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Sanja Jelisavac Trošić<sup>1</sup>

## CHINA, GLOBAL TRADE UNCERTAINTY AND THE WORLD TRADE ORGANIZATION REFORM

### Apstrakt

*This paper seeks to address the global trade uncertainty caused by unilateral actions tightening the situation around tariffs and trade. In order to meet the criteria for joining the WTO China had to reform trade regime, implement trade liberalization measures and carry out structural changes in the economy. China has become an active WTO member, and has sharply increased its share of world trade. Build-up of trade tariffs between the United States and China has caused the concern in the international community. In dispute between world's two biggest economies WTO still has no adequate answer. The WTO needs to go through substantive reforms and modernization to meet changes and requirements of the modern world in order to regain its status as major arbiter of international trade. There are many different proposals for future WTO reform. China supports reforms of the WTO and resolving trade disputes between USA and China. China has opened the door for negotiations.*

**Keywords:** China, Trade, World Trade Organization, Reform, USA.

### CHINA IN THE WTO

During the accession negotiations, China had to reform its trade regime in order to meet the WTO requirements. Reforms of the trading system were linked with the reform of the enterprise sector to allow indirect regulation through market-determined prices to replace direct regulation of enterprise outputs.<sup>2</sup> The biggest structural change in China's economy during reforms was the rapid growth of the

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<sup>1</sup> Dr Sanja Jelisavac Trošić, Research Fellow, Institute of International Politics and Economics, Belgrade, Serbia. Email: sanjajelisavac@gmail.com.

<sup>2</sup> Ianchovichina, E. (2001). Trade Liberalization in China's Accession to WTO. Journal of Economic Integration, 16, 421-445.

non-state economy.<sup>3</sup> China's WTO entry, implementation of trade liberalization measures, and China's performance in the global market after accession have left a mark both, on China economy and on the world economy.<sup>4</sup>

The Working Party on China's status was established under the GATT in 1987 but China has never formally completed its accession to the GATT. The Uruguay Round led to the creation of the World Trade Organization (WTO), with the GATT remaining an integral part of the WTO agreements.<sup>5</sup> China applied for the accession to the Marrakesh Agreement establishing the World Trade Organization pursuant to Article XII of the WTO Agreement on December 7, 1995. After almost 15 years of negotiations, China's application for membership was accepted at the WTO's Doha ministerial meeting in November 2001. China became the 143rd member of the WTO on December 11, 2001.

China's WTO accession, according to the World Bank research (Bhattasali, Li, Martin, eds.) had impact on policy reforms, economic impacts, impact on household and on poverty. On one hand, after joining the WTO China has become an active and prominent member, and has sharply increased its share of world trade since joining. On the other hand China faces many challenges, particularly in dealing with the widening gap between urban and rural incomes.<sup>6</sup>

The Doha Development Agenda (DDA) was launched at the WTO Fourth Ministerial Conference (when China became a member) held from November 9–13,

<sup>3</sup> See: Fewsmith, J. (2001). The political and social implications of China's accession to the WTO. *The China Quarterly*, 167, 573-591.

<sup>4</sup> See: Wang, Z. (2003). The impact of China's WTO accession on patterns of world trade. *Journal of Policy Modeling*, 25(1), 1-41.; Ianchovichina, E., & Martin, W. (2006). Trade impacts of China's world trade organization accession. *Asian Economic Policy Review*, 1(1), 45-65.; Zhai, F., & Wang, Z. (2002). WTO accession, rural labour migration and urban unemployment in China. *Urban Studies*, 39(12), 2199-2217.; Walmsley, T. L., Hertel, T. W., & Ianchovichina, E. (2006). Assessing the impact of China's WTO accession on investment. *Pacific Economic Review*, 11(3), 315-339.; McKibbin, W. J., & Woo, W. T. (2003). The consequences of China's WTO accession for its neighbors. *Asian Economic Papers*, 2(2), 1-38.; Gertler, J. L. (2004). What China's WTO accession is all about. *China and the WTO*, 21-28.; Blancher, M. N. R., & Rumbaugh, M. T. (2004). China: international trade and WTO accession (No. 4-36). *International Monetary Fund*.; Tong, Z. (2006). Development of China and World Trade, *The J. World Trade*, 40, 129.

<sup>5</sup> Jelisavac Trošić S. (2015) *Pregovori u okviru GATT i STO*, Institut za međunarodnu politiku i privredu, Beograd, 31-32.

<sup>6</sup> See: Bhattasali, D., Li, S., & Martin, W. J. (Eds.). (2004). *China and the WTO: accession, policy reform, and poverty reduction strategies*. The World Bank.

2001. During the Doha Round negotiations, countries formed coalitions in order to speak with one voice using a single coordinator or negotiating team. China became a member of several groups in the negotiations: Asian developing members, APEC (Asia-Pacific Economic Cooperation forum), Article XII Members<sup>7</sup>, G-20<sup>8</sup>, G-33<sup>9</sup>, Paragraph 6 countries<sup>10</sup>, FANs (Friends of A-D Negotiations)<sup>11</sup>, “W52” sponsors<sup>12</sup>. China actively participates in all kinds of WTO activities, including regular Council and Committee activities and DDA negotiations. Within the WTO dispute settlement mechanism China is involved in 20 cases as complainant, 43 cases as respondent, and 168 cases as third party.<sup>13</sup>

By declaring itself a developing country as part of the negotiations, China was able to take on fewer commitments at the WTO. Developing country status in the WTO brings certain rights, like provisions in some WTO Agreements, ‘special and differential treatment’, ranging from longer timetables for implementing agreements to weaker market access commitments, receiving technical assistance, etc.<sup>14</sup>

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<sup>7</sup> Article XII Members, or Recently Acceded Members (RAMs), i.e., countries that negotiated and joined the WTO after 1995, seeking lesser commitments in the negotiations because of the liberalization they have undertaken as part of their membership agreements. Excludes least-developed countries because they will make no new commitments, and EU members.

<sup>8</sup> Coalition of developing countries pressing for ambitious reforms of agriculture in developed countries with some flexibility for developing countries (not to be confused with the G-20 group of finance ministers and central bank governors, and its recent summit meetings).

<sup>9</sup> Also called “Friends of Special Products” in agriculture. Coalition of developing countries pressing for flexibility for developing countries to undertake limited market opening in agriculture.

<sup>10</sup> Group of countries with less than 35% of non-agricultural products covered by legally bound tariff ceilings. They have agreed to increase their binding coverage substantially, but want to exempt some products. (In paragraph 6 of the first version of the NAMA text, later paragraph 8.).

<sup>11</sup> Coalition seeks more disciplines on the use of anti-dumping measures.

<sup>12</sup> Sponsors of TN/C/W/52, a proposal for “modalities” in negotiations on geographical indications (the multilateral register for wines and spirits, and extending the higher level of protection beyond wines and spirits) and “disclosure” (patent applicants to disclose the origin of genetic resources and traditional knowledge used in the inventions). The list includes as groups: the EU, ACP and African Group.

<sup>13</sup> Details of the cases can be found: WTO, Dispute cases involving China, [https://www.wto.org/english/thewto\\_e/countries\\_e/china\\_e.htm](https://www.wto.org/english/thewto_e/countries_e/china_e.htm).

<sup>14</sup> WTO, Development: Definition, [https://www.wto.org/english/tratop\\_e/devel\\_e/d1who\\_e.htm](https://www.wto.org/english/tratop_e/devel_e/d1who_e.htm), 11.12.2018.

## GLOBAL TRADE UNCERTAINTY

With “America First” trade policy USA is defying multilateralism within the WTO, with potential far reaching consequences for the world trade order. Unilaterally raise of trade tariffs between the United States and China, especially during 2018, and the risk of a possible trade war, have caused the concern in the international community. In mid-April 2018, the International Monetary Fund (IMF) indicated that a trade conflict between the US and China would have a detrimental effect on projected global economic growth.<sup>15</sup> Until now total US tariffs applied exclusively to China is US\$250 billion, and total Chinese tariffs applied exclusively to US are US\$110 billion.<sup>16</sup> On January 7, official delegations from US and China began trade talks, after presidents of China and America met at the recent G20 summit in Argentina and agreed to a 90-day truce. According to the agreement, both the US and China will refrain from increasing tariffs or imposing new tariffs for 90 days (until March 1, 2019), as the two sides work towards a larger trade deal. WTO is paralyzed after being caught in crossfire of dispute between world’s two biggest economies and still has no adequate reaction to the conflict.<sup>17</sup>

The DDA has by now continued for 17 years, still remained unresolved, after missing its official deadline of 2005. During that time numerous changes have taken place in the international trade.<sup>18</sup> Geopolitical forces and trading interests have shifted, the number of WTO Members has been consistently on the rise, and many new regulatory challenges have come to the forefront. Unlike in the Uruguay Round, a lot of member countries are seeking participation in the negotia-

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<sup>15</sup> See: Obstfeld, M. (2018). *Global economy: good news for now but trade tensions a threat*. <https://blogs.imf.org/2018/04/17/global-economy-goodnews-for-now-but-trade-tensions-a-threat/>; Giles, C. (2018). *IMF chief warns trade war could rip apart global economy*. <https://www.ft.com/content/c8c4bb22-3ccd-11e8-b9f9-de94fa33a81e>., 22.07.2018.

<sup>16</sup> China briefing, *The US-China Trade War: A Timeline*, <https://www.china-briefing.com/news/the-us-china-trade-war-a-timeline/>, 24.02.2019.

<sup>17</sup> See: U.S. and China Blame Each Other at the WTO for the Current Trade War, <http://fortune.com/2018/12/19/china-us-trade-war-wto/>; WTO paralysed as leaders try to defuse US-China trade war, <https://www.scmp.com/news/china/diplomacy/article/2175925/wto-paralysed-leaders-try-defuse-us-china-trade-war>.

<sup>18</sup> Jelisavac Trošić, S. (2017). *Challenges to Ensure that the Regulatory Framework Keeps Up with Changes in the Global Trade*, in: *Social and Economic Problems and Challenges in the Contemporary World*. Global Resource Management, Doshisha University, Japan, Institute of International Politics and Economics, Belgrade.

tions. These changes inevitably made it even more difficult to reach consensus.<sup>19</sup> Some critics argue that the breakdown or blockade of the Doha Round came first of all because of the US and the EU was asking too much. Namely, unrealistic requirements for modalities, for reducing subsidies, and customs in agriculture, and the ways in which negotiations on access to the market for industrial products will continue, and the flexibility to be provided to developing countries. Polarization in the WTO on developed and on developing countries has become deeper.<sup>20</sup> Due to the blocking of the process of multilateral negotiations within the WTO framework over the past decades, the number of bilateral and regional agreements has increased.<sup>21</sup> If the WTO does not reform quickly, the Trans-Pacific Partnership (TPP) along with other mega-regional trade agreements like the Comprehensive Economic and Trade Agreement (CETA), the United States-Mexico-Canada Agreement (USMCA) and the Transatlantic Trade and Investment Partnership (TTIP) could function as a force that pushes trade negotiators around the world to withdraw support away from WTO, and into mega-trading blocs of their own.<sup>22</sup> The main reason for the ineffectiveness of resolving WTO regulatory issues is the lack of confidence among member states. There is general distrust among them, and trust is indispensable in overcoming the more numerous challenges.<sup>23</sup>

Member States of the WTO increasingly and more often resolve their disagreements in the field of trade through a dispute settlement mechanism, rather than in direct negotiations. The United States objected to the reappointment of its own

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<sup>19</sup> Adlung, R., & Mamdouh, H. (2018). Plurilateral trade agreements: an escape route for the WTO?. *Journal of World Trade*, 52(1), 85-111. p. 21.

<sup>20</sup> Pankaj, P. K. (2006). Whither WTO: Future of Doha Round. *Asia Pacific Business Review*, 2(2), 92—99.

<sup>21</sup> See: Nicita, A., Olarreaga, M., & Silva, P. A. (2013). Cooperation in WTO's tariff waters; Tomz, M., Goldstein, J. L., & Rivers, D. (2007). Do we really know that the WTO increases trade? Comment. *American Economic Review*, 97(5), 2005—2018; Goldstein, J. L., Rivers, D., & Tomz, M. (2007). Institutions in International Relations: Understanding the Effects of the GATT and the WTO on World Trade. *International Organization*, 61(1), 37—67; Antevski, M., Jelisavac Trošić, S. (2016). „Chinese Response to Transatlantic Trade and Investment Partnership and Trans Pacific Partnership“, *The Review of International Affairs*, Vol. LXVII, No. 1161, January–March 2016, Institute of International Politics and Economics, Belgrade.

<sup>22</sup> Ruvalcaba, J. (2018). What We Have Lost with the TPP: Value-Driven Trade, a Trigger for WTO Reform. *Ariz. J. Int'l & Comp. L.*, 35, 349. p. 373.

<sup>23</sup> Messerlin, Patrick (2014). East Asia and the EU: Which Contribution to the World Trade System?, Paper presented at the Second East Asia-EU Round Table, Chinese Academy of Social Sciences, January 9, 2014.

representative to the Appellate Body, the reappointment of representatives from Korea, and adopted a procedural position to postpone the nomination of other candidates to replace retirement members of the Appellate Body. Although officially not on the agenda for the eleventh Ministerial Conference in Buenos Aires, these moves of the United States were a topic of intense conversation.<sup>24</sup> In this way the US practically paralyzed the work of the Appellate Body, which is another problem that needs to be solved by the WTO reform.

In a way, there is a pat-position. On the one hand, the impossibility of reaching an agreement on the Doha round increases the dispute settlement cases, causing a deluge in this system. The result is a blockade of the most important functions of the WTO itself in regulating the international trade.

According to the Gathii there are at least two reasons for the legitimacy crises in the WTO: 1. organizational and procedural barriers to the full participation of the developing countries in negotiating new trade agreements, reforming the old ones and being fully involved in the governance of the WTO; 2. Pre-existing WTO rules that are heavily biased in favor of developed against developing countries (example subsidies in agriculture). Reforms of procedural and organizational matters without reforms in substantive issues, such as trade distorting subsidies, would only partially resolve WTO legitimacy crises.<sup>25</sup>

## REFORMING WTO

For many years now in expert and scientific discussions, the need for a broad reform of the WTO was emphasized.<sup>26</sup> It is evident that the WTO is not managing international trade like it is supposed to.

<sup>24</sup> Condon, B. J. (2018). Captain America and the Tarnishing of the Crown: The Feud Between the WTO Appellate Body and the USA. *Journal of World Trade*, 52(4), 535—556.

<sup>25</sup> Gathii, J. T. (2003). Process and Substance in WTO Reform. *Rutgers L. Rev.*, 56, 885.

<sup>26</sup> See: Gathii, J. T. (2003). Process and Substance in WTO Reform. *Rutgers L. Rev.*, 56, 885, which calls for the following sources: Jawara, Fatoumata & Kwa, Aileen (2003). Behind the Scenes at the WTO: The Real World of International Trade Negotiations, 269—70; The WTO and the Doha Round: The Changing Face of World Trade (Ross P. Buckley ed.) (2003); Charnovitz, Steve (2003). The Emergence of Democratic Participation in Global Governance (Paris, 1919), *10 Ind. J. Global Legal Stud.* 45, 49—50; Charnovitz, Steve (2002). WTO Cosmopolitics, 34 *N. Y. U. J. Int'l L. & Pol.*, 299, 299; Esty, Daniel C. (2002). The World Trade Organization's Legitimacy Crisis, *1 World Trade Rev.*, 7, 11; Shaffer, Gregory C. (2001). The World Trade



The practice of decision-making by consensus, among many researchers is identified as obstacle to reaching agreement under the WTO negotiations. The rule is that every WTO member must either vote in favor of an agreement or miss the vote for that agreement to bind all parties under the WTO. Under Pauwelyn's proposal, the agreement would not bind those who objected to it or failed to ratify it. This new interpretation of the rule would prevent dissenters from blocking the progress made by the parties who have agreed to new terms. Since the problem of countries constantly claiming exceptions and waivers to many of the obligations imposed on them through this rule, Pauwelyn argues that the WTO would be more effective at enforcing compliance with individual commitments if it allowed countries to be bound only by the terms they had explicitly negotiated and agreed to. Consequently, the need to grant rule exceptions to countries claiming "developing" status would disappear.<sup>27</sup> Another potential way out is resorting more frequently to plurilateral, critical-mass based negotiations in producing outcomes that apply on an MFN basis. Such kinds of plurilaterals have traditionally been the main approach in market access negotiations in the GATT/WTO system. A

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Organization Under Challenge: Democracy and the Law and Politics of the WTO's Treatment of Trade and Environment Matters; *Harv. Envtl. L. Rev.* 1, 1; Bernal, Luisa et al. (2004). South-South Cooperation in the Multilateral Trading System: Cancun and Beyond 29 (South Centre, Trade-Related Agenda, Development and Equity (, T. R. A. D. E.), Working Paper No. 21, May 2004); Byers, Stephen. Comment, Developments, <http://www.developments.org.uk/data/comment00.htm>; Narlikar, Amrita (2001). WTO Decision-Making and Developing Countries 14—19 (South Centre, T. R. A. D. E. Working Paper No. 11, Nov. 2001); Ostry, Sylvia (2004). The World Trading System: In the Fog of Uncertainty, Presented at Lehigh University (April 2004), available at: <http://www.utoronto.ca/cislWorldTradingSysteminUncertainty.doc>; European Commission Directorate-General for Trade, The Doha Development Agenda After Cancun 8 (25. septembar 2003), <http://www.ictsd.org/ministerial/cancun/docs/COMMISSION-Cancun-and-Beyond-Sept-03.pdf> (28. septembar 2004); World Trade Organization, Establishment of the Trade Negotiations Committee (TNC) and Related Issues: Communication from Cuba, Dominican Republic, Egypt, Honduras, Kenya, Pakistan, Tanzania, Uganda and Zimbabwe, WT/GC/58 (21. decembar 2001). [http://docsonline.wto.org/GEN\\_viewerwindow.asp?D:/DDFDOCUMENTST/WTGC/58.DOC.HTM](http://docsonline.wto.org/GEN_viewerwindow.asp?D:/DDFDOCUMENTST/WTGC/58.DOC.HTM).

<sup>27</sup> Joost Pauwelyn, The WTO in Crisis: Five Fundamentals Reconsidered, WTO PUBLIC FORUM (Sept. 2012), [https://www.wto.org/english/forums\\_e/public\\_forum12\\_e/art\\_pf12\\_e/article\\_e.htm?art=9](https://www.wto.org/english/forums_e/public_forum12_e/art_pf12_e/article_e.htm?art=9); Gary Clyde Hufbauer & Cathleen Cimino-Isaacs, How Will TPP and TTIP Change the WTO System?, 18 *J. INT'L ECON. L.* 679, 686 (2015); see GATT, *supra* note 68, at art. XVII. Referred to by: Ruvalcaba, J. (2018). What We Have Lost with the TPP: Value-Driven Trade, a Trigger for WTO Reform. *Ariz. J. Int'l & Comp. L.*, 35, 349. p. 373.

further step in the negotiating agenda would be the use of such open PAs not only for the market-access track, but also for rules-related negotiations.<sup>28</sup>

WTO director general is having conversations aimed at strengthening this organization, and encourages EU to help address some of the key challenges in global trade, including current trade tensions and the impasse in the WTO's dispute settlement system.<sup>29</sup> The WTO Secretariat has demonstrated itself to be incapable of facilitating the open debate, and WTO members end up negotiating with the Secretariat rather than with each other. All members of the WTO must come up with a democratic decision making framework clear criteria for inclusive decision making. These criteria would replace the current consensus model adopted by the WTO, which favor the most powerful members of the WTO.<sup>30</sup>

The lack of progress in the Doha Round reflects the assessment of major players that what has emerged on the negotiations is not of sufficient interest to them. Any outcome, even if endorsed by a majority, will not be implemented if one or more powerful countries find it unacceptable. Much of the economic analysis of specific proposals for WTO reform suggests that the effects of moving away from the status quo on the incentives to cooperate may be perverse—reducing the willingness to agree to rules and to make commitments. Information, knowledge and understanding of the effects of trade and regulatory policy are critical inputs into the agenda-setting, the negotiating, the implementation and the monitoring of the implementation stages of trade agreements. Not enough attention has been devoted to this by the WTO, and the literature on WTO reform. More and better data on applied policies, on the countries affected/targeted, and the specific product (tariff lines) involved is a public good, which is underprovided by the WTO. The more structural WTO reforms should focus more on how to bolster this learning dimension.<sup>31</sup>

According to the conclusions of the European Council of 28 June 2018, the European Commission was given the mandate to propose a comprehensive approach to improving the functioning of the WTO, with the aim of achieving: 1) that WTO

<sup>28</sup> Adlung, R., & Mamdouh, H. (2018). Plurilateral trade agreements: an escape route for the WTO?. *Journal of World Trade*, 52(1), 85-111. p. 22.

<sup>29</sup> WTO, DG Azevêdo: EU leadership vital to strengthening trading system, [https://www.wto.org/english/news\\_e/news19\\_e/dgra\\_22feb19\\_e.htm](https://www.wto.org/english/news_e/news19_e/dgra_22feb19_e.htm), 22.02.2019.

<sup>30</sup> Gathii, J. T. (2005). The high stakes of WTO reform. *Mich. L. Rev.*, 104, 1361.

<sup>31</sup> Hoekman, B. (2011). *Proposals for WTO reform: a synthesis and assessment*. The World Bank.



becomes more relevant and adaptable to changes in the world, and 2) to strengthen the effectiveness of the WTO.<sup>32</sup> WTO modernization ideas relate to three key areas: 1) updating the rule book on international trade to capture today's global economy; 2) strengthening the monitoring role of the WTO; 3) overcoming the imminent deadlock on the WTO dispute settlement system.<sup>33</sup>

Canada proposes a range of instruments that could be used to gradually modernize and strengthen the WTO. In most cases, these are solutions that do not imply modification of existing WTO agreements.<sup>34</sup>

Regarding the proposal for reform and modernization of the WTO, the United States agrees with the majority of the proposals of the European Union and Canada, with the exception of proposals for resolving delays in the Appellate Body (EU) and seeking a conciliatory solution among all WTO member states (Canada). The United States advocates the establishment of new rules in the WTO, ignoring, for example, Canada step by step approach, but directly criticizing China and claiming it is no longer compatible with the WTO system (as a non-market economy). The key positions of the US administration on the direction to reform the WTO are listed in the documents of the Office of the United States Commercial Representative.<sup>35</sup>

Despite its shortcomings the WTO has a broad deliberative and exploratory function concerning all issues relating to the conduct of trade relations between member countries. This function has been invisible on various occasions by linking it closely with negotiating propositions and the stalemate in the Doha Round.<sup>36</sup> How-

<sup>32</sup> Concept paper, WTO modernization, European Commission, [http://trade.ec.europa.eu/doclib/docs/2018/september/tradoc\\_157331.pdf](http://trade.ec.europa.eu/doclib/docs/2018/september/tradoc_157331.pdf).

<sup>33</sup> EU, European Commission presents comprehensive approach for the modernisation of the World Trade Organisation, [http://europa.eu/rapid/press-release\\_IP-18-5786\\_en.htm](http://europa.eu/rapid/press-release_IP-18-5786_en.htm), 23/12/2018.

<sup>34</sup> For more details see: WTO, Strengthening and modernizing the WTO: discussion paper, Communication from Canada, september 2018.

<sup>35</sup> *For example*: USTR (2017). Report to Congress On China's WTO Compliance, January 2018, <https://ustr.gov/sites/default/files/files/Press/Reports/China%202017%20WTO%20Report.pdf>; USTR (2018). Trade Policy Agenda and 2017 Annual Report of the President of the United States on the Trade Agreements Program, <https://ustr.gov/sites/default/files/files/Press/Reports/2018/AR/2018%20Annual%20Report%20FINAL.PDF>.

<sup>36</sup> In this context, the WTO's former Director General Pascal Lamy has coined the term of a 'missing middle'. See also: Low, 'Potential Future Functions of the World Trade Organization', and Evenett, 'Aid for Trade and the "Missing Middle" of the World Trade Organization', 15

ever, there are no suitable other settings, regional agreements would never be able to serve similar functions. Regardless of what happens in the DDA, it is essential to resuscitate and promote the WTO's role as a forum for conceptual exploration and exchanging ideas.<sup>37</sup> Reforms could help the WTO regain its status as major arbiter of international trade.

## CHINA'S INTERESTS

Since joining the WTO in 2001, China has been treated as a developing country and has benefited from all the benefits of such treatment within this organization. It remains a developing country, even after more than a decade of rapid economic development. China's argument for retaining this status is that, despite the fact that in the last decade there has been rapid progress, there are, as a result of the large number of inhabitants (1.39 billion), the low parameters of economic development *per capita* (pc). According to IMF statistics, in 2017, China's GDP per capita was \$ 8,643, which is only 14,5% of GDP per capita in the USA. According to this parameter, China is ranked as the 71st country in the world. By the end of 2017, 30.46 million rural residents lived in poverty. China considers unfair to demand absolute equality at tariffs rates between China and the US simply based on China's GDP and trade volume. Also, the US approach to absolute equality violates the WTO principles of the most favorite nation and the principle of non-discrimination.<sup>38</sup>

Over time, by investing in human capital to build legal capacity, China became a rival to the USA and EU in WTO dispute settlement and other trade areas. As a result, the USA and the EU would have to work with China if the WTO were to remain a meaningful multilateral institution for fostering global legal order and prosperity.<sup>39</sup> Yet, pessimism now builds regarding the multilateral trade legal order and China, especially with the rise of economic nationalism in the USA and

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Global Governance (2009) 327 and 359. referred to by Adlung, R., & Mamdouh, H. (2018). Plurilateral trade agreements: an escape route for the WTO?. *Journal of World Trade*, 52(1), 85-111.

<sup>37</sup> Adlung, R., & Mamdouh, H. (2018). Plurilateral trade agreements: an escape route for the WTO?. *Journal of World Trade*, 52(1), 85-111.

<sup>38</sup> The Facts and China's Position on China-US Trade Friction, Information Office of the State Council The People's Republic of China, septembar 2018, 24—25.

<sup>39</sup> Shaffer, G., & Gao, H. (2018). China's Rise: How It Took on the US at the WTO. *U. Ill. L. Rev.*, 115. p. 183.

EU affected by the Brexit. That pessimism undercuts those advancing rule of law reforms in China. It reflects and supports the rise of populism, nationalism, demagoguery, and xenophobia in politics around the world.<sup>40</sup>

Ironically, China could become the upholder of a multilateral trade legal order that the USA and EU created, following World War II and deepened after the collapse of the Soviet Union. China has become an advocate of trade liberalization. Some viewpoints even suggest that China took over the leading role in WTO.<sup>41</sup> But still, if the USA withdraws its support, the WTO would probably fade away. The world has experienced the implications of USA abandonment of an international institution (the League of Nations), especially when economic crises break. To maintain the WTO as a multilateral organization to foster economic order, stabilize growth, and encourage the peaceful settlement of disputes through law, the first of all USA, EU, and China would need to join efforts. The alternative of leaving economic nationalism unchecked could be dire.<sup>42</sup>

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<sup>40</sup> See: Sewell Chan, A Future Haunted by Ghosts of the Past, N.Y. TIMES (Sept. 22, 2016), <http://www.nytimes.com/2016/09/23/world/europe/a-future-haunted-by-ghosts-of-the-past.html> (quoting former

Greek foreign minister on the “rise of nationalism, populism, demagoguery and xenophobia”); David E. Sanger, Hopes for Democracy’s Spread Meet with Harsh Facts, N.Y. TIMES (Sept. 14, 2016), <http://www.nytimes.com/2016/09/14/world/hopes-for-democracys-spread-meet-with-harsh-facts.html> (rise of nativism). In the U.S., for example, the Republican candidate Donald Trump successfully attacked “bad trade deals” and trade with China to build support at the same time that he vowed to put the Democratic candidate Hillary Clinton in jail once elected. See, e.g., Jim Tankersley, How the Politics of Trade Changed So Fast, WASH. POST (Oct. 7, 2016), [https://www.washingtonpost.com/news/wonk/wp/2016/10/07/how-the-politics-of-trade-changed-so-fast/?utm\\_term=.42c045311011](https://www.washingtonpost.com/news/wonk/wp/2016/10/07/how-the-politics-of-trade-changed-so-fast/?utm_term=.42c045311011); Matt Zapposky, One of Clinton’s Biggest Critics in Email Case Says He’d Tell Trump Not to Jail Her, WASH. POST (Oct. 10, 2016), [https://www.washingtonpost.com/world/national-security/one-of-clintons-biggest-critics-in-email-case-says-hed-tell-trump-not-to-jail-her/2016/10/10/28a03b68-8ef9-11e6-a6a3-d50061aa9fae\\_story.html?utm\\_term=.150fe88ab734](https://www.washingtonpost.com/world/national-security/one-of-clintons-biggest-critics-in-email-case-says-hed-tell-trump-not-to-jail-her/2016/10/10/28a03b68-8ef9-11e6-a6a3-d50061aa9fae_story.html?utm_term=.150fe88ab734).

<sup>41</sup> See: Blanchard, J. M. F. (2015). The people’s republic of China leadership transition and its external relations: Still searching for definitive answers. *Journal of Chinese Political Science*, 20(1), 1-16. ; Schlesinger Jacob M., (1 November 2017): “How China Swallowed the WTO”, *The Wall Street Journal*, <https://www.wsj.com/articles/how-china-swallowed-the-wto-1509551308>

<sup>42</sup> Gregory Shaffer & Michael Waibel, The Rise and Fall of Trade and Monetary Legal Orders: From the Interwar Period to Today’s Global Imbalances, in *Contractual Knowledge: One Hundred Years Of Legal Experimentation* 289-333 (Gregoire Mallard & Jerome Sgard eds., Cambridge University Press 2016).

China's position on the problems and disputes arising from China-US economic relations is that all disagreements should be dealt with in a cooperative way. The solution would be reached through bilateral consultations or a mechanism for resolving disputes by the WTO, in a way acceptable to both parties. China opened the door for negotiations. Trade disputes between the United States and China, as the world's largest economy, should be resolved as soon as possible, bearing in mind world economic stability and prosperity, as well as world peace and development. According to China's view, cooperation with the United States can lead to mutual benefits, while confrontation will not bring good to anyone.<sup>43</sup>

The fundamental goals of the WTO include ensuring sustainable development and environmental protection, raising standards of living, realizing full employment, and ensuring that developing countries secure a share in the growth of international trade for the needs of their economic development.<sup>44</sup> The WTO specifically emphasizes that increasingly open and expanding global trade is of ultimate importance in achieving the above goals.<sup>45</sup>

China's rise has generated considerable debate. China represents a "threat" to the international system that dates back more than 200 years to the West's first regularized dealings with China. Outside of the country, much of the debate has concentrated on whether China will be a "system-challenging" (a "revisionist") power, or one that is "status quo" preserving.<sup>46</sup>

According to the Ministry of Commerce of the People's Republic of China (MOF-COM) WTO is threatened by three factors: 1) dispute settlement regime is at the risk of paralysis; 2) certain WTO members raising tariffs by abusing the security exception clause; 3) some members taking unilateral approaches in disregard of the WTO's multilateral rules. The position of China is to support necessary reforms of the WTO in order to strengthen its authority and effectiveness. WTO reforms

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<sup>43</sup> Jelisavac Trošić, S., Todić D., Stamenović M. (2018) Svetska trgovinska organizacija, životna sredina i sistem zdravstvene zaštite. Institut za međunarodnu politiku i privredu. Beograd.

<sup>44</sup> Jelisavac Trošić, S. (2018). Serbia's Sustainable Development Strategy and Industrial Policy for the European Union and the World Trade Organization, in: M Yülek (ed.), *Industrial Policy and Sustainable Growth*, Springer, Singapore.

<sup>45</sup> Guijun, L., & Bi, T. (2015). China's role in the WTO: Opening up as a way to push forward reforms and combat trade protectionism. In *China's WTO Accession Reassessed* (pp. 461-476). Routledge.

<sup>46</sup> Scott, J., & Wilkinson, R. (2015). China as a System Preserving Power in the WTO. In *Rising Powers and Multilateral Institutions* (pp. 199-218). Palgrave Macmillan, London.

should follow three fundamental principles: the reform should uphold the WTO core values of non-discrimination and opening, 2) protect development interests of developing members and address their difficulties in integrating into economic globalization, 3) follow the mechanism of decision-making by consensus. Reforms should resolve the issues as soon as possible so as to ensure the normal functioning of the WTO.<sup>47</sup>

### CONCLUSION REMARKS

The world today is lost the purpose of free trade - to improve quality of life, and not to widen inequality. Reforming the WTO instead of dismantling the multilateral trading system is the best solution all around. We think that the system that has been built for centuries should not be abandoned, and that the necessity of an organization such as the WTO should not be disputed. Pre-familiar rules are very important factor in the decision-making process in each company, while uncertainty and non-transparency often lead to a rise in the cost of risk, and complications in the entire trading process. Based on the views expressed and the research, we believe that the best answer should be to find a solution in terms of the internal reorganization of the WTO, which will enable better governance, more efficient work, perhaps even with the modification of the unanimous decision-making rules of all member states, in order to avoid the collapse of all system based on the rules. In the same way that the rule of law is important for the functioning of one country and its economy, the rule of law in international frameworks, here first of all we mean the WTO system based on agreed and signed trade agreements, is important for the functioning of the world economy and especially international trade. China supports reforms of the WTO and is ready to take on obligations in accordance with its level of development and capacities, but will not allow other members to strip its special and differentiated treatment as a developing country. A possible failure to reform the WTO could reverse the world trade system. This could lead to a gradual transformation of the existing system into a system based largely on power, which would allow large countries to act unilaterally and use different measures of trade pressures to achieve their interests.

<sup>47</sup> China supports necessary WTO reforms: MOFCOM, [http://www.xinhuanet.com/english/2018-11/23/c\\_137627374.htm](http://www.xinhuanet.com/english/2018-11/23/c_137627374.htm), 22.12.2018.

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Др Сања Јелисавац Трошић  
Институт за међународну политику и привреду, Београд

## КИНА, НЕЗАВИСНОСТ ТРГОВИНЕ И РЕФОРМЕ СВЕТСКЕ ТРГОВИНСКЕ ОРГАНИЗАЦИЈЕ

### Апстракт

*Ауторка у овом раду настоји да објасни узроке глобалне трговинске несигурности која је узрокована једностраним акцијама заоштравања ситуације око тарифа и трговине. Да би испунила критеријуме за приступање СТО Кина је морала да реформише трговински режим, спроведе мере либерализације трговине и спроведе структуралне промене у економији. Кина је постала активна чланица СТО и нагло је повећала свој удео у светској трговини. Изграђивање трговинских тарифа између Сједињених Држава и Кине изазвало је забринутост у међународној заједници. На спор између две највеће светске економије, СТО још увек нема адекватан одговор. ВТО мора проћи кроз значајне реформе и модернизацију да би се задовољиле промене и захтеви савременог света како би стекао статус главног арбитра међународне трговине. Постоји много различитих предлога за будуће реформе СТО. Кина подржава реформе ВТО-а и решавање трговинских спорова између САД-а и Кине.*

**Кључне речи:** *Кина, трговина, Светска трговинска организација, реформа, САД.*