

**THE DRAGON STIRS:
CHINA'S TRADE POLICY FOR ASIA—AND THE WORLD**

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I. THE SETTING: TRADE POLICY AS FOREIGN POLICY

It is difficult, and even misleading, to separate the evolution of China's (also known as the People's Republic of China and hereinafter "the PRC") international trade policy from other elements of Chinese foreign policy, particularly with regard to Asia. Given the centralized, authoritarian nature of PRC governance, it is natural for China's top leaders to plan and execute trade policy as an instrument of larger political and security goals. This Article first will attempt to place PRC international economic policy within the evolution of broader foreign and security policy characteristics and goals. It will then analyze in more detail the history of Chinese trade policy over the past decade.

Throughout much of the postwar era, it has been said that China was "a regional power without a regional policy."¹ Even though the bulk of its important relations were with Asian nations, Chinese leaders tended to view regional activities in terms of wider ideological and political aims such as support for revolutionary and insurgent movements, opposition to American imperialism, and leadership of the Third World against developed-country hegemony. Needless to say, policies to support Marxist revolutionaries and insurgents—as well as aggressive stances on a multitude of border disputes—at times provoked great hostility from some of its Asian neighbors and have left lasting historical memories, particularly in the cases of India, Indonesia, Vietnam, and Cambodia.² Even after Chinese foreign and economic policy changed dramatically, events conspired to maintain and even heighten Asian concerns about the "China threat." First, of course, was the brutal suppression of students and civilians in the 1989 Tiananmen incident; the second came with the clumsy saber-rattling in 1995-1996 in the Taiwan Straits, combined with a forceful assertion of its rights over disputed territory in the South China Sea.³

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1. Steven Levine, *China in Asia*, in *CHINA'S FOREIGN RELATIONS IN THE 1980s*, at 109 (Harry Harding ed., 1984).

2. Alice D. Ba, *China and ASEAN: Renavigating Relations for a 21st Century Asia*, 43 *ASIAN SURV.* 622 (2003).

3. Avery Goldstein, *An Emerging China's Emerging Grand Strategy: A Neo-Bismarckian Turn?*, in *INTERNATIONAL RELATIONS THEORY AND THE ASIA-PACIFIC* 57-106 (G. John Ikenberry & Michael Mastanduno eds., 2003); Robert G. Sutter, *China's Regional*

Despite these unsettling bumps in the road, Chinese foreign and economic policy took major new directions since the mid-1990s and has become ever more sophisticated, flexible, and subtle. The foundations for the new directions were laid in the 1980s, with the gradual unleashing of capitalist forces inside the Chinese economy and with Deng Xiaoping's dictum that "peace and development" went hand in hand: that is, in order for China to achieve strong internal economic growth, it needed a peaceful environment, at least on its borders.⁴ Deng also began the process of greater engagement in the international community (between 1988 and 1994, China normalized relations or established formal diplomatic relations with eighteen countries),⁵ though during his tenure this process was only partially realized.

Symbolically and practically, real momentum for change came with the emergence of the "third generation" of Chinese Communist leaders—led by Jiang Zemin, Li Peng, and Zhu Rongji—in the late 1990s. Under the economic surface, during these years the strong economic bonds resulting from the "new economic geography" and burgeoning intra-East Asian production networks were forged. But these powerful undercurrents soon were augmented by policy changes promoted by China's new leaders.

First, there was a significant turnabout in the attitudes and stance toward international organizations. Since Mao, Chinese officials had been deeply suspicious of such organizations, based upon the fear that they would be controlled by powers hostile to Chinese interests and bent upon constraining or thwarting China's emergence as a great power (namely, the United States). As the PRC's economic strength grew in the 1990s, however, these suspicions lessened, and Chinese leaders began to see that multilateral and regional organizations could be utilized by the PRC to shape and mold policies more to its liking and interests—particularly since in a number of cases, the United States was absent from the table.⁶ Along the way, China largely abandoned (except for occasional rhetorical purposes) espousal of a "victim mentality" in dealing with the outside world, and increasingly assumed a "great-power mentality" that reflected its rapid economic growth and emerging influence in regional and world international relations.⁷

Strategy and Why It May Not Be Good for America, in *POWER SHIFT: CHINA AND ASIA'S NEW DYNAMICS* 289 (David Shambaugh ed., 2005).

4. David Shambaugh, *China Engages Asia: Reshaping the Regional Order*, *INT'L SECURITY*, Winter 2004-2005, at 64.

5. Evan S. Medeiros & M. Taylor Fravel, *China's New Diplomacy*, *FOREIGN AFFAIRS*, Nov.-Dec. 2003, at 23-24.

6. See generally *ENGAGING CHINA: THE MANAGEMENT OF AN EMERGING POWER* (Alistair Iain Johnston & Robert Ross eds., 1999); Cheng-Chwee Kuik, *Multilateralism in China's ASEAN Policy, Its Evolution, Characteristics, and Aspiration*, 27 *CONTEMP. SOUTHEAST ASIA* 102 (2005); Shambaugh, *supra* note 4.

7. See generally Hyun-Jun Cho, *China's Political-Economic Approach Toward FTAs with East Asian Nations and Its Implications for Korea*, 8 *J. INT'L ECON. STUD.* 32

Second, China realized belatedly many of its Asian regional neighbors were also undergoing profound economic, political, and social changes that rendered them much more receptive to new regional and policy initiatives. Unlike the West, these countries had not reacted with great repugnance or ostracism to the killings in Tiananmen Square. They had, for the most part, remained silent (Japan had condemned the killings but had refused to continue sanctions after 1990), or treated the matter as an “internal affair.”⁸ Though fearful and uncertain about the implications of China’s growing economic and political power, by the mid-1990s the Association of Southeast Asian Nations (ASEAN) countries made clear their desire to reengage China.

PRC leaders responded in kind. In 1997, China unveiled a set of principles labeled “New Security Concept,” aimed directly at its peripheral neighbors, particularly the nations of ASEAN. Based upon the so-called Five Principles of Peaceful Coexistence—including mutual noninterference in internal affairs; promotion of mutually beneficial economic contacts to create a more stable security and economic environment; and heightened dialogue to allow disputes to be settled amicably—the principles were heavily touted in later years as the hallmark of China’s commitment to a peaceful regional future.⁹ Promulgation of the New Security Concept coincided with greatly stepped-up international activity by top Chinese leaders. Beginning in the mid-1990s, first Jiang Jemin and his colleagues, and then the new team of Hu Jintao and Wen Jiabao, took to the road to publicize China’s benign new face in international relations. They traveled to all continents but concentrated particularly on Asian nations, where annual summits in key capitals have become a common occurrence.¹⁰

Further, Chinese leaders took concrete steps to resolve—or at least negotiate peacefully—many of the territorial disputes that had undercut good relations with their neighbors. Over the past decade, the PRC settled border

(2004); Long Guoqiang, *China's Regional Economic Cooperation Policy*, July 22, 2005, available at <http://www.drcnet.com.cn/cn/DRCNet.Channel.Web/expert/showdoc.asp>; Medeiros & Fravel, *supra* note 5

8. See Shambaugh, *supra* note 4, at 67-68; see also Ba, *supra* note 2, 630-34.

9. See generally Alastair Iain Johnston, *Is China a Status Quo Power?*, INT'L SECURITY, Spring 2003, at 5; Sutter, *supra* note 3; ROBERT G. SUTTER, CHINA'S RISE IN ASIA: PROMISES AND PERILS (2005); Michael Yahuda, *The Evolving Asian Order: The Accommodation of Rising Chinese Power*, in POWER SHIFT: CHINA AND ASIA'S NEW DYNAMICS, *supra* note 3, at 347. As Yahuda notes, the original concept had a distinctly “Anti-American edge,” depicting the “New Security” ideas as a substitute for outdated Cold War notions identified with the United States. Yahuda, *supra*, at 356. Partly because of the perceived negative effect this interpretation had on ASEAN nations and partly because of later acceptance by Chinese leaders that U.S. predominance was here to stay for the foreseeable future, the anti-American aspects of the New Security Concept were downplayed in later revisions in 2002.

10. See Shambaugh, *supra* note 4; Medeiros & Fravel, *supra* note 5.

disputes with Kazakhstan, Kyrgyzstan, Laos, Russia, Tajikistan, and Vietnam—often on terms that gave advantage to the neighboring country. It also has reduced border tensions with India, with whom it fought a border war in 1962. Of equal importance, Chinese leaders have moved to assuage their coastal neighbors over disputed offshore claims regarding the Paracel, Spratly, and Senkaku Islands. Although China has not backed down from its claims over these territories, it has committed itself to reaching agreement on the basis of international law. In 2002, it signed a code of conduct declaration with ASEAN regarding disputes in the South China Sea.¹¹

These external shifts were accompanied by important internal changes. First, by the end of the 1990s, a comprehensive and well-funded training program for young diplomats, instituted during the 1980s by the foreign ministry, began to pay off. By 2000, the PRC boasted a strong cadre of seasoned and highly sophisticated diplomats, most of whom spoke several languages (of which one was almost always English) and many of whom had received advanced degrees from U.S. or European universities. As David Shambaugh has written:

Long gone are the days of inept and indoctrinated Chinese diplomats cut off from their resident societies. . . . Lower-ranking Chinese diplomats are fanning out across many Asian countries to attend academic and policy-related seminars, to forge business ties, to cultivate overseas Chinese communities,

11. For a thorough analysis of China's steps to resolve border conflicts, see M. Taylor Fravel, *Regime Insecurity and International Cooperation: Explaining China's Compromises in Territorial Disputes*, 30 INT'L SECURITY 46 (2005). He asserts: "Behavior in territorial disputes is a fundamental indicator of whether a state is pursuing status quo or revisionist foreign policies." *Id.* at 47. After surveying the historical conditions that produced China's compromises on territorial disputes, he further argues: "Regime insecurity best explains China's many attempts to compromise in its territorial disputes." *Id.* at 50. While rising nationalism may impede compromises in the future, Fravel concludes:

[T]he territorial settlements made possible by China's compromises have had important strategic effects in East Asia China's compromises have also enabled the active engagement of the region since the late 1990s that is the hallmark of China's "new diplomacy" China's continued need to engage East Asia also suggests that these settlements will endure in the coming years.

Id. at 82-83; see also David M. Lampton, *China's Rise in Asia Need Not Be at America's Expense*, in POWER SHIFT: CHINA AND ASIA'S NEW DYNAMICS, *supra* note 3, at 306; Jianwei Wang, *Territorial Disputes and Asian Security: Sources, Management, and Prospects*, in ASIAN SECURITY ORDER: INSTRUMENTAL AND NORMATIVE FEATURES 380 (Muthiah Alagappa ed., 2003).

to provide interviews to local media, and to try to create good will.¹²

Concomitantly, though China remained an authoritarian state, policymaking became less dependent upon a Supreme Leader—such as Mao or Deng—and more decentralized and institutionalized around increasingly powerful ministries. For instance, as market mechanisms were introduced and external political and economic relations moved to the fore, the Ministry of Foreign Affairs (MOFA) and the Ministry of Foreign Trade and Economic Cooperation (in 2003, the name was simplified to the Ministry of Commerce) became more influential, outflanking older bureaucracies associated with the State Planning Commission and central planning. Further, Chinese leaders sought to diversify and broaden policy analysis internally and externally by establishing or reinvigorating policy-planning bureaus and by consulting specialists in think tanks and other organizations outside the government on issues ranging from defense to economics and social policy.¹³ Thus, scholars at the Chinese Academy of Social Sciences, the China Institute of International Studies, and the Party School of the Communist Party are regularly brought into important discussions with top government officials about economic and security matters.¹⁴

All of this paved the way for the PRC to take a much more assertive role in global and regional affairs. On the global level, China became a much more active member of the U.N. Security Council, in part through participation in key peacekeeping operations. It also ratified several important arms control and nonproliferation agreements, including the Treaty on the Nonproliferation of Nuclear Weapons, the Chemical Weapons Convention, and the Comprehensive Nuclear Test Ban Treaty.¹⁵

Of greater importance for this study are the implications for China's regional diplomatic and economic policies. By the end of the 1990s, the PRC had become, in the words of Susan Shirk, "a born-again regional multilateralist."¹⁶ To name just some of the most important new affiliations, China joined the Asia-Pacific Economic Cooperation (APEC) in 1992; it became a consultative partner for ASEAN in the same year; and, in 1995, China was a founding member of the

12. David Shambaugh, *China's New Diplomacy in Asia*, FOREIGN SERVICE J., May, 2005, at 30, 34.

13. SUTTER, *supra* note 9; Medeiros & Fravel, *supra* note 5.

14. Kevin G. Cai, *Chinese Changing Perspective on the Development of an East Asian Free Trade Area*, 3 REV. OF INT'L AFF. 584 (2004).

15. Goldstein, *supra* note 3; THE MAKING OF CHINESE FOREIGN SECURITY POLICY IN THE ERA OF REFORM, 1978-2000 (David M. Lampton ed., 2001).

16. *China as an Emerging Regional and Technology Power: Implications for U.S. Economic and Security Interests: Hearing Before the U.S.-China Economic and Security Review Comm.*, 108th Cong. 168 (2004) (prepared statement of Susan L. Shirk, Professor, Univ. of Cal., San Diego) (transcript available at http://www.uscc.gov/hearings/2004hearings/transcripts/04_02_12.pdf).

most important regional security organization, the ASEAN Regional Forum (ARF). In Central Asia, China took the lead in creating the Shanghai Cooperation Organization (SCO), and in 1996 it also participated in the first meeting of the Asia-Europe Meeting (ASEM) biannual summits for heads of state from the two regions.

While it upgraded relations with Northeast Asia (Korea and Japan), China devoted most of its attention to Southeast Asia and the ASEAN nations. Partly, this resulted from a common approach to foreign relations, characterized by the so-called ASEAN Way, which stressed incrementalism, consensus, and informal consultation rather than highly codified obligations and detailed conflict resolution mechanisms. Through the use of soft power and through accentuating economic and political cooperation, the “us vs. them” theme in dealing with the developed world, and the particular virtues of multipolarity, China aimed both to dampen fears of the “China threat” economically and politically and to gradually build a common regional identity—led by the PRC. As one scholar has put it: “China’s rising multilateralism has been driven by its underlying aspiration to shape the ‘rules of the game’ for regional institutions, for the ultimate ends of fulfilling the needs of a range of foreign policy concerns.”¹⁷

One other defining characteristic of China’s new diplomacy should be noted: a clear preference for deeper ties through economic cooperation over security institutions because of lingering suspicions and fears that the latter ties would compromise its sovereignty. This can be seen in the history of China’s participation in the ARF, where China has consistently resisted any effort to move beyond “confidence-building measures” toward formal conflict resolution mechanisms. As Michael Yahuda has noted:

Although . . . the original grouping of the [ARF] looked in terms of establishing some pattern of cooperative security whereby they would start off with focusing on confidence-building measures, then to on to preventive diplomacy, and finally to some form of conflict resolution, on the whole they’ve been stuck with confidence-building measures. . . . And a major reason for that is China. China is still not happy with the idea that, somehow or other, third parties or others could somehow have a say in the resolution of all the various territorial and other disputes it may have with others within the region.¹⁸

And Cheng-Chwee Kuik has argued that, from China’s perspective, trade and economic institutional concessions can be “exchanged or compensated with

17. Kuik, *supra* note 6, at 115.

18. Michael Yahuda, Remarks at the Brooking Institution’s Briefing on Power Shift: China and Asia’s New Dynamics 13 (Jan. 12, 2006) (transcript available at <http://www.brook.edu/comm/events/20060112.pdf>).

market benefits. However, in the case of security institutions, a more intrusive arrangement may result in the erosion of national sovereignty and territorial integrity.”¹⁹

The stronger affinity for economic and social institutions is reinforced by the evolution of Chinese leaders' perceptions that the world order will continue to be dominated by the hegemonic power of the United States.

The Centrality of the United States in PRC Thinking

Robert Sutter (along with a number of other Sinologists) has argued that the United States has provided the central prism through which Chinese leaders viewed foreign and security policy since the end of the Cold War: “China’s approach to foreign policy is strongly influenced by and related to China’s approach to the United States. The behavior and commentary of Chinese leaders in the post-Cold War period gives pride of place to relations with the United States in Chinese foreign policy.” Regarding the United States, China, and Asia, Sutter adds: “Asia is the region where China exerts greatest influence and where its most important foreign policy interests are located. Chinese leaders consistently view the United States as the greatest power in Asia and the most important power affecting Chinese interests in the region.”²⁰

China’s views regarding the role of the United States, both in Asia and in world affairs, have evolved significantly since the early 1990s. At the end of the Cold War, PRC leaders and policy analysts, influenced by U.S. economic problems in the late 1980s and by the (incorrect) perception that Japan and Europe were out-competing the United States, initially foresaw a decline of U.S. influence and the rise of a multipolar world: “the imminent emergence of a dispersed power configuration.”²¹ As events and trends unfolded during the 1990s, the results were dramatically different. The U.S. economy surged, and U.S. leadership in key domestic and military technologies left other nations ever farther behind. Subsequently, the U.S. performance in the first Gulf War, its symbolic intervention to support Taiwan in 1995-1996, its leadership in the Balkans, the renewed march toward a global missile defense system, and the huge increase in its defense budget and post-9/11 forward security posture collectively have

19. Kuik, *supra* note 6, at 112; *see also* Ba, *supra* note 2; David Capie, *Rival Regions? East Asian Regionalism and Its Challenge to the Asia-Pacific*, in *ASIA-PACIFIC: A REGION IN TRANSITION* 149 (James Rolfe ed., 2004).

20. SUTTER, *supra* note 9, at 2.

21. Yong Deng & Thomas Geoffrey Moore, *China Views Globalization: Toward a New Great-Power Politics?*, WASH. Q., Summer 2004, at 122, *available at* http://yaleglobal.yale.edu/about/pdfs/china_views.pdf.

produced great changes in China's strategies and tactics in advancing its own national interests, both within Asia and around the world.²²

As noted above, initially the New Security Concept had distinctly an anti-U.S. tone, and even as late as 1997, Chinese leaders mounted a diplomatic offensive in Asia for the abrogation of all existing alliances as coercive vestiges of the Cold War.²³ The reaction in the region was decidedly negative, which led to a heated internal debate over the next several years. By 2001 the PRC had adopted a very different set of themes and tactics regarding its foreign policy and security objectives.²⁴ First, it toned down the more explicit criticisms and carping about U.S. hegemony (notably in the revised version of New Security Concept in 2002). Given the reality of U.S. power, Chinese leaders evidently decided that the best course was to remain under the U.S. radar screen and minimize the risk of direct confrontation (this did not, however, include a slowdown in the steady increase in investment in military and security resources). As Sutter has written: "Chinese leaders have concluded that public and vocal efforts in the recent past to oppose and resist adverse U.S. policies and trends have become counterproductive, especially given the Bush administration's power and firmness against adversaries and the strong opposition by Asian governments to great power contention [in the region]."²⁵

Second, as also noted above, the PRC stepped up its leadership and participation in Asian regional institutions, particularly those involving economic and political matters (APEC, ASEAN, ASEM), but also intra-regional security organizations such as ARF. Bates Gill has described this shift and its implications:

[I]t is clear that Beijing is recalibrating its overall regional security strategy to give great emphasis to diplomatic and economic matters . . . while it downplays its growing military strength Moreover, Beijing has likewise been consistent in its goals: it has persistently sought a positive and stable external environment in order to focus on domestic challenges; it has carefully managed its growing wealth and power in ways that have extended its influence, but done so in a way that has reassured its neighbors; and it has cautiously balanced its concern about what it perceives as excessive American hegemony while avoiding overt confrontation with the United

22. Wang Jisi, *China's Search for Stability with America*, FOREIGN AFF., Sept.-Oct. 2005, at 39.

23. Yahuda, *supra* note 9.

24. The brief analysis in this paragraph is based upon Shambaugh, *supra* note 4; Bates Gill, *China's Evolving Regional Security Strategy*, in POWER SHIFT: CHINA AND ASIA'S NEW DYNAMICS, *supra* note 3, at 247-65; SUTTER, *supra* note 9; Deng & Moore, *supra* note 21; Yahuda, *supra* note 9.

25. SUTTER, *supra* note 9, at 16.

States. Overall, given China's current position in regional affairs, it appears that its understanding of the world situation and the goals it pursues have been correct and have met with success."²⁶

It is against this broader policy canvas that China's new Asian regional trade policy initiatives must be evaluated.

II. CHINESE TRADE POLICY: FROM ISOLATION TO REGIONAL INTEGRATION

At the end of the 1990s, China's overriding fixed priority was membership in the WTO; but during the preceding decade, it had prepared itself for these arduous negotiations through membership in other regional economic institutions, as well as a number of bilateral negotiations with East Asian countries. The first foray into the world of multilateral economic institutions came when China applied for and was accepted into APEC in 1991. In many ways APEC was the perfect training ground for Chinese multilateralism. Based upon the concept of "concerted unilateralism"—whereby goals were set but each member state proceeded toward those goals at its own pace—APEC did not overtly challenge China's strong aversion to mandatory rules, dictated by developed countries. Writing in the mid-1990s, Yuling Zhang, a leading Chinese member of the Academy of Social Sciences, explained the positive principles of APEC from China's viewpoint:

1. Voluntary and unilateral efforts of member economies, not mandatory directives or hard negotiations. Consultation

26. Gill, *supra* note 24, at 259-61. Gill warns, however, that in the future there remain substantial possibilities for U.S.-China friction:

[S]ignificant questions remain about the future of the U.S.-China relationship. For example, at what point does China's successful cultivation of influence with its regional neighbors significantly encroach upon spheres of influence enjoyed by the United States for decades? In many respects, the new security concept can be seen as Beijing's effort to propose a regional security system that is an alternative to Washington's framework of U.S. leadership, military alliances, and a forward-based presence. The stress China places upon equality and mutual respect can be interpreted in part as a call for Washington to act less high-handedly and unilaterally.

Id. at 261.

and commitments, rather than binding agreements, should be insisted upon

2. Consideration for the divergent developmental conditions of the members. APEC should allow flexibility for member economies to have the freedom to arrange action plans within the timetable²⁷

Interestingly, given China's later more-expanded vision of regional multilateral institutions, Zhang went on to state:

To China, institution building does not mean that APEC becomes a superorganization with the power to arrange regional affairs. More specifically, China rejects the intention to include political, especially security issues on APEC's agenda since China worries that this may turn APEC in the wrong direction, such as possibly becoming a U.S.-dominated "community."²⁸

With these stipulations, the PRC agreed in 1994 to the Bogor Declaration that declared as a goal free trade among APEC developed countries by 2010, and among developing countries by 2020. And at its own pace and discretion, Beijing used the "voluntary" principles of APEC to further economic liberalization in 1996, slashing import tariffs on 4000 items by 30% and abolishing 170 import quotas, licenses, and other control measures.²⁹

Two other phenomena are important in understanding the evolution of Chinese regional trade and economic policy from the end of the 1990s: The first was the far-reaching impact of 1997-1998 Asian financial crisis, and the second was impasse over multilateral trade negotiations in the WTO and the huge increase in the number and variety of bilateral, subregional, and regional free trade agreements (FTAs) around the trading world.

Because of its tight control of capital and financial markets and flows, China largely escaped the worst shocks of the 1997-1998 Asian financial crisis (though obviously, like the rest of East Asia, it would be adversely impacted by the general decrease in regional economic activity for the next several years).

This study is not the place to review in detail causes of and villains in the Asian financial crisis—this has been exhaustively gone over in numerous papers and books.³⁰ Suffice it to say that whatever their own culpability, East Asian

27. Yunling Zhang, *China and APEC*, in *ASIA-PACIFIC CROSSROADS: REGIME CREATION AND THE FUTURE OF APEC* 213, 222 (Vinod K. Aggarwal & Charles E. Morrison eds., 1998).

28. *Id.* at 223.

29. *Id.*

30. See, e.g., STEPHAN HAGGARD, *THE POLITICAL ECONOMY OF THE ASIAN FINANCIAL CRISIS* (2000); Saori N. Katada, *Japan's Counterweight Strategy: U.S.-Japan Cooperation*

nations came out of the experience profoundly shaken and deeply resentful of the reaction of the developed world as embodied in the International Monetary Fund (IMF), and its alleged master, the United States. This was particularly true of ASEAN. As Alice Ba has written:

ASEAN found International Monetary Fund (IMF) conditions intrusive, inappropriate, and insensitive to specific economic and political conditions in affected countries; however, its greatest unhappiness lay with the U.S. which was not only associated with the problematic IMF conditions but also was viewed as benefiting from Southeast Asia's financial problems.³¹

In stark contrast, the PRC emerged from the crisis with a greatly enhanced reputation within the region. At a crucial point, China pledged not to devalue its own currency, despite strong pressures to do so, and it provided unconditional loans to Thailand and to Indonesia. In supporting IMF rescue efforts (however controversial in the region), it promised to continue to push policies to maintain economic growth and provide a market for East Asian goods. While much of this policy response constituted a defensive effort to achieve domestic goals, China emerged from the episode "smelling good," in the words of the then-ASEAN Secretary General.³² Significantly, partly as a result of a developing contest for regional leadership with Japan, the PRC opposed a Japanese proposal to establish an Asian Monetary Fund to help protect against recurrence of such financial crises.³³

in International Finance, in BEYOND BILATERALISM: U.S.-JAPAN RELATIONS IN THE NEW ASIA PACIFIC 176-97 (Ellis S. Krauss & T. J. Pempel eds., 2004).

31. Ba, *supra* note 2, at 635.

32. *Id.* at 637. Robert G. Sutter has pointed out:

Of course, it was widely known that the first two Chinese measures [pledges on currency and economic growth] were mainly for Chinese domestic purposes, that Chinese support for IMF funding actually cost Beijing little, and that extra funding and support for Thailand and Indonesia were slow in coming as Beijing became more concerned with its own financial health and was particularly wary of deep involvement in Indonesia without significant economic and political reform there.

SUTTER, *supra* note 9, at 178. For a Chinese perspective, see Long Guoqiang, *supra* note 7.

33. Katada, *supra* note 30. Saori Katada argues that part of the reason for China's opposition was that Japan sprung the proposal on China without consultation. *Id.* China was also reluctant to participate in a risky new venture as it was already the second largest holder of foreign currency reserves in the region. See Jennifer A. Amyx, *Japan and the Evolution of Regional Financial Arrangements in East Asia, in* BEYOND BILATERALISM: U.S.-JAPAN RELATIONS IN THE NEW ASIA PACIFIC, *supra* note 30, at 198, 198-218; Peng-

Even though the PRC emerged relatively unscathed from the Asian financial crisis, the sudden shock and precipitous downfall of many East Asian economies had a strong impact on Chinese leaders. In retrospect, it can be seen that the whole unsettling experience created a new awareness not only of the region's vulnerability, but also of the necessity for increased regional cooperation in order to take more control of its own economic future.³⁴

This conviction was reinforced by events and trends in the world trading system. First, the 1990s had witnessed an explosion of regional trade agreements. From 1990 to 2000, the cumulative number of such agreements notified to the WTO grew from fifty to over two hundred.³⁵ China and other East Asian countries were acutely aware of the trade and investment diversion results from NAFTA (North American Free Trade Agreement), and plans by the United States to expand the FTA reach to Central and South America, as well as the expansion of the EU to twenty-five countries, fueled even greater economic concerns. Still, to a large extent until the end of the 1990s, the movement toward discriminatory agreements had bypassed East Asia: as late as 1999, most countries in the region were not parties to a single FTA (ASEAN, in 1967, obviously had been an early venture, but in 1999, Japan, China, Hong Kong, Korea, and the individual ASEAN members had not joined preferential trade arrangements). Though it would not take action until it had completed the WTO membership process, China in the late 1990s was acutely aware of the potential negative impacts that such discrimination could have on its export performance.³⁶

A. WTO Membership

As this study has recounted, in the decade before it joined the WTO in December 2001, the PRC had greatly broadened and deepened its political and economic relations with the Asian region and the world. It is true, however, that the top foreign economic priority throughout the period was the attainment of membership in the multilateral GATT/WTO trading system, and China doggedly pursued this goal for fifteen years. Chinese and foreign analysts have pointed to a number of reasons for China's persistence. They include: (1) as an emerging

Hong Cai, *East Asian New Regionalism and China*, Paper Presented at the Third Annual CEPII-IDB Conference, Washington, D.C. (Feb. 9-10, 2006), available at <http://www.cepii.fr/anglaisgraph/communications/pdf/2006/09100206/PengHong.pdf>.

34. Yang Zerui, *China's FTA Developments*, Paper Presented to ASCC, PECC Trade Forum – LAEBA Conference (May 26-29, 2004), available at <http://www.pecc.org/trade/papers/valparaiso-2004/yang.pdf>.

35. World Bank, *Global Economic Prospects 2005: Trade, Regionalism, and Development* (2005).

36. Wen Hai & Hongxia Li, *China's FTA Policy and Practice*, in *NORTHEAST ASIAN ECONOMIC INTEGRATION: PROSPECTS FOR A NORTHEAST ASIAN FTA* 138-56 (Yangseon Kim & Chang Jae Lee eds., 2003); Long Guoqiang, *supra* note 7.

major trading nation, the PRC wanted to be able to shape future international trading rules; (2) it also wanted to take advantage of the WTO's dispute settlement system and stem the tide of arbitrary, unilaterally imposed restrictions on Chinese exports; and (3) on a broader scale, China sought membership to achieve international recognition of its growing economic power. Finally, though the motive was muted at the time, Chinese leaders hoped that WTO membership would make it easier to introduce market reforms in the domestic economy.³⁷

For their impact on the substance and politics of more recent Chinese international trade and investment policies, the terms and conditions by which China joined the WTO are of great significance. Specifically, as Nicholas Lardy has stated:

China's commitments to further open its economy in order to gain membership in the World Trade Organization are sweeping . . . [the] commitments, on market access and on rules-based issues, far surpass those made by founding members of the World Trade Organization and, in some cases, go beyond those made by countries that have joined the organization since its founding in 1995.³⁸

Similarly, John Whalley has described the services commitments as "brehtaking in scope, particularly in key service areas (banking, telecoms, insurance) where seemingly the most radical liberalization commitments anywhere in the world were undertaken with little or no reciprocal WTO benefits achieved by China and most future bargaining chips in the services areas surrendered."³⁹

Specifically, the commitments entail large reductions in tariffs that brought the average level down to 10% in 2005. They include a tariff-rate quota system that will bring the tariff rate for major agricultural commodities (wheat, corn, barley) down to zero for a large volume of imports, as well as completely eliminate agricultural export subsidies, including all licensing and quota restrictions that have reduced the flow of some key imports. Over a five-year period from 2002 to 2007, China promised to fully open major service areas to foreign competition, including distribution, telecommunications, financial services (banking, insurance, securities), motion pictures, accounting, law, architecture, construction, environmental services, travel, and tourism. Finally, it agreed to

37. Wayne M. Morrison, *China's Economic Conditions* (Cong. Research Service, Issue Brief for Congress, Aug. 5, 2003), <http://fpc.state.gov/documents/organization/23383.pdf>.

38. NICHOLAS R. LARDY, *INTEGRATING CHINA INTO THE GLOBAL ECONOMY* 22, 104 (Brookings Inst. 2002).

39. Glenda Mallon & John Whalley, *China's Post-Accession WTO Stance* 8 (Nat'l Bureau of Econ. Research, Working Paper No. 10649, 2004), available at <http://papers.nber.org/papers/w10649.pdf>.

abide by international standards for intellectual property (patents, copyrights, trademarks) and for sanitary and phytosanitary regulations.⁴⁰

Two points should be made regarding the implications of China's far-reaching commitments in achieving membership in the WTO. First, there are continuing questions as to whether PRC leaders have the capability and political will to live up to those commitments. Writing in 2003, Whalley stated regarding the sweeping services obligations:

While it would seem that China will have extraordinarily open markets for [banking, insurance, telecoms] by 2007 . . . the starting point for implementing these policy changes seems so highly restricted that doubts have been raised about the feasibility of implementing such changes over such a short time even if threats of eventual retaliation from WTO partners speeds things along.⁴¹

Whalley's point relating to services could stand as the central puzzle for all of China's commitments.⁴² For this study, suffice it to say that in 2006 the record of compliance is quite mixed. On the one hand, clearly China has made a huge effort to put in place laws and regulations to fulfill its obligations. Since 2001, it has amended more than 2500 national laws and regulations and abolished more than 800 others in fulfilling WTO rules.⁴³ On the other hand, there remain large gaps in its legal and administrative regimes and, of most importance, in the enforcement mechanisms for these new laws and regulations. This is especially evident with regard to intellectual property.

From 2002 to 2005, there was a consensus among leading WTO Members to give the PRC a breathing space as it attempted to bring its laws and

40. For detailed descriptions of China's accession commitments, see LARDY, *supra* note 38; Mallon & Whaley, *supra* note 39; Morrison, *supra* note 37; John Whalley, *Liberalization in China's Key Service Sectors Following WTO Accession: Some Scenarios and Issues of Measurement*, (Nat'l Bureau of Econ. Research, Working Paper No. 10143, 2003), available at <http://www.nber.org/papers/w10143>.

41. Whalley, *supra* note 40, abstract.

42. The WTO process also has important implications for the PRC's accelerating regional trade policies. See *infra* Part III. As Japanese scholar Naoko Munakata has warned: "China is still struggling to implement WTO rules in its vast territories where local officials have varying levels of willingness and capacity to enforce rules and regulations. If China fails to faithfully implement FTAs, it will lose credibility with the business sector." Naoko Munakata, *Regionalization and Regionalism: The Process of Mutual Interaction* 33 (Research Inst. of Econ., Trade, & Industry, Discussion Paper Series 04-E-006, 2004), <http://www.rieti.go.jp/jp/publications/dp/04e006.pdf>.

43. Dorothy Guerrero, *China, the WTO and Globalization: Looking Beyond Growth Figures*, YALE GLOBAL ONLINE, Feb. 6, 2006, <http://yaleglobal.yale.edu/display.article?id=6929>.

economy into compliance with the new binding WTO rules. This grace period is now ending, and WTO Member countries have served notice on China that recourse to the WTO dispute settlement system will become much more frequent as the deadlines for its new commitments are reached and passed.⁴⁴

The second result from WTO membership of great significance for future Chinese multilateral and regional trade policy was that the stringency of the formal terms for entry meant that once these commitments were in place China became—at least on paper—one of the most open economies in the world. Thus, both in future WTO negotiations in the Doha Round and in bilateral or regional trade negotiations, the PRC would face much less pressure for economic and social adjustment than its putative trading partners. It should also be added that though there are contending factions and bureaucratic centers of power within the PRC, the basic centralized, authoritarian mode of governance renders it much easier for Chinese leaders to move with dispatch in creating new alliances. As one Chinese scholar delicately put it: “The biggest advantage for China regarding the FTA policy is that once its leadership promotes an FTA within a certain region, the government can make rapid progress under its *socialistic* system of centralized decision-making.”⁴⁵

B. The PRC and the Doha Round

Despite its very recent accession to the WTO, China has emerged as a leader among WTO developing-country Members in the Doha Round of multilateral trade negotiations. At the same time, as has been the case of its

44. See, e.g., Robert B. Zoellick, U.S. Trade Representative, Address Before the U.S.-China Business Council (Jan. 31, 2002), http://www.ustr.gov/assets/Document_Library/USTR_Speeches/2002/asset_upload_file975_4255.pdf; Comm'n of the European Cmty., *EU-China Trade and Investment: Competition and Partnership* (Comm'n, Working Document No. COM(2006) 632 Final, 2006), <http://trade.ec.europa.eu/doclib/html/130791.htm>; Nat'l Ass'n of Mfrs., NAM Submission on IPR Review of China (Feb. 14, 2005), http://www.nam.org/s_nam/doc1.asp?CID=162&DID=233159; U.S. Chamber of Commerce, Statement for the Record, U.S. House of Representatives, Comm. on Ways & Means, Hearing on President Bush's Trade Agenda (Feb. 15, 2006), <http://waysandmeans.house.gov/hearings.asp?formmode=view&id=4737>. Also, in early 2007, the United States followed through on its earlier warnings and launched dispute settlement cases against China over alleged use of subsidies and protection of intellectual property rights. See Gary G. Yerkey & Daniel Pruzin, *U.S. Launches Subsidies Case Against China at WTO with Strong Backing from Business*, 24 Int'l Trade Rep. (BNA) 188-90 (Feb. 8, 2007); Rossella Brevetti, *U.S. Initiates Two New WTO Complaints Against China over IPR Protection, Barriers*, 24 Int'l Trade Rep. (BNA) 505-06 (Apr. 12, 2007).

45. Zerui, *supra* note 34, at 12 (quoting Inkyo Cheong, *FTA Policies of ASEAN and China and Prospects for a Bilateral FTA Between ASEAN and China*, www.bricsinfo.org/bricsinfo/research/download2.jsp?seq=818) (emphasis added); see also Munakata, *supra* note 42, at 33.

record in other multilateral organizations, China has exerted its influence quietly, eschewing disruptive tactics or statements.

Thus, from the outset at the Ministerial meeting to launch the Doha Round, the then-Chinese Trade Minister Shi Guangsheng took up the cause of developing countries, arguing that “development” issues and “trade and investment facilitation” should share equal priority with the trade-liberalization goals in services, manufacturing, and agriculture being pushed by many developed countries.⁴⁶ China joined the so-called Group of 20 (“G-20”), a loose alliance established as a voice for the most active WTO developing-country Members.

At the Cancun Ministerial meeting in September 2003, Chinese Commerce Minister Lu Fuyuan charged that developing country “[WTO] obligations are not balanced and their gains are not equal.”⁴⁷ In closed-door sessions, China joined Brazil, India, Egypt and other developing countries in pressing for much greater liberalization in agriculture. At the same time, the PRC attempted to act as a mediator among the contending factions, and thus, when the conference collapsed, the United States and the EU, while scathing about the actions of many G-20 members, actually praised the Chinese delegation for its efforts to put together a compromise package. China’s muted tactics also may have stemmed from its unique position regarding the Doha Round. Having made large liberalization concessions during the WTO accession process just complete in 2001, Chinese officials made it clear that they were not prepared to take on major new obligations as a part of the ongoing Doha process. Commerce Minister Lu had pointedly noted that China had already reduced trade barriers “well below the level of other developing countries.”⁴⁸

Since the Cancun Ministerial—and particularly in the runup to the December 2005 Hong Kong Ministerial—China has joined many of the small group meetings that, both before and after the December meeting, have attempted to find compromises on the many issues that still remain unresolved. Following the Hong Kong Ministerial, U.S. Trade Representative Robert Portman pointed to China as a key actor in bridging the gap between the developed- and developing-country WTO Members.⁴⁹

46. Foreign Trade Minister Shi Guangsheng, Statement to the Fourth Ministerial Conference of the WTO Following the Adoption of the Decision on China’s Accession to the WTO (Nov. 10, 2001), <http://www.fmprc.gov.cn/ce/ceun/eng/zt/wto/t28924.htm>.

47. Deng & Moore, *supra* note 21, at 124.

48. *Id.*

49. Gary G. Yerkey, *U.S. Urges China to Play ‘Responsible’ Role in WTO as Beijing Sticks to Subtle Approach*, 23 Int’l Trade Rep. (BNA) 10 (Jan. 5, 2006).

III. STEPPING FORWARD: CHINA'S POST-WTO BILATERAL AND REGIONAL TRADE AGREEMENTS

Since 2001, when it became a Member of the WTO, China has moved with stunning speed to craft a widening network of bilateral and regional trading arrangements. Symbolically, the most striking move came in November 2002 when China and ASEAN signed a framework agreement to establish a free trade area between China and the most advanced ASEAN nations by 2010 and a free trade area with the less-developed ASEAN nations by 2015. This decision was followed closely in June 2003 by an agreement between the PRC and Hong Kong to create a free trade area, with most provisions coming into force in 2004. These rapid moves were only the beginning: By 2006, China had completed three bilateral agreements (Thailand, Hong Kong, and Macao) and had initiated talks or negotiations for seventeen additional bilateral and regional agreements.⁵⁰

Characteristics of China's FTAs

A number of scholars have pointed to the emergence of greatly contrasting strategies adopted by the United States, Europe, and China when negotiating FTAs. The FTAs of the United States by and large follow a fixed template, to a great degree based upon the NAFTA model.⁵¹ U.S. negotiators have made it clear from the outset that the United States was interested in moving forward with individual negotiations only if the result would be comprehensive and would be WTO-plus—that is, liberalization would go beyond that which had been achieved in the multilateral negotiations. Thus, U.S. FTAs push the envelope in furthering reductions in industrial tariffs; substantial additional liberalization in major business service sectors; intellectual property protection beyond that agreed to in the WTO; special sector arrangements (less liberal) for

50. Gary Clyde Hufbauer & Yee Wong, *Prospects for Regional Free Trade in Asia*, (Inst. for Int'l Econ., Working Paper No. 05-12, 2005), available at <http://ssrn.com/abstract=830106>. Yan Yang gives the total number as twenty-three, but does not list all of the countries. *Nation Moves on Free Trade Negotiations*, CHINA DAILY, Mar. 8, 2005, available at http://www.chinadaily.com.cn/english/doc/2005-03/08/content_422863.htm. Therefore, the total number of twenty agreements will be used in this Article. When queried as to why China moved in 2002, Shi Guangsheng, then-Minister of Foreign Trade, asserted that previously China had been too busy trying to enter the WTO. He added that the failure of the WTO Seattle Ministerial in 1999, combined with the great increase in discriminatory FTAs, further spurred China to action. Zerui, *supra* note 34. For discussion of the degree to which these all constituted real FTAs or were more limited commercial agreements, see *infra* Part V, Annex.

51. Hufbauer & Wong, *supra* note 50; Agata Antkiewicz & John Whalley, *China's New Regional Trade Agreements* (Nat'l Bureau of Econ. Research, Working Paper No. 10992, 2004), available at <http://www.nber.org/papers/w10992>.

certain sectors, such as textile, cotton and sugar; and finally, the inclusion of labor and environmental standards. U.S. FTAs are extremely detailed and often run to thousands of pages.

The EU has adopted a somewhat similar approach, particularly with regard to labor and environmental standards, tariff reduction, and services liberalization. The EU has also pushed for greater focus on competition rules and on stricter protection in international investment. Finally, the EU, to a greater degree than the United States, does view FTA policy at least in part as an extension of diplomacy and as a means of extending its political reach. Such motivation can be readily observed in the EU's trade initiatives in Eastern Europe and around the Mediterranean (the so-called Maghreb countries).⁵²

These templates stand in great contrast to FTAs completed or under negotiation by the PRC. Chinese leaders explicitly tout a more "pragmatic" approach, devoid of templates and individually tailored to the needs and priorities of individual countries, while meeting the imperatives of Chinese political and foreign policy goals. The hardheaded pursuit of multiple goals and increased leverage through FTAs can be seen in two prerequisites that have been quietly insisted upon by PRC negotiators. First, on the economic front, they have made it clear that FTA partners must grant China so-called market economy status in relation to WTO rules. The effect of this change is to free China from the more arbitrary antidumping and safeguard rules that have allowed other WTO Members great leeway to enforce protectionist duties against PRC products. Second, on the foreign policy front, they have leaned heavily on their potential FTA partners to eschew any action that would enhance the political or diplomatic status of Taiwan. Specifically, they have objected to any discussion or negotiation leading to FTAs between Taiwan and other Asian nations, including the blunt statement of the PRC Trade Minister: "If countries with diplomatic ties with China sign free trade agreements with the Taiwan authorities, they are bound to bring political trouble to themselves."⁵³

Diversity, thus, is the defining characteristic, both in form and substance. For instance, the China–Hong Kong agreement is quite concrete, with a particular focus on cross-border trade, financial activities, and investment safeguards. Conversely, the agreements with Australia and New Zealand are much less explicit, and actually amount to little more than indicative statements for future goals in a number of areas.⁵⁴ In general, Chinese FTAs focus on liberalizing trade

52. See Stephen Woolcock, *European Union Policy Towards Free Trade Agreements* (European Ctr. for Int'l Political Econ., Working Paper No. 03/2007, 2007), <http://www.ecipe.org/pdf/EWP-3-2007.pdf>.

53. NICHOLAS LARDY & DANIEL ROSEN, PROSPECTS FOR A US-TAIWAN FREE TRADE AGREEMENT 44-45 (Inst. for Int'l Econ. 2004); see also Lee-in Chen Chiu, *Economic and Political Interaction Across the Taiwan Strait Facing the Trend of Economic Integration in East Asia* (Korea Inst. for Int'l Econ. Policy, CNAEC Research Series No. 04-05, 2004) (arguments in favor of a U.S./Taiwan FTA to counter PRC pressure).

54. Antkiewicz & Whalley, *supra* note 51.

in traditional goods and services and exclude environmental and labor rules and WTO-plus intellectual property provisions. Of equal significance, they do not include tight dispute settlement provisions, preferring conciliation and mediation of disputes in the tradition of the so-called Asian way.⁵⁵

Chinese officials divide their priorities for the initiation and conclusion of FTAs into two categories: (1) neighboring countries on China's borders, broadly defined, that are part of the "neighboring country relations strategy"; and (2) a group of countries that are resource-rich and will be pursued as a means of satisfying the PRC's burgeoning thirst for energy sources and raw materials.⁵⁶ In some cases, there is a large overlap between the two sets of criteria. Thus, recent calculations by Gary Hufbauer and Yee Wong show that 100% of Chinese imports from Laos consist of raw commodities; 95% from Myanmar; 89% from Australia; 85% from New Zealand and India; and 66% from Indonesia. Outside of Asia, the figures are even more striking, with 100% of imports being raw commodities from the Gulf States and Venezuela (oil); 99% from Chile; 94% from Argentina; and 72% from Brazil.⁵⁷

Despite the original expectation that Asian FTAs would reach fruition first, the PRC has simultaneously embarked on ambitious negotiations outside the region. Thus, as of mid-2006, China has completed four FTA negotiations (Hong Kong, Macau, Thailand, and ASEAN), and it is in negotiations with eight other entities (individual countries or regional entities, including, among others, New Zealand, South Africa, Australia, Chile, Pakistan, and the Gulf Cooperation Council). Finally, FTAs (or some other preferential arrangements short of complete FTAs) have been proposed with nine additional countries or groups of countries, including India, Mexico, Brazil, Peru, Iceland, Japan, Korea, and Mercosur.⁵⁸

IV. CONCLUSION

At the midpoint of the first decade of the twenty-first century, Chinese trade diplomacy is both wide and deep. It includes active policies at all levels of the world trading system—multilaterally, in the WTO; regionally, in APEC and ASEAN; and bilaterally, in a growing number of separate deals with nations both within and outside of Asia. In creating this web of agreements, Chinese leaders have also moved far along the path of integrating the PRC's international

55. *Id.*; see also Cai, *supra* note 14; Long Guoqiang, *supra* note 7.

56. Long Guoqiang, *supra* note 7; Qiang Zhou & Wei Li, 2005, Thoughts on the Overall Strategy of China's Regional Economic Cooperation (Chinese Acad. on Int'l Trade & Econ. Cooperation, Ministry of Commerce), available at <http://www.mofcom.gov.cn/aarticle/s/200511/20051100834747.html> (P.R.C.).

57. Hufbauer & Wong, *supra* note 50.

58. See *infra* Part V, Table 1.

economic policy into a larger political and diplomatic framework. As for the future, it remains to be seen whether this extremely adept international balancing act can be matched at home with the evolution of policies that translate the liberating effects of open trade and investment into a more open domestic political system.

V. ANNEX

Table 1

Implemented, Negotiated, and Proposed FTAs: China, 1989-2005

Partner Country	Type of FTA	Year ¹	Two-Way Trade, 2003 (millions of dollars)	Percent of China Total Two-Way Trade
Implemented				
Hong Kong, Macao ²	Bilateral	2004	88,859	10.4
Negotiated but not implemented³				
Thailand	Bilateral	2003	12,655	1.5
Proposed⁴				
Asia Pacific ⁵	Regional (APEC)	1989	596,882	70.1
East Asia	Regional (Japan, Korea, China)	2000	284,173	33.4
Southeast Asia	Regional (ASEAN)	2002	78,254	9.2
Brazil	Bilateral	2004	7,986	0.9
Gulf Cooperation Council ⁶	Regional (GCC)	2004	16,876	2.0
India	Bilateral	2004	7,595	0.9
Mexico	Bilateral	2004	4,944	0.6
New Zealand ⁷	Bilateral	2004	1,826	0.2
Peru	Bilateral	2004	1,114	0.1
Singapore	Bilateral	2004	19,349	2.3
South Africa	Regional (SACU)	2004	4,015	0.5
South America	Regional (Mercosur)	2004	11,504	1.4
Australia ⁸	Bilateral	2005	13,564	1.6
Chile	Bilateral	2005	3,532	0.4
Iceland	Bilateral	2005	68	0.0
Japan	Bilateral	2005	133,557	15.7
Korea	Bilateral	2005	63,223	7.4
Pakistan	Bilateral	2005	2,430	0.3
1. For implemented free trade agreements (FTAs), date is based on when the agreement was entered into force or signed. For agreements under negotiation, date is				

based on when negotiations began, or when framework agreements were signed.

2. Bilateral trade agreements with Hong Kong and Macau are known as Closer Economic Partnership Agreements (CEPAs).
3. Represents FTAs that have been signed but not yet entered into force.
4. Includes FTAs that are under negotiation but not yet signed or entered into force.
5. Asia Pacific partners under APEC include Australia, Brunei, Canada, Chile, China, Hong Kong, Indonesia, Japan, Korea, Malaysia, Mexico, New Zealand, Papua New Guinea, Peru, Philippines, Russia, Singapore, Taiwan, Thailand, and Vietnam.
6. Gulf Cooperation Council (GCC) includes the following partners: Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates.
7. China signed a Trade and Economic Framework Agreement (TEFA) with New Zealand in May 2004. FTA negotiations began shortly after a joint feasibility study endorsed a bilateral New Zealand-China FTA in November 2004.
8. Similar to the U.S. Trade and Investment Framework Agreements (TIFAs), China signed a TEFA with Australia in October 2003. After a joint feasibility study endorsed a Australia-China FTA, bilateral FTA negotiations are discussed. Australian Trade Minister Mark Vaile expressed confidence that a bilateral FTA would be completed by the end of 2007.

Source: Hufbauer & Wong⁵⁹

A. The China-Hong Kong Comprehensive Partnership Arrangement (CEPA)

The China-Hong Kong Comprehensive Partnership Arrangement (CEPA) is counted as the most comprehensive of China's FTAs. Still, it runs to only thirteen pages of text, with four annexes. It was signed in June 2003 and notified to the WTO in January 2004. Hong Kong already has a zero-tariff policy and that will be maintained. China agreed to introduce zero tariffs on a first list of goods by January 2004, and to institute full elimination of tariffs on all goods by January 2006. CEPA rules of origin are quite liberal in comparison to many FTAs. They require that to be eligible for zero tariffs, Hong Kong exports must contain at least 30% local value added content (raw materials, labor costs, product development costs). It is estimated that under CEPA, the share of Hong Kong goods exported to China will jump from 20% to 90%.

Annex 4 of the agreement provides for liberalization of services. The annex lists some eighteen key sectors to be included for liberalization, including telecommunications, financial services, construction, law, real estate, accounting, freight forwarding, and management consulting. Of particular importance for Hong Kong is the opening of the Chinese market for Hong Kong financial services companies. CEPA lowers the required minimum assets for Hong Kong banks that establish branches in China from \$20 billion to \$6 billion.

More broadly, an important innovation in the agreement establishes the category of "Hong Kong service supplier," a provision that opens the door to the Chinese market for international service companies who qualify. To qualify, a

59. Hufbauer & Wong, *supra* note 50, at 20 (citations omitted).

company must be established in Hong Kong for three years, have a business premise, have paid applicable business taxes, and employ 50% of its staff locally. Such companies enjoy a special privilege along with Hong Kong companies—that is, a first-mover advantage by opening the services market to them from January 2004, in contrast to the opening for other countries' companies in December 2007.⁶⁰

B. ASEAN FTA

The ASEAN/PRC Framework Agreement on Comprehensive Economic Cooperation was signed in November 2002. It is less specific than the CEPA, though more concrete than later agreements with New Zealand and Australia. It consists of twenty-one pages of text, followed by four annexes. Under the Agreement, the two sides agreed to work toward the establishment of an FTA between China and ASEAN by 2010 for the more-advanced ASEAN countries and by 2015 for the less-advanced ASEAN countries (Vietnam, Laos, Myanmar, and Cambodia). The goals set forth in the Agreement include progressive elimination of tariff and non-tariff barriers in goods, liberalization of services trade, facilitation of investment, simplification of customs procedures, and establishment of mutual recognition arrangements for national regulations. The details of the implementation of these goals were left largely to subsequent negotiations. Institutional arrangements to execute the individual provisions were also omitted, including any provisions for dispute settlement beyond general mediation goals.

A key element in the 2002 Agreement was the unilateral decision of the PRC to undertake an Early Harvest Program. Under this provision, tariffs on a group of eight categories of agricultural products (about 600 individual products) will be reduced ahead of schedule, in most instances achieving zero tariffs by the end of 2006. This gave ASEAN exporters of fruits and vegetables a strong leg up on other WTO Members, and in 2004, after the reductions had been implemented, exports of these products from ASEAN countries to China increased by 40%.

By 2005, ASEAN had become China's fifth largest trading partner, and conservative economic studies estimate that in a short period, bilateral exports between the PRC and ASEAN countries will increase by 50%. In addition, the FTA is expected to facilitate increased foreign direct investment, particularly from China to ASEAN. Twenty percent of outward Chinese investment already goes to ASEAN, and with the PRC's strong desire for assured raw materials and food, the FTA will undoubtedly serve as an important vehicle for the achievement of this security.⁶¹

60. Antkiewicz & Whalley, *supra* note 51.

61. Antkiewicz & Whalley, *supra* note 51; Hufbauer & Wong, *supra* note 50; Yang, *supra* note 50.

C. Australian/New Zealand FTAs

In October 2003 and May 2004, Australia and New Zealand, respectively, signed Trade and Economic Cooperation Framework Agreements with the PRC. In both cases, the text consisted of only a few pages devoted to a number of short-, medium-, and long-term goals. The text and the annexes, however, do include broad goals relating to trade in goods and services, investment, agriculture, environment, forestry, food safety, science and technology cooperation, and intellectual property rights, among other areas. The agreements provide for regular consultations on these and other matters relating to trade and investment.

While mainly symbolic, the agreements have produced important concrete results. First, both New Zealand and Australia have granted China “market economy status.” As noted above, this has been a central PRC goal in all of its trade negotiations. The result is that henceforth both Australia and New Zealand will apply the same antidumping and safeguards rules to China that they do to other WTO Members (previously, under its WTO accession protocol, China was subject to much less stringent rules for the imposition of such protectionist actions). Finally, in 2005, New Zealand and China began formal negotiations toward a future FTA.⁶²

62. Antkiewicz & Whalley, *supra* note 51.

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