problem in terms of hegemonic transitions: "Some Americans are afraid the power structure will change fundamentally, their economic advantage will be

hampered and their strategic sphere of influence will be lost. Historically, most of the old powers have held such a mentality towards rising new powers,” (Shi Yinhong 1997: 10). While the US viewed bilateral economic disputes over Intellectual Property Rights (IPRs), market access, technology transfer, and China’s entry into the WTO as part of normal economic negotiations between the countries, China felt that these were tough negotiating positions which were part of a strategic effort to impede China’s economic growth.

Meanwhile, the American business community had also put pressure on China by siding with the Congress to block China’s exports to the US. This business community wanted the Chinese government to buy their aircrafts and wheat. They linked it up with the renewal of MFN vote, buying billions of dollars of the American goods in order to gain Congressional support for renewal of China’s MFN status. American business lobby had also exerted pressure on Clinton to de-link MFN renewal with the human rights issue. For example, the business community forced the then Clinton administration to press for enforcement of Intellectual Property Rights (IPRs) as an important precondition for China’s entry.

However, these conditions never deterred China from striving towards global integration. Ross Madelyn argues that China has consistently practiced economic nationalism in the international arena, and that the “driving force behind all of China’s foreign economic relations—to make China stronger, more modern, more self reliant—has not wavered” (Ross 1995: 437). Therefore, the Chinese reformers have used competition from imported goods to force the Chinese enterprises to become more efficient and have encouraged foreign investment in order to improve the Chinese technology and management practices. The determination was further strengthened when it began its full participation. Long Yongtu, Assistant Minister, Ministry of Foreign Trade and Economic Cooperation (MOFTEC) led the Chinese delegates in March 1996 in their official negotiations with the WTO members. Besides on 1 March 1996, the Chinese Premier Li Peng, while addressing the first Asia-Europe Meeting in Bangkok reiterated the need for mutual cooperation between China and the WTO. He observed:

Work together to counter trade protectionism, eliminate trade discrimination, oppose imposition of trade sanctions and promote trade development. WTO ought to be a truly universal and open organization. However, it will be incomplete without the participation of China, a country with about one fifth of world’s population (*Beijing Review* 1996: 10).

While pursuing an active relationship with the US was well understood, China also gave importance to establish a good relationship with other important partners like the EU, Japan, ASEAN, South Korea etc. The idea of economic security was high on China’s agenda. It was convinced that economic security would be maintained provided it kept favourable working relations with these entities instead of depending excessively on one country. The efforts to maintain economic security are intended not only to protect China from the unpredictable impact of international economic shocks but also reduce its vulnerability to foreign economic pressures. The Chinese leaders during this process of negotiations for accession to the WTO had borrowed financial loans from the multilateral, bilateral and private sources in order to prevent any single lender from enjoying too much political leverage.

This balance helped China to compensate in the face of the US efforts to suspend World Bank loans after the Tiananmen Square massacre. China also followed a similar pattern in trade. It diversified its trading activities with other partners like the EU, Japan and South Korea. China tried to reduce its dependence on the US market and broaden its economic base with Japan, the EU and South Korea. Thus it played skillfully its market card (Wu Xinbo 1998: 144). Nonetheless, such efforts became complicated by trade liberalization which had reduced to an extent the Central government's control over the foreign trade conducted by Chinese enterprises, especially by foreign invested enterprises (FIEs). These professional enterprises make their decisions based on the reflection of market behaviour and not on the policies of the Government. China also made increasing efforts with the Russian government during 1990s to develop a strategic partnership. Such efforts, however, did not produce the much desirable results as the markets and not the governments determined the relationship (Saunders 2000: 71).

Despite rhetoric about diversifying markets, China's dependence on foreign trade with the US steadily increased in the 1990s. Total exports witnessed a rising trend from 1995 touching US\$ 24 billion to register US\$ 184 billion in 2007 (World Trade Atlas Online Database 2007). China ran a trade surplus with the US in 1990s, signifying the US to be the fastest growing export market in the world. Most of these exports were labour intensive, low value added goods such as textiles, shoes, toys, and other consumer goods. In many cases production was managed by the FIEs, which import components from abroad, use inexpensive Chinese labour to assemble the products, and then export the finished goods to markets in the US, the EU, Japan, and other parts of Asia. Many of these factories have moved from Hong Kong, South Korea and Southeast Asia to China to exploit the cheap labour.

As China found the US to be its biggest market for its trade expansion, it could not ignore the US even if it found the imposition of commitments too harsh. Besides, when China was rising as one of the significant trading countries in the world, it depended heavily on FDI. A bulk of FDI came from the US, so China had to agree to many of the demands imposed by the US. When the Asian financial crisis occurred during 1997–98 and the FDI from Southeast Asia got reduced substantially, the FDI flows from the US, however, became the major source of foreign capital for China. To boost its bilateral trade around this time China had developed interest in lowering tariffs, to reduce the costs of imports and utilize them for expanding export markets (Fewsmith 2000: 269–273) to places like the US and the EU. China concentrated on markets like the US and EU to sustain its rising exports. During this time, the US involvement gained more importance. It is also significant to note that most of the non-American investment that China received went to the construction of various factories which exported heavily to the US. Therefore, the loss of access to the US markets at any point of time would also have a negative effect on China's ability to attract FDI from other countries. All these dimensions played a critical role in China's acceptance to the terms of the agreement with the US to enter into the WTO.

III.5.1 Political Constraint in Sino-US Negotiations

The Sino-US relation has witnessed many ups and downs in the last three decades since 1978. The nuclear issue of North Korea, Taiwan factor and human rights issue were some of the major events which created constant frictions between China and the US causing many political obstacles for China to join the WTO. North Korea's proliferation of

nuclear programme has caused enough consternation in the US establishment. The US was consistently pursuing to form a world opinion to stall the nuclear programme of North Korea. It had demanded that such proliferation is not in the interest of the world community, rather poses enough danger to the world. To further its objective, the US had sought the help of China in curtailing the nuclear activities in North Korea. However, China was clear that it is North Korea's internal matter and it should not intervene in other's internal affairs. With the fall of Soviet Union, North Korea had come closer to China and found it a reliable ally. Under the pressure from the US, China remained firm in its position of not joining the world community to completely isolate North Korea on security issues. China never wanted to see the South Korea taking over the North. This would fulfill the objective of the US to hegemonize the region. China wanted to observe that North Korea is still an independent nation having its own ideology and ethos. Similar ideological solidarity between North Korea and China had established a special bond. The US government had remained critical of this relationship. This relationship was a source of constant tension between China and the US and played a damaging role during the 1980s and 1990s in China's negotiation process with the WTO.

The Taiwan issue which has long been a key factor in the Sino-US relation also played a critical role during the period of China's negotiations with the US. Establishment of Kuomintang government in Taiwan after its defeat in the hands of the communists in China in 1949 remained a bone of contention between China and the US. It was only towards the late 1970s when the US and China came to an understanding to establish diplomatic relations between them that issue of Taiwan received some positive responses from China and the US. On 15 December 1978, President Carter expressed that "normalization between the US and China will not jeopardize the well-being of the people of Taiwan" and that "the US will continue to have interest in the peaceful resolution of the Taiwan issue" (Chai 1986: 1309). Continuous involvement of the US in its internal affairs and arm sales to Taiwan had constantly irritated China. Deep interest in establishing a pluralistic society with democratic governance was the long-term interest of the US. Besides influencing the geopolitics of Taiwan Strait, it was important that it maintained relations with Taiwan by selling arms to Taiwan. This attitude of the US was strongly criticized by the Chinese leaders when they observed "as for the way of bringing Taiwan back to the embrace of the motherland and reunifying the country, it is entirely China's internal affair" (Tsou 1986: 169).

While both nations pledged to resolve the problem of normalizing their relations, the Taiwan issue remained unresolved. During the negotiations the US maintained that after normalization it would continue to sell limited amount of arms to Taiwan for Taiwan's own self defense. The US asserted that the well-being and security of Taiwan were matters of continuous concern, and therefore it is essential for the US to look into such security issues. China had strongly opposed to this idea. It maintained that sale of arms to Taiwan would be detrimental to peaceful liberation of Taiwan and would exercise an intimidating influence on the peace of East Asia. This disagreement over the Taiwan question, as stated by Chinese President Li Xiannian during his visit to the US in July 1985 had become "the biggest obstacle" in the growth of Sino-US relations (Shi and Shih 1993: 119). He further went to say that the US has increased its arms sales to Taiwan both in quantitative and qualitative terms. In the 1982 Joint Communiqué, the U.S. promised that arms sales to Taiwan "will not exceed, either in qualitative or in

quantitative terms the level of those supplied in recent years since the establishment of diplomatic relations between the United States and China” (Qimao 1987: 1171) and it will not seek to carry out a long term policy of arms sales to Taiwan. The US had not agreed to these provisions of the communiqué. China had vociferously criticized this policy of the US and till the late 1980s the Taiwan issue remained a major impediment in the Sino-US political relations. During this time the Taiwan issue slowly lost its focus because by then the US had diverted its energy and resources towards Vietnam. During the pro-democracy movement the US had again diverted its attention towards China. Violation of human rights and trade embargo during this period aggravated the Sino-US relations. China believed that the US has used human rights issue as a diplomatic tool and provoked confrontation. By posing as a protector of human rights and formulating resolutions, the US seeks hegemony. China insists that the US has also raised this issue to curtail international image of China.

As the tensions mounted between the two countries, economic reforms in China were stalled and programmes of exchange and cooperation between China and the US were suspended. Disagreement at highest level called off the WTO negotiation process. The sudden collapse of the Soviet Union and Washington’s hostile attitude convinced China that the political relations have considerably worsened. Towards the early 1990s, the Sino-US relations had deteriorated. The US imposed broad sanctions against China which included suspension of official and military exchanges between the two governments, a prohibition on the US trade financing and investment insurance for China-related projects, and an embargo on exports to military and police entities in China (Yang 2004: 2). Among all these sanctions economic sanctions were used for a longer period as a means to derail the rising influence of China in the world. It was meant to teach the Chinese leadership to respect the human rights conditions. Though the Bush Senior administration imposed limited sanctions, the Congress had called for tougher action. As the revocation of MFN status to China depended on the Jackson Vanik Amendment’s requirement, the American Congress could easily find institutional means to impose more sanctions on the Chinese government. But with the rise of bilateral trade between China and the US rising, China made efforts to improve its political relations with the US. Politically US \$ 18 billion of US exports to China had become more significant than US \$ 55 billion of the Chinese exports to the US (Saunders 2000: 77). This development led the US government to change its policy from confrontation to cooperation. Finally, in May 1994 after long hesitation and much debate President Clinton renewed China's most favored nation (MFN) trading status with the US and announced that the issue of human rights in China would no longer be a consideration for this annual exercise in the future. This so-called de-linking decision signaled that Washington was ready to move beyond Tiananmen and seek a new, broad and stable basis for ties with Beijing. The relationship improved rapidly and the intensity and quality of the exchanges and cooperation improved significantly between the two countries. In February 1995, after a long stalemate in negotiations, the US and the Chinese governments reached a major agreement on the protection of intellectual property rights in China (Huang 2000: 271-272).

These signs of interdependence revived further hope in a mutual agreement. Two meetings were convened in February and May of 1997, wherein both sides made compromises so that the negotiations made some progress. China showed some flexibility

on human rights issues which raised interest in the US to show flexibility on the time requirements during the adjustment period.

President Bill Clinton's visit to China in 1998 strengthened that objective of confidence building and mutual agreement. Clinton also expressed hope that current American policy-makers will seek a prosperous, cooperative, more politically tolerant China and its future relations will be inextricably intertwined with the West and rest of Asia. Clinton's visit accelerated political negotiations between the two countries and made China open to the outside world. The pressure of opening up various sectors to the outside world was too overpowering for the Chinese Government than protecting China's SOEs, as there was always a section of society, which opposed China's opening (Yong 2009: Personal Interview). With Clinton's visit political relations witnessed favorable development and bilateral trade between two countries grew significantly. Clinton maintained that through this favourable political ties America can save hundreds of thousands of jobs by maintaining trade with China, which has an enormously favourable balance of trade and foreign exchange reserves totaling US \$ 140 billion in 1998 (Elegant 1998: 2).

Such positive signals from the US Government gave some hope to China. In late 1998 and particularly in early 1999, China became much more cooperative and yet determined (Fewsmith 2000: 268). The Chinese leaders realized that China cannot remain outside the system for very long. This new thinking reflected a maturing of the Chinese society which looked at the US and the EU in a more positive way.

Zhu Rongji's visit to the US in April 1999 was solely directed at expediting that process. By then, he was openly articulating the view that China's membership in the WTO could be a lever for promoting domestic economic reform. At a joint press conference with President Clinton in Washington Premier Zhu stated: "the competition arising (from WTO membership) will also promote a more rapid and more healthy development of China's national economy."

The Sino-US relationship suddenly took a nasty turn in 1999 because of the bombing of Chinese embassy in Belgrade by the US. The incident again soured the relationship between the two nations. However, regular efforts were made to revitalize the relationship. On July 25 1999, the Chinese Foreign Minister Tang Jiaxuan met with the US Secretary of State, Madeline Albright while attending the ASEAN Regional Forum (ARF) meeting in Singapore. On September 11, 1999 President Jiang Zemin and President Bill Clinton held an official meeting during the APEC Informal Leaders Meeting in Auckland, New Zealand where the two sides stated that China and the US should continue to build constructive strategic partnership gearing towards the 21st century.

III.6 Signing of the Historic Deal

During 10–15th November 1999, the Chinese Government delegation headed by Shi Guangsheng, Minister of Foreign Trade and Economic Cooperation of China and the United States' Government delegation headed by Ambassador Charlene Barshefsky, the US Trade Representative and Gene Sperling, Director of the National Economic Council of the US held negotiations in Beijing on the issue of China's accession to the WTO. On November 15th the two sides signed the Bilateral Agreement between the Government of the People's Republic of China and the Government of the USA on China's Accession to the WTO. The Chinese leadership believed the signing of the aforementioned agreement with the US will help accelerate the process of China's accession to the WTO and the

development of China-US economic cooperation and trade relations. Responding to this success, President Jiang Zemin emphatically announced: “Where there is a will, there is a way” (*Xinhua* 1999). The two sides are looking forward to close cooperation in the WTO in the future so as to help ensure the sound development of China-US relations and the prosperity of the world economy (*Xinhua* 1999). This policy laid the foundations for China’s accession to the WTO.

The US ambassador to China, Joseph W. Prueher supported China’s accession to the WTO and permanent normal trade relation (PNTR) status in the policy briefing sponsored by the National Committee for the US-China relationship. “It is articulated that China’s WTO accession will serve America’s long term political, economic and military interests, so we need not take our eyes off the ball.” He also said that the US should support the economic reform and the rule of law in China and put forward human rights dialogue and military-to-military contact between the two countries. According to the US Trade Representative, Charlene Barshefsky: “China’s WTO accession is one of the most important American trade and foreign policy goals” (*Beijing Review* 2000: 5–6). Meanwhile, the US President, Bill Clinton told in a press conference that the US will face 20 years of regret if Congress fails to vote for the trade deal with China on the country’s accession to the WTO. While appealing to the Congress to approve the legislation, Clinton also underscored the fact that the “matter is of huge national interest.” The US trade representative, Barshefsky expressed hope that China’s entry into the WTO will be the most significant step in order to strengthen peace and security for the US and for the rest of the world (*Beijing Review* 2000: 4). The US President also mentioned that the US-China agreement on China’s entry into the WTO was a “win-win deal for America” and American products will get better access to China’s market in every sector from agriculture to telecommunication (*Beijing Review* 2000: 5).

Further, Mike Moore, former Director-General, WTO observed that China’s accession to the global trade body may not be affected by the US decision on permanent normal trade relations (PNTR) with China. He said: “If the United States decides not to extend PNTR to China, it is possible that China will join the WTO without the US approval.” Warning the US Congress against rejecting the Clinton administration’s trade agreement with China, Moore said that the US risks losing the benefits of the agreement, if Congress rejects PNTR with China. He stated: “Never before in history has one country lifted so many of its people from poverty,” and “A policy of greater openness in China has been instrumental in lifting 120 million people out of extreme poverty over the past 20 years.” According to the US President, Bill Clinton, it would be “very unwise” for Congress to deny NTR with China: “From a national security point of view, it would be a very, very unwise and precarious move to say that the US does not care whether China is part of the world community or not.” He pointed out that China is going to enter the WTO whether the US votes to give normal trade relations every year or not during his speech in the Conference of the Independent Insurance Agents of America. He further clarified: “There are 1.2 billion people in China and, increasingly, more and more of them will be able to buy what Americans sell” (*Beijing Review* 2000: 5). US Senate voted in favour of PNTR on September 19 2000. According to the Ministry of Foreign Affairs and Foreign Trade and Economic Cooperation, the US House of Representatives’ passage of a bill granting China permanent normal trade relations (PNTR) status was wise but certain provisions within the measure are not addressed. The provisions, in effect, interfere in China’s

internal affairs under the guise of human rights and allow for a Special Commission on the Human Rights and Labour to be set up in China to assess the ground level situation in China, according to the Foreign Ministry spokesperson Zhang Qiye. She emphasized that the settlement of PNTR was an obligation of the US, in accordance with the rules of the WTO and is the prerequisite for implementing the bilateral trade agreement signed six months ago. Jiang Hu, spokesperson, Ministry of Foreign Affairs and Foreign Trade and Economic Cooperation stressed: “China reserves the right to react on the issue in the future” and “We urge the US side to correct its mistake so as to ensure the healthy and smooth development of China-US economic cooperation and trade” (*Beijing Review* 2000: 5).

Meanwhile, in the Ninth National People’s Congress (NPC) and People’s Political Consultative Conference (CPPCC) held in Beijing during 3–15 March 2000 concluded that the Chinese laws and regulations concerning foreign trade and investment should conform to international practice. The spokesman of the conference Zeng Jianhui on this occasion remarked: “China is making full preparations to join the WTO, and is studying related laws and regulations on foreign trade and investment to adapt its legal framework to new requirements” (*Beijing Review* 2000: 4). The US Trade Representative, Charlene Barshefsky pointed out that in 2000 during the negotiations that former Cold War suspicions were being laid to rest in the cause of global cooperation as the US—the leader of the free world—helps ‘communist central planning regimes’ integrate into rule-based world trade. In Barshefsky’s assessment China’s accession would aid world prosperity and stability (Barshefsky 2000: 5). The Sino-US bilateral agreement deal led to the discussions on the signing of bilateral agreements between China and other important countries. China signed bilateral agreements with other countries as a part of the WTO accession mandate. Its signing of bilateral agreements with some major trading partners like the EU, Canada, Japan etc., are discussed in the following passage in detail. It was observed that the signing of the Sino-US bilateral deal had a strong impact on the successive agreements. “One element that contributed pressure on China and members to conclude bilateral accords rapidly was the US administration’s agreement with China — as a quid pro quo for China’s market access concessions — that the US would provide China with permanent MFN status thus eliminating the annually renewed conditional MFN provided under the Jackson-Vanik amendment to the US Trade Act” (Gertler 2003: 62). This development gave rise to China signing twenty-one bilateral negotiations by February 2000. China made consistent efforts to complete market access negotiations with most of the countries and then proceeded to clear her outstanding issues with the Working Party.

III.7 Negotiations with the EU

The EU has been a strong supporter of China's accession to the WTO, expressing the view that a WTO without China was not truly universal. This view fostered strong trade ties between the EU and China leading to the emergence of the EU as China's third largest trade partner, next only to Japan and the US. According to statistics of the China General Administration for Customs, the total volume of bilateral trade between China and the European Union was to the tune of US \$ 57 billion and US \$ 69 billion in 1999 and 2000 respectively. China's export value was US \$ 40.90 billion, a growth of 7.1 percent year on year, while its import value was US \$ 35.72 billion, increasing by 15.8

percent year on year. The continuous rise in bilateral trade has propelled the relations between the two to expedite the Chinese accession to the WTO.

On the issue of accession, there were several negotiations between China and the EU. In one of the important negotiations, discussions covered the outstanding issues on market access for the industrial goods, while negotiations also included issues like tariffs, phasing out of quotas and subsidies on farm products. The second round of the discussions focused on the services sector which included telecommunications, banking, tourism, insurance, security, brokerage, law, and accounts. The Minister of Foreign Trade and Economic Cooperation, Shi Guangsheng informed that both sides have agreed to meet again in order to finalize the agreement. He told that “China will never make any commitment which it cannot keep but we will try our best to satisfy certain countries requirements” (*Beijing Review* 2000: 4).

The third round of talks between China and the European Union (EU) ended in Beijing in 2000. A statement issued by the Ministry of Foreign Trade and Economic Cooperation stated: “The negotiations were positive, constructive and fruitful, and both sides made a great effort.” The EU Trade Commissioner, Pascal Lamy, who led the EU delegation, stated that he will report back to the 15 EU member states as well as European Parliament to “assess how best to approach a future round of negotiations” (*Beijing Review* 2000: 5). In these negotiations China agreed to reduce import tariffs and other NTBs. China also accepted to ensure that the investments by the EU companies in China will take place in a more attractive and predictable business environment. These negotiations eventually culminated in signing the bilateral agreement between China and the EU on May 19, 2000 at Beijing.

III.8 Negotiations with Canada

China signed bilateral accession agreement with Canada in 1999. China committed to improve market access to agricultural products from Canada. Products included canola, canola oil, barley, wheat, feed, and North American ginseng. China, in order to protect its own industry, would apply for Tariff Rate Quotas (TRQs) in politically sensitive sectors. A TRQ is a tiered tariff structure under which higher tariffs are applied to imported goods that exceed an established quota. The two Canadian products affected by such quota are canola and canola oil.

In the services sector, the liberalization of financial services will be made open in five years from the date of accession in which geographic and customer restrictions will be phased out. Foreign banks will offer services to foreigners and the Chinese customers in local or foreign currencies. Greater access will be given to life insurers who will benefit from the gradual removal of restrictions and an expanded scope of operations within 50 percent foreign ownership restriction. This increased advantage to life insurers will provide better services to the subscribers. In the negotiation process Canada has demanded that in priority agricultural goods tariff reduction should come down to 5.2 percent from 12.5 percent over the three years from the date of accession. Canada seemed to have demanded heavy concessions from China in relation to market access. Similarly on industrial goods it will bring down the tariffs from 10.3 percent to 4.5 percent.⁶

III.9 Negotiations with Other Countries

⁶ For more see Ministry of Foreign Affairs at <http://www.fmprc.gov.cn/eng/gjhdq/dqzzywt/2633/2634/t15542.htm>. Accessed on 10 January 2010.

China had signed accession agreements with different countries as a part of its WTO requirement. The accession agreement was signed between China and Australia during the visit of the Australian Foreign Minister, Alexander Downer in July 1999 announcing that the two countries decided to conclude their bilateral negotiations on the issue. They declared the official conclusion of the bilateral market access negotiation between China and Australia in relation to China's accession to the WTO. Australia supports China's early accession to the WTO, and China appreciates this support. President Jiang Zemin told Downer, during their meeting, that China and Australia, as influential countries in the Asia-Pacific region, share wide-ranging common interests in maintaining peace and stability, and promoting prosperity and development. China stands willing to make joint efforts with Australia to develop long-term stable and sound bilateral relations oriented towards the 21st century. (*Beijing Review*, 2 August 1999, p: 7). China and Australia are ready to strengthen cooperation in multilateral international organizations and on major issues, and will work for the establishment of an equitable and rational, international economic and financial order. This was the common consensus reached by President Jiang Zemin and Prime Minister, John Howard in September 1999 in Canberra. The two leaders agreed during their meeting to establish a 21st century-oriented relationship between the two countries of long-term stability, healthy development and all-round cooperation. Howard declared that the Australian Government regards its relationship with China as one of country's most important and that Australia attaches great importance to working with China in all sectors. Howard also expressed Australia's support for China's entry into the WTO. The two leaders attended the signing ceremony of five agreements and memorandums of understanding on consular affairs, mining, and combating crime (*Beijing Review* 1999: 6). China has already concluded bilateral negotiations with over 10 WTO member states by 1999. During this period it was reported that among the 134 WTO members, 36 countries have proposed to hold bilateral negotiations with China.

The painstaking talks on China's entry into the WTO came to an end in August 2001. The Working Party under the Chairmanship of Mr. Pierre-Louis Girard met on 17 September 2001 and concluded its work, marking the end of all negotiations concerning China's accession to the economic super-group. All agreements reached at the informal working party were submitted to the formal Working Party meeting for approval (*Beijing Review* 2001 p: 4).

China will adopt an even more broad-based opening-up pattern than before, remarked Premier Zhu Rongji at the Sixth World Chinese Entrepreneur Convention. Zhu added: "We will open up our service sector step by step, including banking, insurance, telecommunications, trade and tourism, and explore new forms and channels to use foreign funds." He further pointed out that China would closely combine its efforts to attract foreign funds from those (world entrepreneurs) with whom it can readjust its funds to build industrial structure, develop China's western region and deepen the reform of State-owned enterprises. The imports of advanced technologies and development of modern managerial expertise will also be a focus (*Beijing Review* 2001: 5). The accord on China's entry into the WTO was approved in the formal meeting of the 18th Working Party on China's accession, clearing the way for Beijing to join the world trade body within months. "International economic cooperation has brought about this defining moment in the history of the multilateral trading system," told WTO Director-General,

Mike Moore at the conclusion of the meeting of the Working Party on China's Accession (*Beijing Review* 2001: 5). Given the timing of the fourth WTO Ministerial at Doha in mid November 2001, it was agreed that these documents may be sent to Doha Ministerial, instead of tabling them at General Council in Geneva for approval of the ministers. In accordance with established procedure, the Ministerial approved the Decision on Accession and the Protocol on the terms of China's accession on 10 November 2001.

The WTO finally opened its door to China, and the Chinese delegation signed a membership protocol with the WTO. Shi Guangsheng, head of the Chinese Delegation to the fourth ministerial conference of the WTO noted the following three basic conclusions: First, participation in the multilateral trading regime with a positive stance is the only way the various countries will be able to better share the benefits of economic globalization. Second, the participants will be able to do their best during this globalization process only by establishing an economic and trade regime in line with the international practices and specific economic situation thereby safeguarding their financial security while opening up to the outside world. Third, the multilateral trading system will be able to maintain its vigour only by constantly adapting itself to developments in the world economy and fully reflecting the interests of all parties, including those of developing countries (*Beijing Review* 2001: 4).

As one of the provisions of the WTO suggests that the acceding government becomes a member of the WTO thirty days after it has accepted its Protocol of Accession which China did on 11 November notifying the Director-General of the WTO that the standing Committee of National People's Congress had ratified the terms of accession.

Thus after prolonged negotiations, China became the 143rd member of the WTO on 11 December 2001. "This is an historic moment for the WTO, for China and for international economic cooperation. With China's membership, the WTO will take a major step towards becoming a truly world organization. The near-universal acceptance of its rules-based system will serve a pivotal role in underpinning global economic cooperation," said WTO's Director-General, Mike Moore, commenting on the approval of China's accession (WTO, 2001). After the approval of China's accession, the head of the Chinese delegation, Shi Guangsheng, Minister of Foreign Trade and Economic Cooperation, said: "We need to invite all members to formulate the international trade rules of the new century through equal participation and consultation so as to enable more developing countries to share the opportunities and interests brought about by the economic globalization and to avoid the further widening of the gap between rich and poor and protect some countries against being marginalized"(WTO, 2001). Soon after joining the WTO, China agreed to undertake a series of important commitments to open and liberalize its regime in order to better integrate with the world economy and offer a more predictable environment for trade and foreign investment in accordance with the WTO rules. China's future commitments will indicate how it is going to benefit from the world economy.

IV Dimensions of China's Accession and Current Significance

Ideally, acceding countries should accede on terms that are broadly comparable both for acceding countries among themselves and in comparison with incumbents. In practice, however, the situation may evolve somewhat differently. In several areas acceding

countries have made commitments in excess of incumbent Members.⁷ China has been one such example. Acceding countries, for instance, are required to bind all tariffs while many developing countries still have relatively high shares of their non-agricultural tariff lines unbound. Similarly, there is pressure on new Members to sign all plurilateral agreements. The question whether this practice serves the interests of acceding countries or not is hotly debated.

But this phenomenon is seen in case of China where it had to make excessive commitments than other developing countries. The reason is that Article XII, which governs the WTO accession process, is limited in scope and lacks precision in terms of setting the specific operational procedures. The rules here are open to interpretation. In case of China developed countries came down heavily on China because they felt China is bargaining and entering into WTO from a source of economic and political strength. As a result, countries accede to the WTO on "the terms to be agreed by negotiations."⁸ Another dimension process is the unwritten rule concerning the status of acceding countries. A Member's status determines whether it is entitled to use the Special and Differential (S&D) treatment provisions of the WTO agreements. In general, there are no WTO definitions of "developed" and "developing" countries. The general principle is the selection based on the principle of what can be called a "self proclaimed" or "self-appointment". A country can present itself to the WTO as a "developing nation" only when other members accept it. Other Members, however, may challenge the "request", as it frequently happens in specific subject areas of the WTO Agreements – in particular in the area of intellectual property. In case of China issue of intellectual property rights (IPR) became a major impediment for its quick entry to WTO. Violation of IPR remained a major debate between Members such as USA, France, and Germany who wanted China not to join under easy circumstances.

Secondly for countries joining the WTO through the accession process, their status largely depends, once again, on the terms agreed in each specific area of the accessions negotiations. If there is no explicit mention of the status in the protocol of accession, a new Member can designate itself as a developing country and even though there is very little formal importance to this act. The actual commitments may restrict the scope for S&D treatment provisions. For instance, if an acceding country makes an explicit commitment to restrict its domestic agricultural support at a level that is lower than what is allowed for developing countries, the commitment would be binding even if the country self-appoints itself to the developing country status or if it wanted to increase its agricultural support to the level allowed for "developing countries" at a later stage.⁹

⁷ See Langhammer and Lücke (1999), Michalopoulos (2000) or Naray (2001).

⁸ The choice of the commitments of original Members with similar levels of GDP per capita as a benchmark for assessing the terms of accession was based on the idea of fairness, ie. treating "similar" countries in a similar way. However, accession terms could be also evaluated against other benchmarks such as, for example, the "free trade package". The package is based on the notion that the optimal policy is the one that leads to the elimination of all trade restrictions. Yet another benchmark could be cross-country comparisons in which a country's "package" of accession conditions is compared to that of other country (ies). Clearly, the main problem is to define the optimal package, but the cross-country comparisons remain the most frequently used benchmark in practice. See Michalopoulos (2000) or Langhammer and Lücke (1999).

⁹ The "de minimis" level for developing country Members is 10 percent while it is 5 percent for developed countries and certain categories of domestic support are exempted from reduced commitments for developing country Members. See Article VI of the Agreement on Agriculture.

China had to succumb to the pressure of developed countries who fixed its “de minimis” at 7.5 per cent level in stead of its persuasion to make it at 10 per cent for developing country.

In contrast, the rule is quite clear with respect to "least-developed" countries. The WTO recognizes as least developed countries those countries which have been designated as such by the United Nations. There are currently forty nine least developed countries on the UN list, of which thirty are Members of the WTO as of end of 2001(China’s entry to WTO) and nine are in the process of accession to the WTO.¹⁰

The status issue is related to another issue – the right to *transition periods* to implement the WTO Agreements. Article XIV.2 of the WTO Agreement states that a Member which accepts the Marrakesh Agreement after its entry into force shall implement those concessions and obligations in the Multilateral Trade Agreements that are to be implemented over a period of time starting with the entry into force of this Agreement as if it had accepted this Agreement on the date of its entry into force. Transition periods are thus by no means made automatically available to acceding governments. Article XII on the other hand offers Members a margin of manoeuvre. In practice, Members have made it clear that transition periods will only be granted if the applicant is successful in making a strong enough case to prove that such a period is necessary.

Another important, but this time a formal rule concerns the scope of acceding countries commitments. According to Article XII/1, "(T)he accession shall apply to this Agreement and the Multilateral Trade Agreements annexed thereto". In other words, acceding countries are expected to accept all the rules and conditions as specified in each of the WTO Agreements. There is no provision of pick and choose; all the subjects need to be signed by each country with a single signature. This rule is known as the *principle of single undertaking*.¹¹

It should also be noted that countries are joining the WTO under what may be called *status quo* for the incumbent countries. The acceding countries cannot negotiate any change in the incumbent countries' commitments of market access nor can they negotiate any change in the rules of the WTO Agreements. The acceding country is joining the WTO under the existing commitments of the Members. As any new member of a "club" has to abide by the rules of the club he/she wants to join, countries acceding into the WTO must accept the terms and conditions of the WTO as they stand. This is an unwritten but fully respected "rule" of accession. This also became costly for China to accept and become a member of the WTO. Lastly China accepted as part of its accession to allow other members to treat it as a “non-market economy” for anti-dumping measures during a transitional period till 2015, thereby indicating to apply different, less transparent and potentially discriminatory practices against Chinese exports.

This process of China’s accession proved partially non-beneficial in immediate years of entry as many restrictions regarding its market access, safety procedures and imposition of unfair trade practices including antidumping, “de minimis” level of support and transitional safeguards on its textiles till 2012 and 2015 were imposed unlike in case of other developing countries who became a member of WTO earlier or later. It’s a learning

¹⁰ The nine countries include Bhutan, Cambodia, Cape Verde, Lao People's Democratic Republic, Nepal, Samoa, Sudan, Vanuatu and Yemen. Furthermore, Ethiopia and Sao Tome and Principe are WTO Observers.

¹¹ https://www.wto.org/english/tratop_e/dda_e/texts_intro_e.htm

process therefore for many developing or transitional countries in future who are in the process of accession to WTO.

IV.1 Delayed liberalization of Commitments and Its Impact

China initiated liberalization as a part of its commitment to the WTO especially in its services sector in a gradual and phased manner. In the field of telecommunications services, China promised to open up its sector in a span of 5-6 years allowing foreign players to operate in its domestic market. China has somehow did not fully abide by such time period and implementation of its WTO commitments. As a result, there has been both positive as well as negative impact. Here this paper makes an attempt to find out what has been the impact of such delayed liberalization of telecom services sector.

China's telecommunication sector currently is one of the fastest growing sectors in the world.¹² With accession to the WTO, this highly protected industry was finally exposed to foreign competition. According to the China-US WTO Agreement¹³ signed on November 15, 1999, after China enters into the WTO, foreign firms could take 50% ownership of value-added services in two years and 49% for mobile and fixed-line services in five and six years, respectively.¹⁴ In addition, China has accepted the principles of the WTO Reference Paper and made commitments to implement pro-competitive regulatory policy in the telecommunications sector and to establish a WTO consistent legal and regulatory framework for its telecommunications industry.¹⁵

As a milestone in the telecommunications reform and pledge to respect the WTO commitments, the National¹⁶ government in China in 2000 declared *Telecommunications Regulations*. They contributed to meeting of the WTO standards, set out rules and regulations for competition and cleared obstacles to entry of foreign private investment in telecommunications service sector. In order to establish a free and fair competition, the National government decided to create a transparent regulatory regime by institutionalizing a government body known as Ministry of Information Industry (MII) which became a successor to the Ministry of Posts and Telecommunications (MPT) as a result of governmental restructuring in 1998. This regulatory body has been replaced by Ministry of Industry and Information Technology (MIIT) in 2008.

The Chinese Government's WTO commitments allowed the foreign direct investment to come into the indigenous telecom operating entities. According to the commitments, a foreign investment cap on basic telecommunications services operators was set at 25 percent in major cities and at 49 percent in semi-urban areas allowing the Chinese government to retain control by securing more than 50 percent of ownership.

In mobile telecommunications, foreign investment allowed upto 25 percent share immediately upon accession. This share was to be allowed to rise to 49 percent after a 3-

¹² Statistical Yearbook of China 2011

¹³ This Agreement cleared the path for China to join the WTO. It was termed as the biggest blocking barrier for its entry. In order to access to the WTO, China must negotiate with each Member of the WTO and get bilateral agreements on market access. The negotiation with the United States is believed to be the most difficult because of the strict requirements from the United States. For more analyses about the process of China's access to the WTO, see Abbott (1998), Anderson (1997), Geest (1998), and Zhao (1998).

¹⁴ *The New York Times*, November 15, 1999. Also see the summary of the US-China Bilateral WTO Agreement at <http://www.uschina.org/public/991115a.html> (Accessed on May 15, 2012). For full text, see <http://www.uschina.org/> (Accessed on May 15, 2012).

¹⁵ "White House Factsheets" available at <http://www.uschina.org/public/wto/factsheet/telecomm.html>

¹⁶ Central and National government are the same and they have used interchangeably.

year period. For fixed network services, it was to take 5 years to reach the investment cap. The arrangement further calls for the cap to be raised to 50 percent after 2 years for value added services and paging services. The foreign investment cap also applied to the internet service providers. Detailed Chinese commitments under its schedule of the GATS are given in Table 1. By the time China became a member of the WTO, its telecom sector had opened up domestically in a significant way and many major service providers like China Telecom, China Unicom, China Mobile, China Netcom, and China Jitong were competing with each other.

Table 1
China's commitments under its WTO service schedule during 2001-2007

Percentage and Geographic Coverage of Foreign Investment Permitted						
Type of Service	12/01–12/02	12/02–12/03	12/03–12/04	12/04–12/05	12/05–12/06	12/06–12/07
Basic telecom services-fixed	0%	0%	0%	25% in Beijing, Shanghai, and Guangzhou	35% in 17 cities	49% with no geographic restrictions
Basic telecom services – mobile	25% in Beijing, Shanghai, and Guangzhou	35% in 17 cities	No change	49% with no geographic restrictions	No change	No change
Value-added services and paging service	30% in Beijing, Shanghai, and Guangzhou	49% in 17 cities	50% with no geographic restrictions	No change	No change	No change

Source: WTO- <http://docsonline.wto.org/DDFDocuments/t/WT/ACC/CHN49A2.doc> Accessed on 12 November 2012

IV.1.1 Implications during restrictive phase as agreed under accession process to WTO (2002–2007)

China's opening up of the telecommunications sector in a gradual and phased manner to foreign players was seen both as an opportunity as well as a threat. The Central Government was extremely cautious in allowing market access to foreign players. After joining the WTO, China, as a matter of principle, had to open its sector. For a long time restrictions in the form of commercial establishment have been prevalent in China and being justified as a source of acquiring technology or obtaining a share of monopoly rents. All such restrictions slowly apply to the forms of establishment. Restrictions of these kinds mentioned in the WTO agreement which confine foreign ventures to five cities for five years as in the case of insurance, will encourage agglomeration of these

activities in the favoured cities, which will be difficult to reverse when the restrictions are subsequently lifted. Such kind of restrictions will have a rather adverse impact on the rural areas of the country even if they have the potential or the comparative advantage of the designated urban areas. Policies of liberalization towards telecom services pursued geographically was at one level a conscious decision of the Central Government because it knew in such pockets the rising purchasing power and developed infrastructure will be able to sustain such telecom growth and consumers' demands will also be met (Xiangshuo, 2009: Personal Interview). It is also the pressure of the domestic telecom lobby, which exerted immense pressure on the Government not to liberalize the telecom policy and allow the foreign players to come in. Though consumers complained because of poor service and high tariff structure, the Government had imposed during this period hardly addressed such concerns. The Government benefited from such policies as it obtained hefty revenue directly from the telecom sector (Xiangshuo, 2009: Personal Interview).

China's telecom liberalization is delayed due to vested interests of various interest groups. These groups are domestic telecom operators like the China Mobile, China Telecom and China Unicom who never wanted an early opening up of the sector. Though the commitments made by China in the WTO were regarded, yet the Government took five to six years to phase out most of the restrictions for foreign players to enter the Chinese market. This kind of market restrictions which remained after the accession till 2007 were supported by the Government as it provided lead time to the Government to gauge the impact of telecom liberalization in the country (Lei, 2009: Personal Interview).

IV.1.2 Positive impact

China's late entry of telecommunications in world trade is justified as it is a developing country and its domestic industry is not strong enough to face the global competition. Being a strategic sector, the Government may retain its control over the sector. Implications of late opening might not have been profitable for the Government, but the issue of security has never been compromised (Sang Ho 2009: Personal Interview). According to Prof. Hong Song : "Chinese domestic firms were not very strong in terms of their infrastructure, innovation and service. As a result there was intense pressure from the industry lobby not to open up the sector. The Chinese Government respected their concerns" (Song, 2000: 14).

According to Prof. Andong Zhu, Tsinghua University, Beijing, China: "When pressure on China mounted as China was negotiating for its entry into the WTO, it decided to open up its telecommunications sector in a phased manner confined to a few cities initially as it wanted to realize the impact of such liberalization policies. Telecom remained a closed sector for political reasons. It is also argued that the Chinese Government wanted to experiment the system of opening up on a selective geographical pattern. The Government was fully aware that such pockets had the purchasing power and initial development of telecom infrastructure will generate revenue for the Government." So the geographical opening up the sector and, precisely in a few select areas was a conscious decision by the National government to also take into account the affordability of price mechanism. Initial competition in Chinese market remained virtually an urbanized phenomenon, where more and more people were interested to pay higher price to access service by the foreign service providers. According to Prof. Andong Zhu: "such restriction of service never created any division among the rural folk

and urban dwellers; rather it helped the Government to protect its domestic industry and allow the competition to slowly enter the market.” Implications of this opening up in a phased manner have not put the Government in any jeopardy as far as social and political security is concerned. As a part of the overall WTO’s accession commitments, China had to open up and remove its restrictions on foreign players’ entry. With the liberalization and FDI coming into the sector, the employment prospects have naturally gone up. In fact, the telecom sector is providing more employment currently than textiles. During this current financial crisis, the prospects for performing better lay more with the telecom compared to textiles (Zhu, 2009: Personal Interview).

The overall accession commitments led to some amount of dilution of discretionary power of the Chinese Government as it fulfilled most of its commitments over a period of five to six years from the date of its accession. It has eliminated all its restrictions relating to foreign entry and foreign ownership. It will observe strictly national treatment, which basically means it will stop discriminating between trading partners and not even favour its own domestic firms. In totality, it vows to follow a free and fair rule-based trading system. What China is going to lose most importantly in the wake of all these developments is its freedom to exercise its own policies at any point of time. The commitments are all desirable but how far the continuous restrictions on foreign entry and ownership will help China to have full benefits of foreign investment is an issue that needs to be debated. The commitments try to eliminate discretion existing in the system. It is a matter of fact that liberalization in many areas is taking place in China slowly because the Chinese government is reluctant to liberalize certain areas. Socio-economic factors and political pressures from various quarters hold them back and as a result protection still continues. The government even feels certain incumbent domestic enterprises or suppliers are unable to cope up or face the challenges of liberalization as the reforms in these may take longer for them to fight back. All these may lead to some form of protection and once protection is given will be difficult to lift it.

In addition, entry through joint venture looks to be a positive step for the foreign firms. Initially they can collaborate with a local firm as the firm will have the minimum assets and they will find an access to operate in China. However, binding ownership restrictions will affect the firm’s performance because the firm will not be in a position to obtain new technology and better manpower to raise its performance.

IV.1.3 Negative impact

Though China has agreed to remove all restrictions on foreign entry, the Government feels somehow ambivalent about the nature and scope of foreign entry. What is uppermost in the Chinese Government’s mind is whether unrestricted regime will be good for China and to what extent, it is going to devalue the total control of the Chinese government on this issue. One reason could be that unrestricted entry of foreign companies may just completely swallow the Chinese market, as the domestic firms are not so well developed or well equipped in terms of providing better services at such a lower cost. Another reason is the issue of economies of scale. For example, in a vibrant services sector like telecommunications, if one domestic firm has worked out substantial fixed costs of networks, competitive bidding by foreign entry could lead to some kind of an inefficient network duplication (Armstrong, Cowan and Vickers: 1994).

In a technologically driven world, technology can even minimize the cost at some level. Openness in the system allows a country to have better technological leverage as to how

a country can stop all these and go ahead with its old sterile and obsolete technology. The power and spirit of competition is yielding much better results.

Besides, entry restrictions do not develop a sense of competition among the local firms or incumbents; rather it creates an atmosphere of complacency or sometimes leads to collision, which ultimately results in unproductivity and inefficiency. More importantly, sometimes even the regulator is not adequately placed than the competitive system to derive the number of firms operating in the market and as to how they are being priced to produce or provide the best possible services. All this suggests that China may not worry to open up its sector or restrict foreign entry.

However during a field trip to China in 2009 it was largely felt by the author as he made few interactions with the Chinese consumers¹⁷ regarding the restriction of the market has suggested that ISD calls have become very expensive with the majority of the domestic players in the market. Price sensitivity and faster and better service network and connectivity to the outside world have created frustration among the Chinese people and these societal concerns have been largely ignored in the best interests of the national security and sovereignty.

Excessive capitalization requirements to the tune of 2 billion Yuan in the telecommunication sector as a part of the China's regulations for foreign invested telecommunications enterprises proved an entry barrier for foreign telecom investors. As a result to develop an economically viable and efficient telecommunications services market in China had become difficult. This kind of restriction inhibited investor to turn to the Chinese market for future investment. However with the gradual liberalization in the sector, the capitalization requirement had significantly come down to RMB 1 million in Basic Telecom Services (BTS) by 2008¹⁸ under severe pressure from the US.¹⁹ However these minimum capital requirements are a common regulatory tool in China, (Crosby 2007) and they are included in China's GATS Schedule in a number of sectors, such as travel agency/tour operator services,²⁰ but not in the field of telecommunications. They are normally not found in other members, telecommunication service markets.²¹

For many successful foreign enterprises such huge capital requirements for commercial purposes were never a practice and to invest so much in developing infrastructure in a different country initially did not look a very profitable proposition. Such policy doesn't make positive contribution to a domestic infrastructural service like telecommunications especially at a time when the global telecom sector is facing huge capital resource crunch.

China's huge capitalization requirements were also inconsistent with the licensing practices of other liberalizing economies. A global review of the start up capital requirement for a basic service provider found no amount of capitalization fee in the US,

¹⁷ Mobile SIM card shop owners, shopkeepers, corporate executives, academicians and researchers based in Dalian, Shanghai and Beijing

¹⁸ *Decision on Amending Provisions on Administration of Foreign-Invested Telecommunications Enterprises*, State Council Decree No 534 (promulgated and effective 10 September 2008) part II.

¹⁹ USTR, *Report to Congress on China's WTO Compliance* (December 2008) 90; USTR, *2009 National Trade Estimate Report on Foreign Trade Barriers* (2009) 112

²⁰ GATS Schedule, 36-37

²¹ WTO Council for Trade in Services, *Report of the Meeting Held on 23 September 2005: Note by the Secretariat*, S/C/M/80 (17 October 2005) [37] (evidence presented by the United States); USTR, *Report to Congress on China's WTO Compliance* (December 2009) 99

the EU, Canada, Japan, Australia, Brazil, Chile, Argentina. Hong Kong requires a performance bond; India requires a bank guarantee from US \$ 5 million to US \$ 80 million depending on geographic scope. It is only Taiwan which maintains a rigid policy like China (Brilliant, M. and Waterman, J., *China's WTO Implementation: A Three Year Assessment Report*, 2004). This high capitalization policy had restricted the movement of foreign service providers entering China. The policy also discouraged the foreign companies to engage in any joint venture with a Chinese partner. China's high capitalization requirement for basic telecommunications services has limited its market access.

Another negative impact is visualized in terms of having a choice of partner to enter into the Chinese market. BTS suppliers whether domestic entities or foreign invested telecom enterprises (FITEs) must be 51% State-owned. This effectively limits the foreign ownership of paging service to 49%. The 51% State-ownership requirement also means that any other BTS supplier achieving the maximum foreign equity of 49% as allowed in China's GATS Schedule must partner with a wholly State-owned company. Even achieving a lower level of foreign equity would require majority State-ownership of the Chinese partners overall. This State-ownership requirement therefore significantly obstructs the entry of FITE and reduces their choice in securing a Chinese partner to establish an FITE.²² In effect, it also grants China's discretion in determining whether to allow a given foreign supplier to establish an FITE, because the State owns the potential Chinese partners. Practical wisdom therefore in a way suggests how important it is to be connected with the State. In practice, it seems according to Irene Wu, (2009: 60) '[o]nly firms that have the support of the State Council and its ministries may enter the market'. This policy adopted by China dissuaded many foreign enterprises to enter the market. As a result, China suffered from developing its telecom sector as a modern, productive, and sophisticated sector. It lost the opportunity of getting sophisticated technological services and other managerial expertise into the sector, which in turn would have helped China in the diffusion of knowledge and make the economy more efficient. Lack of access to better services remained a bottleneck for the whole industrial sector. Such restrictive policy did not help the consumers. This policy remained active for the first three years of accession and slowly such restrictions were lifted in the interest of the economy.

Such restrictions proved to be disadvantageous for the country as well as for the consumers and were also not in conformity with the commitments of the accession process. Restriction on foreign ownership was proving to be a major hindrance in the liberalization of trade services in China. There was only one way in which foreign presence in China can be administered, i.e., entry through a joint venture with varied degree of limits on the extent of foreign ownership. China has undertaken a series of reforms in gradually phasing out those restrictions but still in the areas of life insurance and telecommunications, such restrictions persist.

Besides, the policy of geographical limitation followed after China joined the WTO in terms of opening up of certain major cities like Shanghai and others to foreign players and limiting to rest of the country, greatly impeded China's uniform growth in the telecom sector. As a part of China's own commitments to the WTO, this policy of geographical limitations may have widened the intra-regional disparities. Though China

²² WTO Council for Trade in Services, Report of the Meeting Held on 5 November 2009: Note by the Secretariat, S/C/M/96 (13 November 2009).

was committed to phasing out of geographical restrictions, sequential approach to this kind of liberalization may prove even more damaging in the long run. The existing pockets of development are going to witness even more progress as more economic activities are going to be concentrated in these areas. This would even widen the scope of intra-regional inequality. With due course of liberalization occurring in the hinterland at a later stage, there is a doubt whether hinterland economy will be able to adjust to the pace of progress that had occurred in the coastal belt. Inequality may thus continue to persist. These lacunae should be able to strengthen its case for lifting the geographical restrictions simultaneously rather than sequentially.

Today, high barriers to foreign entrants in the telecommunications service sector, have indicated that many potential entrants and even the WTO would concede that China have marginally kept to the agreed schedule for phasing out WTO commitments in the telecommunications sector. If China's current approach to telecommunications regulation proves not only impervious to reform but also legal under WTO rules, WTO Members will have all the more reason to ensure that these circumstances do not arise again.

The paper in a way highlights some of the WTO inconsistencies still persist in China. Most of them are associated with transparency, regulatory independence and competition. Looking at the commercial enormity of this sector, the US may put enough pressure on China in strengthening the GATS discipline in terms of transparency and regulatory independence. The future uncertainty of the sector will also force members of the WTO to freshly look at telecom industry in China by revisiting the China's GATS commitments. Because China's GATS commitments were projected upon its WTO accession as a getaway to genuine market access for foreign services providers. Based on this expectation, many WTO members sold China's accession to their domestic constituencies

V Summary

Recognizing the importance of joining the WTO, China made a conscious decision in 1986 to join the multilateral trading system. The advantages the Chinese leadership had conceived from such a system looked apparent for her. First, it would represent international recognition of its growing economic power. Second, it would be able to play a major role in the development of new international rules on trade in the WTO. Third, multilateral trading system would provide China access to the dispute resolution process in the WTO reducing the threat of unilaterally imposed restrictions on the Chinese exports. Fourth, it would make it easier for reformers in China to push for liberalization policies if they could argue that such steps are necessary to fulfill China's international obligations. Fifth, China has sought WTO membership as a means to obtain permanent normal trade relations (PNTR), or most-favored-nation (MFN), status from the US on a permanent basis. Renewal of that status every year is no longer required. Sixth, it witnessed huge opportunities in international trade which it can exploit by joining the WTO for its own economic growth and development. At the same time world economy will have access to promising market which remained isolated for long. Finally, China wanted to influence the multilateral trade negotiations in the WTO.

China's attempt to the join the WTO has never been easy. Barriers it faced to join the WTO were far more onerous in nature compared to other acceding countries. Tariff reduction to minimal level for industrial products and more so for agricultural products had become critical for her. Imposing special safeguard measures and forcing it to join as

a 'developed country' member were the major barriers, which China had to negotiate for long years. Allowing it to function as a 'non-market economy' till the end of 2015 continues to be an important barrier for China in its drive for integration with the world economy.

China joined the WTO by paying a huge price. This is reflected in the commitments that it made to join the WTO. It agreed to abide by those long-standing commitments to become a member. On agricultural front it promised to forego all export subsidies and accepted a cap on domestic subsidies that is lower than normally available to other developing countries. It agreed to an across the board commitment on services in addition to trade in goods. It succumbed to the pressures of negotiators by allowing the foreign investors to distribute their products in China and gradually eliminate all kinds of restrictions that would make business for foreign investors easy and promising. From a developing country's perspective, China's overall commitments to join the WTO had been some of the most radical and onerous so far. World economy was equally aware about the economic and trade potentialities of China so much so that it never desired China to be out of the multilateral trading regime for so long. Its current standing in the global economy to a large extent complements this attitude as China is a major player in international forums like the WTO, G-20, and G-33 and in various global climate change summits like the Copenhagen climate change conference in 2009.

China's long-drawn process of accession finally secured its WTO membership. Its integration with the multilateral trading system provides her equal opportunities vis-à-vis other countries. Its intention of emerging as a globally competitive economy led her to integrate and compete globally through various sectors.

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