

CHINA AND THE WTO: YEAR ONE

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In this examination of China's first year of WTO implementation efforts Sharon Hom suggests that the labyrinth of WTO commitments might be usefully mined for rhetorical, legal, and political strategies to advance human rights concerns and more equitable and sustainable economic development.

On December 11, 2001, after the longest negotiation in World Trade Organization (WTO) history — 15 years of bilateral and multilateral negotiations—China became the 143rd WTO member. The WTO is the global organization that deals with rules of trade among nations, and WTO agreements are negotiated and signed by the bulk of the world's trading nations. In taking its place at the WTO table, China is seen by the international economic community as integrating itself into the global economic community and committing itself to a multi-lateral rules-based system, norms of openness and transparency, and acceptance of the central role of markets and private enterprise.

China's accession is also viewed as strengthening the WTO system. As Mike Moore, the WTO Director-General in 2001, said upon conclusion of the meeting of the Working Party on China's Accession, "With China's membership, the WTO will take a major step towards becoming a truly world organization. The near-universal acceptance of its rule-based system will serve a pivotal role in underpinning global economic cooperation." Amidst domestic and international debates for and against China's accession, China's leaders view WTO membership as part of a broader domestic economic reform launched in 1978 and internationally confirming China's role as a legitimate and responsible member of the global community. At the same time, some Chinese advocates for WTO accession viewed it as an opportunity to advocate for much needed systemic legal reforms, including independent courts, transparent laws, and a de-politicized legal process.

It is beyond the scope of this article to recap the complex and voluminous domestic and international debates regarding the relationships (or not) between trade, human rights, the

environment and labor rights.¹ However, an understanding of what China has accepted in terms of extensive trade-related commitment to legislative and structural legal reform raises a stark contrast to China's reluctance to sign onto the international human rights regime with similar enthusiasm. Unlike its ongoing and extensive efforts to comply with WTO commitments, China has steadfastly resisted international human rights monitoring, supervision, rigorous reporting requirements, obligations to accept international observers and advisors, and technical assistance beyond officially controlled initiatives. Citing cultural relativism (China's position) and cultural imperialism (foreign countries seeking to impose international human rights norms), sovereign immunity and the priorities of a developing country with limited resources, as well as pointing to the human rights abuses of its critics, China continues to defend its domestic human rights record and policy against international scrutiny and demands for accountability and transparency by international and domestic Chinese voices.

As China closes its first year of WTO membership, this article will review, within the limitations of publicly available reports and information, some of the assessments of China's implementation efforts and explore their implications for advancing human rights concerns. I will first briefly recap the background of China's WTO accession and summarize the WTO commitments made by China. In reviewing implementation efforts to date, I will focus on commitments regarding structural reforms of China's legal framework. I close with an invitation to the reader to engage in a "thought experiment" as an opportunity to challenge dominant policy assumptions as well as China's double standard for international engagement on trade versus human rights regimes.

Background and history of China's negotiations

The General Agreement on Tariffs and Trade (GATT) a multilateral agreement reached in 1948 (and the precursor to the WTO), and the WTO (formed in 1995), together comprise the core of the current global trade regime, a regime that encompasses numerous multilateral agreements, an organizational structure that oversees the review and implementation of these agreements, and a dispute settlement process. The stated objective of the GATT/WTO system is

the liberalization of trade through the elimination of trade restrictions to permit markets to function free of state interference.² But for all the market discipline rhetoric, the WTO trade regime is in fact a highly regulated system of rules, sanctions, and safeguards negotiated through the perceived geo-political and economic self-interest of its members. It is a system in which states, individually and collectively, play an extremely pervasive and active role in promoting trade and redressing market “distortions.”

In July of 1986, China re-applied for admission to GATT,³ and for the next eight years engaged in negotiations under the auspices of the GATT Working Party. Composed of interested WTO members, the GATT Working Party’s role was to examine China’s application and to negotiate terms for its accession regarding trade in goods. After the formation of the WTO in 1995, a successor Working Party took over the ongoing negotiations, and the scope of these negotiations was extended to trade in services, new rules on tariff-measures, and rules relating to intellectual property rights. These negotiations included three main aspects: the provision by China of information on its trade regime to the Working Party; bilateral negotiations between China and each interested WTO member; and overlapping multilateral negotiations with a WTO Working Party that included the United States, the European Union and other interested members. The most trade-liberalizing concessions and commitments to market access reached through the bilateral negotiations were then consolidated into comprehensive “China’s Goods and Services Schedules” that apply to all WTO members.

On November 10, 2001, at the Ministerial Conference in Doha, Qatar, WTO members formally approved the terms of China’s accession set forth in the *Protocol on the Accession of the People’s Republic of China* (Accession Protocol), the accompanying *Report of the Working Party on the Accession of China* (Working Party Report), the consolidated market access schedules for goods and services, and other annexes. The Working Party Report also includes identification of member concerns, pledges of WTO members to China, and China’s explanation of its trade practices and background facts.

Overview of China’s WTO commitments

In addition to commitments set forth in the accession documents, as a WTO member China is also bound by more than 20 existing multilateral WTO agreements, including WTO’s three main agreements governing international trade: (1) General Agreement on Tariffs and Trade (GATT); (2) the General Agreement on Trade in Services (GATS); and (3) the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). Other specialized multilateral agreements binding under China’s Accession Protocol and Working Party report include: the Agreement on Trade-Related Investment Measures (TRIM), the Agreement on Agriculture, the Agreement on Technical Barriers to Trade, and the Agreement on Subsidies and Countervailing Measures.

China’s accession commitments include major obligations to improve the transparency, predictability and uniformity of its legal system; provide mechanisms for independent review

of administrative actions; and ensure compliance with core GATT/WTO nondiscrimination norms and principles. (See chart: Key General Trade Framework Commitments). In addition to these structural commitments, China also agreed to take concrete steps to remove trade barriers and open its markets to foreign companies and exports; and to eliminate or significantly reduce export, import, and distribution restrictions on foreign companies. These commitments include tariff elimination or reduction for more than 7,000 agricultural and industrial products, and greater market access in 9 out of 12 general services sectors.⁴ Many of these commitments are phased in over a period of years while others were due upon accession.

China also agreed to a number of commitments above and beyond the usual WTO commitments required of other members. These include a commitment to provide for public comment prior to implementation of certain trade measures; establishing a mechanism for responding to requests from any WTO member or foreign company for information, or investigating cases of alleged inconsistent application; and agreeing to an additional transitional multilateral mechanism for reviewing its compliance. China’s WTO implementation and compliance is reviewed annually in 16 WTO committees and councils⁵ followed by an overall review by the WTO general Council based on the findings of these subsidiary bodies.

The Transitional Review Mechanism operates annually for eight years after China’s accession, with a final review taking place by year ten.⁶ As part of this special annual compliance review, China must provide detailed information⁷ and submit detailed responses to questions raised by both the subsidiary bodies and the General Council. Each review entails preparation of two documents: a policy statement and report by China, and a detailed report by the WTO Secretariat. These documents and the minutes of the meeting are available from the WTO website. As we go to press, the transitional 2002 review materials for China were still not publicly posted.

First year Implementation

Overall, China has committed to more than 685 trade regime commitments (Accession Protocol, Working Party report, GAO Report 2002). Although some of the key commitments are to be implemented upon accession or in the first few years, many are to be phased in over the next 14 years (by 2016), making evaluation at this time difficult. In general, most U.S. observers and interested parties (including various government agencies and companies in a range of sectors) acknowledge the enormously complex task China faces in implementing its WTO commitments. For example, the U.S. government and many business sectors have generally given China good marks at the mid-year point, and refer to the significant good-faith efforts by China, especially in implementing legislative reviews and restructuring various government ministries and agencies.

However, the USTR reports significant problems in three specific areas: agriculture goods, intellectual property rights enforcement, and opaque and excessive requirements in many services sectors (e.g. capitalization requirements beyond international norms in the insurance sector). In the area of

KEY GENERAL TRADE FRAMEWORK COMMITMENTS

	China's WTO Commitments	Implementation to date
<p>TRANSPARENCY = Improving openness & predictability of trade regime & legal framework</p>	<ol style="list-style-type: none"> 1. <u>Make available to WTO members all laws, regulations, and other measures</u> re: trade in goods & services, trade-related aspects of intellectual property rights, or control of foreign exchange: 2. <u>Notice & reasonable opportunity for public comment</u> to affected parties before new/modified laws & regs implemented (with specified exceptions) 3. <u>Translation</u> in one of official WTO languages (English, French, or Spanish) not later than 90 days after implementation or enforcement 4. <u>Establish mechanism (enquiry points) for responding to questions</u> & information requests from any WTO member/foreign company or individual 	<ol style="list-style-type: none"> 1. <u>Poor record to date in a number of sectors</u>; only small portion issued for public comment and comment period generally too short (USTR Report) 2. <u>Translation lagging behind</u> in part due to enormous number of laws & regs issued & technical language of WTO-related laws (USTR Report) 3. <u>WTO Enquiry & Notification Center</u> established in January, 2002, operated by MOFTEC's department of WTO Affairs; other ministries & agencies have also established formal/informal, subject-specific enquiry points. http://english.moftec.gov.cn
<p>NON-DISCRIMINATION Part of core principles and policies that constrain & guide WTO members trade policies (GATT 1994)</p>	<ol style="list-style-type: none"> 1. <u>Most-favored nation (MFN)</u>: extend to all WTO members the best trading privileges granted to any one member; puts goods of an importing WTO member's trading partners on equal terms with one another 2. <u>National Treatment</u>: treatment of imported foreign products and services no less favorably than domestic products & services; 3. <u>Repeal of all existing WTO-inconsistent laws, regs, & other measures</u> 	<ol style="list-style-type: none"> 1. MFN & national treatment still not observed in many areas including, different tax bases used to compute consumption taxes for domestic & imported products) 2. Review of pre-WTO accession laws & regs & elimination/revision of over 2,300 WTO- inconsistent law & regs (7/30/02) (www.chin-embassy.org)
<p>INDEPENDENT REVIEW OF ADMINISTRATIVE DECISIONS</p>	<ol style="list-style-type: none"> 1. <u>Establish impartial tribunals independent of govt. authorities entrusted w/ administrative enforcement</u> in question 2. <u>Review procedures must include right of appeal</u> 	<ol style="list-style-type: none"> 1. Pre-WTO accession: China took steps to address poor quality of judges by requiring appointment based upon merit & experience; however, existing judges were grand-fathered in 2. Designation of certain higher-level courts to hear cases involving administrative agency decisions re: international trade in goods & services or IPR (Supreme People's Court rules issued August 2002, effective October 2002) 3. Ongoing obstacles presented by systemic and structural problems, including rampant corruption, poorly trained judges, local protectionism, Party control of courts, police, & prosecutors through political legal committees (<i>zhengfa weiyuanwei</i>) at every level
<p>UNIFORM APPLICATION</p>	<ol style="list-style-type: none"> 1. <u>Uniform application, implementation & enforcement throughout China</u>, including Special Economic Zones (SEZs) 2. <u>Ensuring consistency w/ WTO commitments</u> at national, provincial, and local levels 3. <u>Establish an internal review mechanism</u> to investigate & address non-uniform application of laws based on information provided by companies/individuals 	<ol style="list-style-type: none"> 1. Extensive central govt. campaign to inform & educate both central & local govt. officials & State-owned enterprise managers re: WTO rules & benefits 2. Several provinces & municipalities have also established WTO centers 3. Internal review mechanism to handle cases of non-uniform application, under MOFTEC's department of WTO Affairs, but actual workings not yet clear.

agriculture, the remaining problems include China's regulation of agricultural goods produced through biotechnology, the administration of its tariff-rate quota (TRQ) system for bulk agricultural commodities, and the application of sanitary and phytosanitary measures and inspection requirements. (USTR Report December 2002).

At the same time, serious concerns and problems regarding structural reform issues have been identified, e.g. lack of effective and consistent implementation at the national and sub-national levels, lack of transparency, lack of coordination among relevant Chinese government ministries, and non-compliance with many specific commitments. Many of these concerns have been addressed in high-level bilateral discussions and during the multilateral Transitional Review process held in late September 2002. In addition to these discussions, WTO members, including the U.S., EU and Japan have provided technical assistance and training to the Chinese government. Chinese officials publicly recognize the enormous challenges, and point to obstacles such as insufficient resources, limited familiarity with WTO requirements among government officials and SOE managers, technical translation difficulties, and concerns about the effects of particular WTO commitments on the domestic economy.

It is beyond the scope of this article to fully discuss the compliance efforts and issues presented by this vast and complex process, which also encompasses nondiscrimination and transparency commitments in other areas such as import regulation, agriculture, and trading rights and industrial policies. Rather, I would like to focus on areas with implications for rule of law⁸ and human rights, in particular trade and legal framework commitments on transparency, nondiscrimination, independent review of administrative decision-making, and uniform and impartial application of laws and regulations.

Transparency

Transparency requires China to improve the openness of its trade regime by publishing and translating information and laws, and establishing a mechanism (enquiry points) for responding to questions and information requests from any WTO member/foreign company or individual. Accordingly, in January 2002 China established a WTO Enquiry and Notification Center operated by MOFTEC's department of WTO Affairs, and other ministries and agencies have also established formal or informal subject-specific enquiry points. China is required to make publicly available all national, provincial and local laws, regulations, and other measures related to trade in goods and services, trade-related aspects of intellectual property rights, or control of foreign exchange (Accession Protocol paragraph 2.c.1). A related transparency requirement is the provision of notice and reasonable opportunity for public comment to affected parties before new/modified laws, regulations or other measures are implemented (with specified exceptions). China is required to also provide translations in one of the official WTO languages (English, French, or Spanish) of laws, regulations and other measures not later than 90 days after implementation or enforcement.

According to the USTR, Chinese ministries and agencies have a poor record to date of providing an opportunity for public comment before new or modified laws and regulations are implemented. The USTR reports that although the State Council issued new regulations in December 2001 that provide for public comment on formulation of administrative rules and regulations, many government agencies and ministries continue to follow the pre-accession practice. The result is that only a small portion of laws and regulations have been issued for public comment, and the comment periods were generally too short. In addition, translation of laws and regulations has lagged behind promulgation, in part due to the enormous quantity involved. (USTR Report 2002). Both the lack of Chinese laws in translation and the inadequacy of public review undercut the predictability and openness of the Chinese business climate.

Nondiscrimination

Nondiscrimination is a key value that informs the core principles of WTO trade policies (GATT 1994) and of China's WTO obligations. Under the most-favored nation (MFN) principle, China must extend to all WTO members the best trading privileges granted to any one member, and must treat goods of an importing WTO member's trading partners on equal terms with one another. Under the national treatment principle, China may not treat imported foreign products and services less favorably than domestic products and services. In adhering to this nondiscrimination principle, China must review all of its relevant domestic legislation, and repeal or revise any laws or regulations that are inconsistent with WTO obligations, as well as promulgate additional laws and regulations necessary for implementation of its obligations.

According to the Chinese official mid-year reports, China had completed review of relevant pre-WTO laws and regulations, and eliminated or revised over 2,300 WTO-inconsistent law and regulations (Chinese Embassy 7/30/02). However, MFN and national treatment obligations are still not observed in many areas. For example, U.S. businesses have reported that different tax bases are used to compute consumption taxes for domestic and imported products (USTR Report December 2002).

Independent Review of Administrative Actions

As part of its trade regime commitments, China agreed to establish impartial tribunals to review decisions by government authorities entrusted with administrative enforcement. The review procedures must include a right of appeal. One effort to improve the quality of decision-making has been the designation of certain higher-level courts to hear cases involving administrative agency decisions regarding international trade in goods and services or trade-related intellectual property rights (Supreme People's Court rules issued August 2002, effective October 2002). During the pre-WTO accession period, China had already taken steps to address the poor quality of judges by requiring appointments based on merit and experience. However, existing judges were exempt from these qualifications requirements. Since the



Photo: Reuters.

overwhelming majority of Chinese judges do not have any formal law training, these efforts to raise the professional caliber of the bench will be weakened. There are additional obstacles presented by other systemic and structural problems, including rampant corruption, local protectionism, and Party control of courts, police & prosecutors through political legal committees (*zhengfa weiyuanwei*) at every level.

Uniform application of laws

China has committed to implementing the WTO Agreement in a uniform and consistent manner at the national, sub-national, and local levels, and within the Special Economic Zones (SEZs). It is also required to establish an internal review mechanism to investigate and address allegations of non-uniform application of laws reported by companies or individuals. In implementing these commitments, China has undertaken an extensive central government campaign to inform and educate both central and local government officials and State-owned enterprise (SOE) managers regarding WTO rules and benefits. In addition to national efforts, several provinces and municipalities have also established WTO centers. An internal review mechanism to handle cases of non-uniform application has been established under MOFTEC's department of WTO Affairs, but the actual workings are not yet clear.

These extensive rule of law-related commitments to ensure transparency, nondiscrimination, uniform application and independent judicial review affect not only the development of China's trade regime, but also its overall legal reform efforts. The effective implementation of WTO commitments is particularly challenging in the face of the structural problems

plaguing China's developing legal system — corruption, local protectionism, lack of adequately trained personnel, and the pervasive politicization and Party control of decision-making by the courts, police and prosecutors.

In Lieu of a Conclusion: A Thought Experiment

The values and core principles that are reflected in the GATT/WTO system include transparency, accountability, non-discrimination (in treatment of foreign and domestic trading partners), and the rule of law. Adherence to these values and principles is meant to promote greater welfare maximization and commercial predictability, and requires the balancing of national interests with the demands of an open and fair global trading system. However, until recently, the WTO system itself was a secretive, closed, exclusively governmental process accessible only to powerful sectors of the business community. Due primarily to pressures from the NGO community, the WTO is now beginning to open a small window into the labyrinth of its rules and processes. In an effort to increase access to information and expand opportunities for participation and input by a wider range of interested stakeholders, the WTO has begun to invite NGOs to its symposia, accept NGO briefs in WTO dispute resolution proceedings, convene meetings with NGOs, and has developed an NGO forum section on the WTO website. These developments reflect changes (though still contested) regarding the roles of NGOs within the trade arena, and demonstrate to NGOs the value of targeting multilateral bodies in highly public ways and asserting concrete demands for the inclusion of civil society stakeholders outside of the business sector.

An upcoming opportunity for NGO participation is the Fifth WTO Ministerial Conference, which will be held in Cancun from September 10-14, 2003. The WTO Ministerial Conference is the highest decision-making body that meets at least once every two years. As provided for by Article V, paragraph 2 of the WTO Agreement, registration requests will be accepted from NGOS “concerned with matters related to those of the WTO.” The WTO website provides registration information (deadline for receipt of NGO registration requests is April 30, 2003), as well briefing background and materials. NGOs have already started to strategize over how to impact its proceedings. These discussions implicate ongoing policy debates regarding the appropriate (if any) relationship between trade and human rights.

In recent years, the case for normative and empirical connections between trade and human rights has also been advanced more visibly before both international business and human rights communities. For example, the UN Office of the High Commissioner for Human Rights (OHCHR), has issued reports and recommendations regarding trade, the environment, corporate responsibility and the advancement of human rights protections before various UN bodies and private sector groups.⁹ Amid a backdrop of rising concerns about the effects of globalization, United Nations Secretary-General Kofi Annan called on business leaders to join an international initiative - the Global Compact - in an address to The World Economic Forum on 31 January 1999. The idea of the Global Compact was to bring companies together with UN agencies, labor, NGOs and other civil-society actors to foster action and partnerships in the pursuit of good corporate citizenship, also referred to as “corporate responsibility,” “sustainable growth,” and the “triple bottom line.”¹⁰ The high-level launching event at UN Headquarters in New York on July 26, 2000, brought together senior executives from 50 major corporations and the leaders of labor, human rights, environment and development organizations. China held its first meeting of Global Compact in China in December 2002.

In a similar fashion, the lead-up to the 2008 Olympics and the context of China’s WTO implementation efforts will provide an environment of increased international scrutiny and attention that presents significant opportunities for a wider range of actors (media, governments, business, NGOs) to develop more effective strategies to advance human rights concerns in China.

The present global trading system is premised on the acceptance of liberal economic assumptions regarding the “problem” — how to maximize aggregate economic welfare — and the “solution” — markets functioning free from state interference. In the pre- WTO accession debates,¹¹ one argument posed by supporters of WTO accession for China suggested that economic liberalization and its accompanying legal reforms would create or at least encourage conditions conducive to more openness and political reform. However, as WTO implementation obstacles have since made clear, effective economic reform requires many of the same legal protections called for by proponents of political and civil rights reform.

Rather than validating a causal connection between trade and market liberalization followed by broader systemic

reforms — or the current Chinese bifurcation of political and economic reforms — it has become clear that economic reforms actually travel in the same development boat as reforms necessary to protect international human rights. Obstacles arising in the first year of China’s WTO implementation suggest significant overlap between the development of China’s new trade regime and a legal system that protects and promotes human rights. Proponents of both economic reforms and the protection of human rights point to structural and systemic problems in the legal system, problems of rampant corruption, the politicization of the decision-making processes due to the overarching role of the Party, and the urgent task of constructing a transparent, impartial and independent legal system.

If we compare the economic, political, and legal reforms necessary to develop China’s domestic system to integrate into both the global trade regime and the international human rights regime, we can see a number of parallels that feature values of transparency and rule of law. The absence of independent and competent courts and accountable administrative decision-making pose serious obstacles both for the protection of individual freedoms and for the protection of trading and investment rights.

Despite these similar values and goals, it is beyond the obvious to point out the differences in political will and effective implementation of these two arenas of China’s integration into the global community. In accepting the trade-offs of global economic integration and the extraordinary degree of international scrutiny and accountability, the Chinese authorities clearly believed that they had something to gain from economic reform. It is also clear they believe they have a great deal to lose and fear from genuine political reforms.

REFORMS	GLOBAL TRADE	INTERNATIONAL HUMAN RIGHTS
Economic	- Market & Capital liberalization	- Equitable distribution - Sustainable growth and development
Political	- Accountability & Transparency	- Accountability & Transparency
Legal	- Uniform, fair, & transparent laws & application - Independent judicial review	- Uniform, fair, & transparent laws & application - Independent judicial review - Due process

However, consider the following record of China’s participation in the international human rights regime:

Over past 20 years, China has voluntarily signed onto at least six core international human rights instruments aimed

at protecting the rights of children, women, ethnic minorities and other vulnerable groups.¹² By signing and ratifying these key documents, China has agreed to respect international standards and norms regarding freedom of expression, association, rights to information and numerous other fundamental rights. It has also agreed to comply with the self-reporting system and monitoring mechanisms set forth by each instrument. Yet, as documented by HRIC and other NGOs and international bodies, the government remains politically repressive and continues its crack-downs, executions, and detentions of religious leaders, internet activists, and individuals peacefully voicing their criticisms of the government, or advocating for democratic reforms. The economic and social disparities between the coastal and interior areas, between Han and ethnic minorities, and between urban and rural residents, continue to widen threatening stability and undermining the sustainability of any economic progress.

At the same time, consider the following aspects of China's WTO commitments and compliance efforts:

- The state has agreed to take on a pervasive and proactive role in advancing international trade regime values and implementing structural and specific WTO commitments through training, education, legislative reforms, including efforts to change a whole culture embedded in *guanxi* (relationship) networks as the way of "doing business"
- China is submitting itself to extensive and detailed foreign and international scrutiny over the next ten years or more, including providing information in a timely and responsive way, allowing for foreign review and input into legislative drafting processes, and agreeing to greater scrutiny and even more rigorous commitments than commitments of other WTO members.

Now, imagine if this were not about multilateral trade and domestic economic reforms, but about the promotion of international and domestic human rights and political reforms. Imagine if China accepted and promoted human rights commitments with the same degree of political will and institutional allocation of resources, and willingness to attempt fundamental changes in the prevailing culture and norms of "doing business."

At this point that may seem a naïve vision of what is possible. But twenty years ago it was unthinkable that one of the world's bastions of Communism would agree to undertake such radical economic reform, or welcome "advanced productive forces" (Party-speak for Capitalists) into the Communist Party. It is also important to keep in mind that the Party and the government leaders are not as monolithic as their public united front suggests. Just as reformers within the party advocated for the present economic reforms, there are also voices within the party aware of the benefits of political reforms, including a reassessment of the June 4th crackdown. Most importantly, despite on-going crack-downs and political repression, Chinese citizens continue to press for a more open, fair, and democratic China. In the international arena, pressure by

NGOs on multilateral bodies such as the WTO has opened up more opportunities for participation and input into policy-making that crosses the doctrinal barriers of trade, environment, labor rights, and human rights.

While recognizing the significant challenges for China to fully implement its WTO obligations, the international business community claims realistic expectations, but demands full WTO compliance with the letter and the spirit of the trade regime's obligations. The international human rights regime demands no less.

1. I summarize some of these debates and suggest a more critical examination of the "playing by the rules" rhetoric and the values and goals underlying the rules, and their impact on the distributive consequences of trade policies, environmental concerns, and other human rights concerns in Sharon K. Hom, *Playing by Whose Rules: Global trade and Human Rights*, *China Rights Forum*, Spring 2000: 22-28.
2. See <http://www.wto.org> for general WTO background, country-specific information, accession and review documents, and an NGO informational section.
3. China was one of the original GATT signatories in 1948. After the Chinese revolution in 1949, the government in Taiwan withdrew from GATT. In early 1965, Taiwan was granted observer status at GATT sessions; however this status was removed in 1971 following UN General Assembly decision to recognize the People's Republic of China as the only legitimate government of China. In September 1992, the GATT Council of representatives decided to establish a separate working party to examine Taiwan's request for accession as a separate customs territory. Hong Kong as a British Crown Colony became a GATT member in April 1986. However, following the resumption of sovereignty by China in 1997, Hong Kong became a Special Administrative Region of China (SAR). As such, it has the status of a separate customs territory and can conduct trade, maintain relations, and conclude and implement agreements with States, regions and relevant international organizations in economic, trade and other fields. Under Article XI of the Marrakesh Agreement establishing the WTO, Hong Kong became an original member of WTO, under the name, "Hong Kong, China." <http://www.wto.org>
4. The GATS categorizes services into 12 general sections with 154 subsections. Members may decide which services to include in their services schedules and what limitations on market access and national treatment will be allowed.
5. These committees and trade councils are generally organized according to various trades subjects, e.g. the Council for Trade in Goods, the Council for Trade in Services, and the Committees on Agriculture and Technical barriers to Trade. See Annex 1A Accession Protocol.
6. By comparison, the four largest WTO traders, EU, U.S., Japan, and Canada (the "Quad") are reviewed every two years and the next 16 countries with the largest share of world trade are reviewed every four years. The uniquely more rigorous review demanded of China is in part due to potential impact of the sheer size of China's economy on the global system and the range of concerns articulated by WTO members during the accession process regarding China's ability to effectively implement its commitments.
7. China must provide detailed data and economic information on China's: (1) economic policies; (2) framework for making and enforcing policies; (3) policies affecting goods and services; and (4) trade-related intellectual property regime. Annex 1A, Accession Protocol.
8. For the limited purposes of the present discussion, I use rule of law to

reference its usage within the WTO framework as well as the international human rights framework and to refer to a system that features independent and impartial decision-makers, transparent and open rules that apply uniformly to all, and a process that ensures the protection of fundamental rights and interests. The definition and scope of what a rule of law entails also raise a number of issues, reflecting a range of conceptions and relationships (or not) to political reforms and human rights concerns. The forthcoming spring 2003 issue of the *China Rights Forum* will be devoted to exploring and addressing many of these issues. For one survey study, see Barry Hager, *The Rule of Law; Alexicon for Policymakers*. Commissioned by the Mansfield Center for Pacific Affairs (1999).

9. See OHCHR website and links at: <http://www.unhcr.ch>
10. For a compilation of relevant international treaties, codes, and multilateral, private sector, and NGOs groups working on corporate responsibility issues in China, see *Corporate Responsibility Resources Guide*, *China Rights Forum*, Spring 2003.
11. Sharon K. Hom, *Playing by Whose Rules: Global trade and Human Rights*, *China Rights Forum*, Spring 2000: 22-28.
12. The Convention on the Rights of the Child (1992); UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment (1988); Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), (1980); International Convention For Elimination of Racial Discrimination (CERD) (1981); International Covenant on Economic, Social, and Cultural Rights (China signed in 1997, ratified 2/01 with reservations re: independent unions); International Covenant on Civil and Political Rights (signed on October 5, 1998, not yet ratified)

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Abbreviations

- AD – Anti-dumping
AD Agreement – Anti-Dumping Agreement (WTO Agreement on Implementation of Article VI of the GATT 1994)
AQSIQ – China's State Administration of Quality Supervision and Inspection and Quarantine
CIRC – China Insurance Regulatory Commission
CVD – Countervailing duty
GATS – General Agreement on Trade in Services
GATT – General Agreement on Tariffs and Trade
GPA – Agreement on Government Procurement
IPR – Intellectual Property Rights
ITA – International Technology Agreement
MFN – Most Favored Nation
MII – Ministry of Information Industry (MII)
MOA – China's Ministry of Agriculture
MOFTEC – Ministry of Foreign Trade and Economic Cooperation
NTM – Non-Tariff Measures
SACS – State Administration of China for Standardization
SETC – China's State Economic and Trade Commission
SDPC – China's State Development and Planning Commission
SPS Agreement – Agreement on the Application of Sanitary and Phytosanitary Measures
TBT Agreement – Agreement on Technical Barriers to Trade
TRIMS – Agreement on Trade Related Investment Measures
TPSC – US Trade Policy Staff Committee
TRIPS Agreement – Trade-Related Aspects of Intellectual Property Rights
TRIPS Council – Council for Trade-related Aspects of Intellectual Property Rights
TRM – Transitional Review Mechanism
TRQ – Tariff Rate Quota
USTR – U.S. Trade Representative
WIPO – World Intellectual Property Organization
WTO – World Trade Organization