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A New Model for Global Governance: Mutual Benefit of the WTO and FTAs

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全球贸易治理新模式 – WTO 和 FTA 的并存与互补

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Abstract

Setting up Experimental Economic Development Zone and groping the way across the river is the successful experience of China’s reform and opening up, which could be referenced for global trade governance. Similarly, Economic Integration (FTA) should be regarded as an experimental area of the global multilateral trade governance institutions (WTO). The tough contradiction between balanced development of trade and equally enjoying fruits of the development by all members along with deficiencies of the WTO multilateral trade governance institutions could be broken, through the practicality and experimental role of establishing FTA by seeking successful experience, regulations and mechanisms. And they will be applied to the WTO multilateral system to better make it a sound global trade governance institution. Consequently, the WTO and FTA of long-term coexistence and complementary trend is a new pattern of global trade governance.
Globalization

（I）Globalization in the new century

Since 2001, the ongoing globalization has been spreading in various fields including politics, science, technology, culture and economics. It would have been a mistake if the opinion remained that globalization just took place in an economic dimension.

This is an era of tremendous changes in which the fund manager, the banker, entrepreneurs, and millions of individual investors deliver huge capital from one side of the world to reach the other by clicking a mouse. When they do this, it seems that they can control or shake the whole world economy.

In this era, the technology of media leads to waves of electronic communications, with E-communication able to spread the happenings to the whole world instantly. Instantaneous electronic communication can not only convey news or information much more quickly, but also change the way we live completely.

In this era, globalization is creating the international society which has never existed before; the expanding inequality has become the world's most serious social problem. The impotent feeling worldwide is not simply personal. It is a feeling of loss about the roles of the existing international organizations, and a feeling about disabling traditional roles of the leading developed countries.

In this era, almost all problems are likely to spill over national boundaries, beyond the ability of any individual country. Almost no question can be solved without joint efforts and cooperation of multi-countries, and no country can be fully independent. The developed countries and the developing countries are in the same boat, and cooperation has already played significant roles in dealing with endless global problems.

（II）New features of global trade

Since the start of the new century, global trade shows some new characteristics:
First, the global trade has affected the development of domestic economy, distribution of income and social stability of both developed and developing countries, and meanwhile will radiate to some other areas. Accordingly global trade problems have actually spread to "internal affairs, culture, national sovereignty and other not- easy-to- bargain problems." （Yizhi Zhou, 2010）

Second, the global trade has shown new-era trends of transfer to south-south trade and trade regionalization. Although nowadays there is no change in the comprehensive national strengths or the core competitiveness of the developed countries, we can already see the trend of a reciprocal power transformation between developed and developing countries.

Third, trade liberalization has become the mainstream in the development of global trade, but at the same time, the international financial crisis and the choice of domestic policy of major
economies is bringing impacts on the development pattern of global trade. Global trade imbalances have been expanding. Trade protectionism has taken new forms. The U.S. has changed its trade policy with China with recent trade protectionism tendency. Increasing trade disputes will become the mainstream of Sino-U.S trade relations (Gary Hufbauer, 2010). The impact of trade protectionism is increasing the need of the world leaders for effective WTO multilateral system and the Doha round negotiation. Interest game among big powers in rule making is the real drive of the demand.

（Ⅲ）Frontiers of global trade governance

Global trade governance is faced with acid challenges. If the existing international trade organizations can not properly deal with significant issues in global governance and frontier problems, global trade management functionality of the existing international organizations will not be sustainable and they may even lose governance capacity. The challenges include: the first is how to make all member countries equally enjoy fruits of global trade; the second challenge is the unbalanced global trade and opportunity inequality of deferent regions; the third one is how to establish a global trade development model comprehending economies of different development levels and specific domestic situations.

The World Trade Organization (WTO)

The WTO (the World Trade Organization), an intergovernmental multilateral World Trade Organization, is the first global trading system throughout the history of mankind. It is organized upon a common commitment made by all of the members (regardless of development level) based on universally acknowledged principles and rules. The WTO has 153 members since established, accounting for 80 % of world GDP and 95% of global trade. The establishment of the WTO as the first global trade management international institution starts a new sail of global trade governance aiming at world trade liberalization. And accordingly multilateral trade round negotiations tend to be the primary method to achieve this goal.

(I) The Doha Round Negotiation of WTO

The fourth WTO ministerial conference was held in Doha, capital of Qatar, in November 2001. This conference launched the first multilateral trade round negotiation since the establishment of the WTO ——the Doha round development agenda negotiation which is good for developing countries. The Doha negotiations fixed subjects in nine fields, namely agriculture, non-agricultural products market access (NAMA), the service trade, intellectual property rights, rules, dispute settlement, trade and environment, "Singapore issues" and trade and development issues. The subjects were closely connected with food security, climate change, energy security and establishing relevant development framework of global partnership. They were important parts of the United Nations millennium development goals.

In September of 2003, the fifth WTO ministerial conference was held in Cancun, Mexico to address the agricultural negotiations frame mode issue. But this meeting went sour due to
differences. Some people think that the setback of Cancun conference is the failure of the multilateral trading system, while more people think it is the performance of maturity of the multilateral trading system. They believe the era that the negotiating process was only led by the United States, Europe, Canada and Japan is gone, and that now it is time for the developing members to form a coalition linked by negotiation subjects, and it is time for them to exert influence and tolerance over decision making process of negotiation.

In December 2005, a WTO ministerial conference was held in Hong Kong, with little success. In July 2006, the WTO ministerial conference once again ruptured due to differences, then the WTO Director-general Pascal Lamy suggested the whole "suspension" of the Doha round.

In the early 2007, a mini ministerial conference was held in Geneva to restart the Doha Round. More than twenty ministries representing the Chinese government took part in the negotiation, and made outstanding contributions to substantial achievements in the meeting. Through extremely hard efforts, conferees came to an agreement on eighteen of twenty issues; however, the negotiation broke down on the nineteenth issue (i.e. special safeguard clauses on developing agriculture). In July 2007, a draft text was formed, and on this basis, the president of negotiations on agriculture and non-agricultural market access submitted the revised draft text in February. Nevertheless, in May and July 2008, a very likely chance of breakthrough was lost eventually because the core issue -- the special safeguard mechanism (SSMS) was not solved. Losing this opportunity is not accidental, as developing countries want to protect industrial subsidies while developed countries want to protect agricultural subsidies, and it is hard to mediate the interests of different states at this time. In fact, the agriculture subsidy policy of United States and European Union seriously harmed the interests of developing countries (Zhengu Sun, 2008). In addition, in the negotiations of trade in service, 153 members conducted bilateral bargaining of over 120 sectors (bank, telecommunications, etc), thus the complexity reflected the difficult process of the Doha round.

In November 2008, a summit of leaders from Washington 20 countries group was held, calling for an early end of the Doha Round to restore the world’s faith in the WTO as a multilateral system in global trade governance. In December of the same year, the WTO released the new text (draft) which had made substantial progress in the past couple of months, Director-general of the WTO Pascal Lamy thought that, other than the "hard stuff" — 20% of the agricultural and non-agricultural products market access (NAMA) involving core interests balance didn't gain any progress, so far, the Doha round had completed 80% of the issue goals, though there was still no political power promoting the final negotiations mode.

On November 30, 2009, Director-general of the WTO Pascal Lamy and ministers of other member countries expressed political desires to speed up and complete the negotiations in 2010. On May 4, 2010, Lamy reported to the WTO general council that the Doha Round would be pushed with the cocktail approach.

(II ) The WTO and global trade governance
1. Mechanically, the WTO is an effective legal system in organizing the global trade
   WTO has a whole set of unprecedented rules that are widely accepted and recognized,
   presenting a legal system of global trade governance to regulate the international trade order
   and adjust trade behavior of government in different countries. There are three mechanisms in
   the WTO legal systems that are of great significance: the first is Trade Negotiation Mechanism.
   WTO has a whole set of rules and legal documents that are constituted with various applying
   agreements abided by all members through trade negotiation mechanism. The second one is
   Dispute Settlement Mechanism; the WTO has a dispute settlement mechanism that could
   enforce its rules, which provides a powerful legal means of deterrence and comparatively
   complete frame of legal regime for the settlement of disputes between members. The third one
   is Trade Policy Review Mechanism. The WTO has a mechanism that reviews policies of its
   members in the order ranking according to trade volume of members. The scope of review
   includes trade in goods, trade in services and intellectual property, even financial services,
   subsidies of the members and domestic regulations and supportive measures towards agriculture
   thereof. Such broad reviewing scope makes trade policies of all members in accordance with
   WTO rules.

   The Trade Negotiation Mechanism and Dispute Settlement Mechanism of WTO have solved the
   problem of fairness and authority that other international governance institution couldn’t. In
   particular, the practice that the WTO settles disputes by legal procedures may be the most
   significant pioneering mechanism in global trade governance.

2. Practically, the WTO’s achievement in global trade governance is remarkable.
   WTO made great success in global trade governance; it coordinated benefits of different
   countries, regulated the trade behavior thereof, and significantly curbed the trade protectionism
   worldwide in the past years. And it keeps lowering tariffs of its member countries, efficiently
   eliminating non-tariff barriers like subsidies. Moreover, the agreements it reached put impetus on
   trade liberalization.

3. Inherent defects in the WTO could lead to global trade governance failure
   Since the new century, the focus of world economy has shifted to Asia, the economic and political
   powerhouses on which WTO multilateral trading system was built has been changing, but the
   WTO didn’t keep its pace changing. That’s the reason why Doha Round is still at a stand still.

   The dilemma of the Doha Round highlights the limitation of the WTO multilateral trading system
   in global trade governance, reflecting some inherent defects in the WTO: One is the limitation of
   the principle of consensus, although it can make sure that the rules and decisions of WTO could
   be recognized by all members, it makes every negotiation very prolonged. Now that WTO has
   more than 150 members, the principle of consensus severely affected the effectiveness of WTO.
   The other is the shortage of the Dispute Settlement Mechanism of the WTO on account of the
   time and cost. Usually, developing countries have less money and weaker legal ability than that of
   developed countries, this, however, affected the fairness of the WTO’s settling disputes. Last is
   the defect in anti-dumping law. Anti-dumping measure as a legal remedy of trade is now being
   abused as a main weapon in commercial war, which has become a tool of Trade protectionism,
due to its inherent defects.

At the same time, the stagnation of Doha Round is a full performance of the difficulty faced by the WTO when solving new problems in global trade governance.

(iii) 10 years after China’s accession to the WTO

i) A win-win situation for both China and WTO

From November 9 to 14, 2001, WTO’s Fourth Ministerial Conference in Doha (Qatar), formally approved China’s accession to the WTO; on December 11, 2001, “Protocol on the Accession of the People's Republic of China” came into effect; China became the 143rd member of WTO. This was not only a milestone in China’s history, but also a milestone in the history of the WTO. China will welcome the tenth anniversary of to the WTO in November, 2011.

During these 10 years, WTO rules provided a more transparent, more secure, more predictable world market for China as a WTO member in the global industrial chain, and the trade between various economic subjects. In this period, WTO not only promoted the opening-up policy, Chinese market economic reform and industrial restructuring in an unprecedented way, but also gave a helping hand which led to a radical reform of the Chinese legal system and made China an indispensable partner that integrated into the world economy.

At the same time, China has become a part of the world economy as it provides a huge new market opportunity for other WTO members. In 2010, U.S. exports goods were valued at $92 billion to China, surpassing 4.5 times the export volume of 2001. The volume China imported from Brazil in 2001 was valued at only $2 billion, while in 2010 the volume was as high as $31 billion. In addition, China provides preferential policies in market access such as tax-free and quota-free to the world’s poorest countries. In 2008 China became the largest export market for the least developed countries, accounting for 23% of total exports thereof. In July 2011, China donated $400,000 to the WTO to help those least developed countries to get accession to the WTO. Moreover, China's accession to the WTO promoted a whole generation of new products and technical standards to meet the needs of emerging economies, made WTO system more democratic and rules of WTO more justice. (WTO’s Deputy Director in General, Harsha V. Singh, 2011).

During the 10 years after the accession to the WTO, China won, the world won, too. A win-win situation has formed between China and WTO.

ii) China has fully integrated into the world economy

i) WTO promotes China’s economy opening up to the outside world

In the 10 years after the accession to the WTO, China’s opening up steps into an omnidirectional, multi-level, wide domain stage. First, the WTO drives the change in notion. China has undergone a significant change-from “reform promotes opening” to “opening promotes reform”. With the interactive mode-reform and development promoted by opening, opening deepened by reform and development, China has achieved significant development and growth. (Yansheng Zhang,
Second, China has fully and comprehensively implemented the liberalization commitments at the time of its accession to the WTO, gradually expanded market access in the field of agriculture, manufacture and service and liberalized foreign trade operation rights. Firstly, tariff and non tariff restrictions significantly decreased. China’s average import tariff had cut from 15% before the accession to 9.5% in 2010. Secondly, China’s foreign trade continues to grow rapidly. China’s total volume of import and export trade in 2001 was only $509.6 billion upon its accession to the WTO, while by 2010 it reached $2.9728 trillion, almost exceeded 3 trillion, which had quintupled in 10 years. Now, China has become the world’s largest exporter in the trade of goods and the second largest importer. China’s processing trade proportion in its overall foreign trade had decreased from 47.4% in 2001 to 38.9% in 2010. While the growth rate increased from 56.9% in 2001 to 77.4% in 2010. China’s trade volume of import and export in service grew from $71.9 billion in 2001 to $362.4 billion in 2010, nearly quadrupled. With more than 100 departments which were dedicated to service and trade opening to the world, China’s openness reaches 62.5%, arriving at the level of developed countries. China has now become the world’s third largest importer in service trade and the fourth largest exporter. Thirdly, China’s introduction of foreign capital and foreign investment maintains a continuous growth momentum. The instruction of foreign capital and that actually used exceeded $100 billion in 2010; while the FDI flow in 2010 reached $68.8 billion and accounted for 5.2% in the global flow of that year. China’s FDI flow had increased 21.7%, maintaining a growth momentum for 9 consecutive years with an average annual growth rate of 49.9%. At the end of 2010, China’s FDI stock had exceeded $300 billion, ranking the fifth in the world. This number had surpassed that of Japan, Britain and other large traditional foreign investment countries for the first time.

In short, China’s economy reform and its policy of opening-up to the outside world has made great achievements during these 10 years. China’s economic development has become a powerful impetus to the whole world, contributing greatly to the transfer of the world’s center of economic development to Asia.

ii) The WTO promotes China’s industrial reconstruction and reform in market economy

The accession to the WTO has offered a mechanism for China’s market reform, in other words, constriction and restraint from foreign capital promoted the reform of China’s market economy and adjustment of industrial structure. The constraint and pressure from the WTO requiring market reform is not imposed on China by the international community. On the contrary, it is China’s own development requirement. We initiated domestic economic system reform independently, then promoted by WTO’s external force, we had overcome the domestic resistance to reform and achieved the goals of development.

Before the accession to the WTO, Chinese government extremely worried about the extermination of its vulnerable industries including agriculture of primary industry, automobile of secondary industry and finance of tertiary industry. Approved by the state council, Chinese government set up the bureau of industry injury investigation, the office of fair trade, the WTO
secretary and other institutions to protect the industrial safety and implementation of WTO rules in response to the impact of the WTO on its vulnerable industries. Then China initiated investigation on the automobile industry which has high added value, long industry chain and large industry correlation immediately. The result of the investigation suggests China take a more open way and a change in China’s auto industry development policy-from “independent innovation and development” to “independent innovation combined with employing of advanced technology”. (Zhigang Zhang, 2011)

The accession to the WTO has initiated a marketing process for China’s industries. What’s unexpected is that, opposite to Chinese government’s concern, its vulnerable industries have achieved great development in the process of marketization after the accession to WTO. Take the automobile industry as an example: it is in the open market competition that the auto industry has developed a new pattern of specialization conforming to market rules and succeeded. Technology and products quality have increased rapidly. In 2005 China became a net exporter of auto parts instead of a net importer. In 2009, China’s auto yield was 14.64 million while the sales volume was 14.79 million. The yield and sales volume were both more than those of the United States. In 2010, China’s auto yield was 18.27 million and the total volume of import and export trade in automotive products was $108.531 billion, exceeded $100 billion for the first time and ranked first in the world. China had invested several hundred billion dollars on vulnerable industries to adjust the industrial structure and improve the technologies during these 10 years. China also launched a large-scale modern enterprise system reform mainly in state-owned enterprises to enhance the vulnerable industries’ productivity, which was the most positive response to WTO. At present, the market shares of more than 900 kinds of China made products in the international market rank first. From 2001 to 2010, in the market of internet equipment of optical fiber, the, Chinese electronic information industry revenues rose nearly 4.6 times, software industry revenues rose 17 times and telecommunication industry 7.6 times. Among the top 5 producers in the world, 3 of them are Chinese enterprises with a ranking of first, second and fourth.

China’s policies on agriculture had undergone the most significant adjustments during these 10 years. The average agricultural tariff decreased from 18.8% to 15.2%. China’s grain output increased from 452.637 million tons in 2001 to 484.01 million tons in 2005, and stayed at 500 billion kilos for four consecutive years; by 2010 it had reached 546.4 billion kilos. China became the fourth largest country in world agricultural trade and scored amazing achievements.

During these 10 years, China’s economy had grew rapidly at double-digit rate; national strength had significantly increased. The GDP of China increased from only $1 trillion in 2001 to more than $6 trillion in 2010 (in 2010 China’s GDP was 39.80 trillion, which is 6 trillion according to present exchange rate); the average annual growth was more than 10%. China’s economic aggregate has exceeded that of UK, France, Germany, Japan and other Western developed countries. China has become the world’s second largest economy.

In short, China’s economic system reform was accelerated and the market-oriented industrial adjustment has sped up since the accession to the WTO. In particular, in this financial crisis, there
was no negative growth in Chinese export. The result was closely related to China’s market economic reform and industrial structure adjustment. Competitive power of state-owned enterprises, banks, and agriculture had all been strengthened. All of these proved that China’s accession to WTO is a wise decision, benefiting the nation.

iii) The WTO Promotes the Reform of China’s Legal System

China has carried out a comprehensive and large-scale revision and clean-up work. The central government departments have cleaned-up and revised more than 2300 pieces of laws, regulations and department rules. The local governments have cleaned-up more than 190,000 local rules, government regulations and other policy measures. Through the clean-up and revision work, China has successfully fulfilled its earlier promise and accepted the basic principles of WTO. (Xiaozhun Yi, 2011)

At the same time, the domestic legislation in the field of foreign economy has gradually become consistent with the WTO rules, with an enhanced operability in democracy, monocracy and laws. China has revised foreign investment law comprehensively, unified the domestic and foreign income tax, issued and implemented the “Anti-Monopoly Law”, promoted the reform of foreign exchange, expanded the cross-border use of the RMB which will gradually realize the free convertibility of it.

Moreover, the WTO has promoted administration according to law in China and the transformation of government’s functions, realized legislation promotion, procedure transparency and the important function of legal system reform-the constraint of a government.

iii. China's full integration into the world multilateral trading system

China has been reluctant to participate in multilateral arrangements for a long time for China’s external concerns are concentrated on the development issues. However, after accession to the WTO, China took it as an opportunity to accelerate the domestic economy and the pace of social reform on the one hand, and participate in international multilateral organizations as much as possible on the other hand. During these ten years, China has changed from learning the rules, knowing the rules to mastering the rules, using the rules, being involved in making the rules and is gradually becoming a mature member of the WTO in the multilateral trading system. China learns how to integrate into the global multilateral system from WTO, which is a gradual learning process with trajectory. This learning trajectory (learning process) can be divided into 4 stages: 1) learning and using WTO rules; 2) participating in WTO new rules making; 3) handling the relationship with WTO members maturely and 4) actively participating in global trade governance.

1) Learning and application of WTO rules
Before and after accession to the WTO, China popularizes learning WTO laws and regulations on a large scale in the whole country. National leaders preached in person relevant knowledge of the importance of accession into the WTO to the provincial and ministerial leaders in the WTO rules special class opened by Central Party School. The State Economic and Trade Commission in conjunction with relevant departments at that time quickly conducted speaking tour in the whole
country and launched a nationwide mass popularization activity of the WTO knowledge. There were 5 million people taking part in the activity during just two months. It was an unprecedented event for that not only leaders but also ordinary people attach so much importance on the study of the WTO rules.

From learning and knowing the rules to mastering and using the rules, Chinese government quickly became an active user of the WTO rules and especially WTO trade remedy measures after accession to it. However, a coin has two sides. China's total volume of trade and surplus increased significantly, which is in the spotlight. At the same time, the surge in China’s trade friction also caught people's eyes. From 2005 to 2009, China's total export-import volume accounted for 10% of world trade volume. China also experienced many anti-dumping cases that accounted for 34.7 percent of the total. China has become the country which experienced the most anti-dumping cases in the world during the past 16 consecutive years and experienced the most anti-subsidy cases in the past five consecutive years. In July, 2011 alone, China has been involved in 20 trade disputes accepted by the WTO, either as defendants or as plaintiffs. As a third party, China was also implicated in 70 trade disputes. These cases covered the content from anti-dumping, countervailing and safeguard measures to intellectual property rights.

In fact, the Chinese government has always maintained that, WTO's existing rules are imperfect and unfair, which is one of the reasons why China encountered so many anti-dumping cases. Anti-dumping law of WTO allows developed countries to take China as a "non-market economy" and allows calculation of dumping margins by using "zeroing", both making Chinese products unfairly charged with high dumping margins and anti-dumping duties. The Chinese government has always taken the response to trade friction as an important task to learn after accession to WTO and mastered the general approaches to deal with trade friction: political negotiations(high-level dialogue), legal defense (direct business associations to respond according to law), business cooperation(business dialogues and consultations between the two countries). At the same time, China has become an active user of WTO rules during the process of how to use its rules to protect domestic enterprises' rights, make full use of WTO dispute settlement mechanism to make a complaint and defense. For example, China's investigatory authorities brought double reverse measures to China of the United States and the European Union--China's two largest trading partners, into WTO dispute settlement and took counter-measures. Of course, China's investigatory authorities use counter-measures very cautiously, employing only when there are acts affecting China's core interests. To maintain the market share of Chinese enterprises in international competition and protect enterprises' benefits, the Chinese government flexibly uses trade relief measures, communicate and consult, negotiate and bargain to fight for and protect every case in strategy and play rules card, legal defense, high-level dialogues, disputes settlement to reduce the negative impact of trade frictions as much as possible. It is the three principles of the WTO that make China able to settle the trade disputes with other WTO members peacefully. The precious knowledge and experience which gained from learning and using WTO rules by China can not only protect Chinese enterprises' benefits, but also enable Chinese lawmakers to map out a better domestic law system that is consist with international law to a larger extent. In fact, in 2006, 2008 and 2010, the WTO reviewed Chinese trade policies for three times. In the view of the WTO, the resolution
to be consistent with international law frame showed by Chinese government is serious and conscientious and the government has made extraordinary efforts.

ii) Participating in making new WTO rules

China has just become one of the members of the WTO when the Doha round was launched. So in the initial phase of Doha round development negotiation, the participation of China is limited. But as time went on, China came out from backstage and began to play an active role in the negotiations. In 2005, as the host, China organized WTO trade ministers to gather in Dalian, paving the way for Hong Kong to hold WTO ministerial conference successfully. In July, 2008, in the WTO mini-ministerial meeting in Geneva, the Chinese government sent more than twenty ministries involved to take part in the negotiations. Minister of China’s Ministry of Commerce, Chen Deming, together with ministers from Australia, Brazil, EU, India, Japan, the United States and so on played a key role for the promoting of negotiations and reaching of a consensus. China was no longer simply be bounded by existing rules but actively participates in the new rule-making, began to actively participate in all areas of negotiations and presented more than 100 proposals. Its representation and voice has improved significantly, influence began to appear, and it had entered the WTO negotiations inner circle. 50 members of WTO’s 153 members have never attended meetings with only 60 countries really care about the negotiations and only 30 countries participate in negotiations. Only America, European Union, Japan, China, India, and Brazil entered the negotiation’s inner circle. China participated in every area of WTO Doha round actively and completely, realizing the important change from regulations-abider, acceptor to rules-maker. China has become an indispensable important force in the future development of the multilateral trade system (Hanmin Zhou, 2011). In the G20 summit, Chinese leaders also consistently and clearly supported the multilateral trading system and ended the Doha Development Round as soon as possible. China recognizes that although negotiations are carried out at the government level, the ultimate goal is to serve enterprises, the ultimate interests of applying WTO rules land in domestic enterprises. So the fundamental standpoint of the Chinese government participating in WTO rules-making is to fight for the maximum benefits for Chinese enterprises. For example, in order to protect the benefits of Chinese energy conservation and environmental protection enterprises, Chinese government paid attention to whether increasing carbon tariffs for the US would be included in the new round of Doha negotiation agenda. China did not want carbon tariff to be the focus of Doha negotiations. Consequently, China criticized the report made by the WTO Secretariat, which benefitted USA’s domestic protection and went against trade liberalization. China criticized WTO Secretariat both on the content and procedure because WTO Secretariat, a neutral body, unauthorized by members, has no right to make this report. This incident reflects that China has a great voice in WTO new rule-making for that WTO can’t adopt a new rule without the attitude of China.

iii) Dealing with the relationship between the WTO members maturely

China’s core activity in the WTO is learning how to deal with the relations with other members maturely in international politics and economics after becoming one of the mainstays in negotiations. The peak period of international trade frictions between China and the world’s big economies is a good phase for China to learn to deal with relations with other WTO members, and thus develop into a mature participant in a multilateral system.
China has been adjusting the economic and trade relations with the developed members actively. Traditionally, the economic and trade relations between China and developed countries are vertical. It is also a relation featured with division of labor and strong complementarities. However, as China has become more competitive in various fields of manufacturing including equipment manufacturing, the horizontal division of labor between China and developed countries was enhanced. China and these countries, competing while supplementing, had formed a complex relationship. Learning to deal with it well is a vital task for China. Trade friction is a common phenomenon in horizontal economic and trade relations, and Chinese enterprises should take the road of competing by differences through innovation and underlying product features. Besides, China should try to avoid making new commitments to developed members so as to maintain the degree of openness determined at accession. Developed members view China as their “interest-related party” and try hard to promote China’s further opening up as what Peter Mendelssohn, the EU Trade Commissioner, has mentioned in a public speech: "China has benefitted from the WTO, and at the same time it has to play a key role as a leader to give impetus to the success of the Doha Round." Whereas the attitude of China is like this: on one hand, China will fully implement the access commitments; on the other hand, China does not intend to take the role of a leader in the WTO in spite of its constructive contributions to the Doha Round.

China has been maintaining and developing economic and trade relations with developing members actively. On the basis of The Protocol on China’s Accession to the WTO, its status as a developing country was not defined clearly. Therefore, there will be little chance for China to be viewed as a developing country and enjoy the exception and preferential treatment in future negotiations. But China insists its developing status based on the facts and political and diplomatic considerations and this characteristic is to last for a long time. From a strategic perspective, China is consistent with the developing members on fundamental interests in a multilateral trading system. China’s cardinal principle and standpoint in the WTO is to give full attention to the interests of developing members, to keep a more just and rational direction of the multilateral trading system and to maintain a rational international political and economic order along with the developing members. However, from a tactical perspective, China will not choose to become the leader of developing countries whose interests are not entirely consistent. China is bound to stand for developing countries when negotiating and it has been insisting on the concept of equality-the base for dialogues when solving frictions and disputes with some of the major developing members. Attaching great importance to South–South cooperation, China will reinforce the economic and technological cooperation with developing members and provide economic and technological assistance within its capacity to contribute to the overall human development.

The commitment to cut tariffs to the least developed countries was fulfilled strictly, while duty-free quota will be further implemented. Meanwhile, China promised to gradually give zero-tariff treatment to 95% of products imported from the least developed countries that had established diplomatic relations with it. By the end of 2010, China had relieved debts of 44 least developed members, with a worth of 23.8 billion RMB.
iv) Full participation in global trade governance

In 2011, the strategy “Participating actively” was put forward clearly in China’s twelfth five-year plan. The purpose for China to participate in global trade governance actively is as following: firstly, to promote the reform of the international economic system in a fair and rational way; secondly, to promote the establishment of a balanced, universal applicable and win-win multilateral trading system that avoids all forms of protections; finally, to promote the progress of regional cooperation, and speed up the implementation of the FTA.

As a beneficiary of the WTO, China will stick to the role unswervingly in the WTO multilateral trading system as a participant, protector and constructure and it will participate in global trade governance actively within the framework of the existing WTO system. China has been an active sponsor for the multilateral system, whereas the WTO plays an irreplaceable role in the maintenance of economic stability and world trade liberalization. In spite of the limited voice and significance of developing countries in WTO as well as defects of internal mechanisms and institutions, Chinese adheres to the idea that the status quo of the WTO should be maintained rather than seeking systemic reform when participating in global trade governance. The real challenges may come from the WTO rules themselves. As long as the rules are reformed and perfected through negotiations, cooperation and even compromises, the WTO international multilateral system will be achieved and the established international order will be perfect and improved.

China’s active participation in global trade governance signifies that it will continue opposing all forms of trade protection firmly, providing impetus to the establishment of a balanced world, a mutual-beneficial multilateral trading system and the development of regional economic integration; Meanwhile, China will regard its tenth anniversary of accession to the WTO as an opportunity to take the initiative to reenter into the WTO, further implement its opening-up and win-win strategy, expand the liberalization of trade and investment and make China develop from a world factory to a world market as well as a service provider for the whole world.

FTA

(I) FTA's worldwide

FTA（the Free Trade Agreement/Area）refers to the regional trade agreements signed by two or more economies for regional trade liberalization. The area of contracting parties becomes territorial scope of the FTA. FTA established by different economies is not the same due to various national conditions, development levels, as well as the interests and requirements. Apart from the abolishment of goods customs, and non-custom barriers between members, the broad sense of FTA is the agreement in various kinds of fields, including the protection of intellectual property, investment, government procurement, competition policy, co-operations between small and medium-sized enterprises, the opening of the service sector, personnel migration, standardization, as well as financial currency.
FTA developed prosperously in the end of 1990s. Some countries began to get great enthusiasm in the establishment of FTA because of the plight of Doha Round. Thus a wave of integration was swept in the whole world. In the first decade of the 21th century, FTA was in an explosive momentum. It has not only become the centre constituents of international trading, but also occupied an enormous proportion of 50% in the total trade volume of the world. Apart from commercial trade, the scope of FTA’s has expanded to the fields of service, investment, intellectual property, labor mobility, and so on. What’s more, it exceeded traditional trade barriers, focusing on the factors which could narrow down the cost of trade, such as transportation, custom services, technology standard, and policy on domestic competitions.

Of all FTAs worldwide, The EU is the highest degree of regional economic integration. The characteristics of the EU FTA rely on two points. First, the countries signing FTA concentrate in surroundings. Second, members of EU have to sign the agreement as a group. Because of the free flow in fields of goods, service, capital and labor force between 27 members, as well as the integration of currency. Consequently, each member could not conduct free trade agreement with other countries alone.

The US has lately participated in FTA. Nevertheless, in practice, the US established FTA in such an astonishing speed that it has covered an extensive range. This reflects that the US has changed its strategic direction of leading the multilateral commodity system in the world. Now it adopts the “double tracks” policy, raising regional trading cooperation as one of the strategic core points in the future. The blueprint of American FTA is to promote into Central America and North America based on the NAFTA, and expand into the Middle East and Europe.

Japan is also a late partner of FTA. For quite a long time, Japan focused on prompting global multilateral trade system, suspecting that FTA is a system which would reduce the benefit of multilateral trade. After America changed its policy, Japan transferred quickly. In 2001, Japanese Ministry of International Trade and Industry published The International Trade White Paper, claiming the disadvantages of multilateral trade system and the necessity of the establishment of FTA for the first time. The characteristic of Japan FTA is that: it takes Japan - South Korea FTA as the first step, and then attracts China’s participation based on Japan- ASEAN FTA; the third step is to absorb Taiwan and Hong Kong, “to reach a wider East Asia Economic Integration.”

The process of ASEAN FTA sped up after entering 21st century, which began at the end of 1990s. ASEAN has signed FTA agreements with Japan, China, Republic of Korea and India. Through 2015, the ASEAN FTA will be established by 4 countries including Vietnam.

FTA continuity developed in a deeper and wider degree throughout the world apart from the rapid development of bilateral, regional, transcontinental FTA network. The Asian FTA will be established in the future. Lately, the members in APEC evoked widely attention to FTA. Australia, Republic of Korea, the US, Singapore, Chile, New Zealand, China, Thailand, Mexico, Japan and some other countries are all members of APEC, and the phenomenon that the Asian-Pacific countries participate FTA energetically predicts the next bloom of FTA would appear in the Asia-Pacific.
(II) FTAs and the global trade governance

i. The significance of FTAs in trade liberalization

Firstly, the aim and content of trade liberalization is similar to that of WTO; while the scope of trade liberalization even surpasses that of the WTO, for example, the liberalization of trade in service applies to both bilateral and regional FTAs.

Secondly, there are some advantages existing in FTA other than the WTO. In negotiations of FTA, “compensatory negotiations” are available through the increase of trade volume or other assistances. In the process of negotiation, interests of each country could be balanced through transitional arrangements, and bilateral or regional FTA would be conducted when mature. Since it is much easier to reach agreements in FTAs than in the WTO, we can forecast that more trade liberalization and convenient methods will first appear in FTA. From this sense, FTA would become a vital method to promote trade liberalization.

Thirdly, regional trade liberalization can improve the global trade liberalization. In the future, we would glad to see that the enormous Asia-FTA would establish a balance, benefit, and win-win system in the continental coverage. The further step is to cooperate with the WTO and bring peace and prosperity.

ii. The significance of FTAs in a harmonious world

Chinese Present Hu Jintao claimed “Striving to build lasting peace, general prosperity and harmonious world” on the summit of 60th anniversary of the founding of the United Nations. On September 15, 2005, he brought out the notion of “a harmonious world”, which meant searching “eternal peace and mutual prosperity on the basis of mutual-trust, mutual-benefit, equality, negotiate, mutual-respect and other civilizations”.

FTA has an active role in the establishment of a harmony world. Terrorism and gaps between the rich and the poor, hegemonic and economic frictions are unharmonious phenomena in the world. Firstly, FTAs could contribute in solving these problems with legal methods. Secondly, economic integration offers a platform for political harmony. Actually mutual-interests formed by FTAs in a larger area cause a better fusion of each country, thus the political harmony and peaceful development are likely to be of mutual benefits. Thirdly, the external effects of mutual trade interests can help increase the social welfare and reach mutual prosperity among the membership.

iii. The significance and contribution of successful examples (typical cases)

China-ASEAN FTA is the largest FTA made up of developing countries, which is a successful example for south-south cooperation. The significance of FTAs in regional integration, trade liberalization and building of a harmonious world represents active effects in global trade governance.

In November 2002, China signed “The China-ASEAN Framework Agreement on Comprehensive
Economic Co-operation" with ASEAN. In November 2004, “The Agreements on Trade in Goods” was concluded, moreover, tax reduction was implemented in all fields. In January 2007 and August 2009, they concluded “The Agreement on Trade in Services ”and “Investment Agreement” respectively. In January 1, 2010, the China-ASEAN went on cooperating in all fields.

The China-ASEAN FTA covers an area of 14,000,000 square kilometers, with a population of nearly 1.9 billion and accounts for 13% of the total value of trade worldwide. It has an economic scale of approximately $600 million, which is comparable with that of EU and North America FTAs. The total population in this area is also more than that of EU and that of North America. It is the largest regional FTA in the world that is comprised of developing countries.

The China-ASEAN FTA includes trade, investment, service and economic technology cooperation, and the level of openness surpasses that of the WTO. Firstly, in the fields of goods trade, China cuts down tariffs in 90% of goods for Indonesia, Malaysia, the Philippines, Singapore, Thailand, Brunei, with almost over 7000 kinds of goods for zero tariffs. Secondly, in service sector, China opened market in architecture, environment protection, transportation, physical and commercial affairs in 5 departments and 26 under-departments. Ten countries in ASEAN opened markets towards China in finance, telecommunication, education, tourism, agriculture and medical fields. Thirdly, in investment, it covered agriculture, manufacturing, services and many other fields. Fourthly, in the field of economic-technological cooperation, as Ling Wenzhao claimed, following the establishment of China-ASEAN FTA, the cooperation has expanded into agriculture, information communication, labor source development, mutual investment, development of the Mekong River, transportation, energy, cultural, tourism, public sanitary and environment-protection.

After the formal startup of China-ASEAN FTA, as data show, from January 2010 to October 2010, trade volume reached 235.4 billion dollars for both China and ASEAN, surpassing the level of 2009, which was 213.011 billion dollars, increasing 42%. And the favorable balance of trade reached 13.2 billion dollars in China. As Yi Xiaozhun said, “the China-ASEAN FTA is a win-win arrangement in system”. Lahaman Mart, general secretary of Malaysia International Trade and Industry, said that “We come to realize that, many benefits in FTA are waiting for us to explore and make full use of, thus win-win fruits would be achieved inevitably”.

For the ASEAN, the significance and contributions in the China-ASEAN FTA are as follow: Firstly, it reduces impacts towards the ASEAN countries during the global economic crisis. In this financial shock, the economies even showed zero-increase or minus-increase. Owing to the chances provided by China-ASEAN FTA, which deals with both goods and services export, ASEAN walked out the valley successfully. Secondly, the 1.3 billion population of Chinese market prompts the employment rate and economic development of ASEAN. China has surpassed Japan to be the third largest trade partner, the fourth largest export market and the third largest import source area of the ASEAN. At the same time, ASEAN has become one of the major target areas of Chinese enterprise in the “Go global” strategy. The trade volume between China and ASEAN is now over 10 billion dollars.
In terms of China, the significance of China-European FTA is as follows: Firstly, the Chinese government takes into considerations extra effects apart from the cooperation of trade, investment and economy. The first concern is RMB regionalization, with RMB expected to replace dollar for trade. Secondly, conflicts settlement mechanism should be improved, which can harmonize the relationship, thereafter, decrease harms towards each other through negotiating, harms from anti-dumping in particular. Thirdly, the relative departments, which are easy to be influenced at home, can better their structural system in negotiations under the system of FTA.

The commercial field of China holds a warm attitude towards China-EU FTA generally. The data collected by the Commerce Department manifests that: 44.3% of the enterprises thinks the largest benefit is “much easier to export to the open market”; 34.9% hold that “the trading is much more convenient”; 28.2% think “it can improve investment and expand trade in service”. However, still 21.6% of the enterprises think that “more imports and the competition” are of negative effects.

Owing to the mutual benefits achieved through the cooperation between China and ASEAN, the relationship has developed from negotiating and communicating partnership into cooperation partnership. In the future, China will firmly support the ASEAN in playing a guiding role in the establishment of East Asia FTA. Eastern Asia is completely different from European. Dramatic differences in politics, religion and other aspects are the largest barrier for the establishment of the FTA. Though the scheme is still under discussion, the establishment is the trend of the times. At the same time, using the mutual economic reliance as a security policy has become a method for many Asia countries to strengthen their economy. The FTA has become a strategic political and economic issue to many Asia countries. Thereafter, the establishment of FTAs in the whole Asia is pregnant with significant opportunities.

(III) China’s participation in FTAs

i) The process and content
Before 2001, the WTO was the focus of China in trade negotiations. Situations both at home and abroad made China less active in FTAs. Thus China became a later participant.

In 2001, China participated in the first arrangement of regional trade —“Bangkok Agreement” (renamed now as “First Agreement on Trade Negotiations among Developing Member Countries of the Economic and Social Commission for Asia and the Pacific”)

In November 2002, China signed “The China-ASEAN Framework Agreement on Comprehensive Economic Co-operation” with ASEAN.

On June 30, 2003, CEPA between the Mainland and Hong Kong was signed officially. After that, five complementary negotiations were assigned. In December 2003, CEPA with Macao was concluded.

In November 2004, China signed “The Agreements on Trade in Goods” with the ten countries in
ASEAN, practicing zero tariffs for 7000 kinds of products. What’s more, since July 2005, tariffs reduction was put forward in all fields, which symbolized that China had participated in a real FTA. Between January 2007 and August 2009, both sides signed “The Agreement on Trade in Services” and “Investment Agreement” respectively. On January 1, 2010, the FTA elaborated its functions in all fields.

With the signing of the China-ASEAN FTA in 2004, China entered an accelerating course in establishing FTAs. In 2006, China-Chile FTA was conducted; 98% products of Chile and 97% products of China were further opened later. China became the largest export market of Chile. In 2007, China-Pakistan FTA was signed. A key service sector of Pakistan and six of those in China were opened at a deeper level. In 2008, China-New Zealand FTA was formed, with 63.6% products of New Zealand and 24.3% of China for zero tariffs. In 2009, China-Singapore FTA was established; over 90% products imported from Singapore were of zero tariffs, with free flow of goods, services and personnel. In 2010, China-Peru FTA was signed; over 90% products in both countries practiced zero tariffs step by step, with 90 departments in Peru and 10 departments in China opened in a later step.

At the same time, China was negotiating with Iceland, Norway, and the Gulf Cooperation Council – GCC, Australia, Costa Rica and six members from Southern African Customs Union. The content of negotiations covered a wide range. For example, subject of the FTA between China and Australia included commodity, investment, service, custom convenient, rules and standards of technology, the flow of commercial labor force, intellectual property, electronic commerce, small-middle enterprise’s cooperation, transparency, capacity establishment, governmental purchase, competition policy, environment problem and so on.

Moreover, China is doing practical research in the feasibility of FTAs with the Republic of Korea, Japan, India, Switzerland and Uzbekistan such China Japan and South Korea FTA, ASEAN +3 FTA (EAFTA), and CEPEA.

As of 2010, China had established 17 FTAs with 31 countries and areas in five continents, 9 of which have come into effect.

ii) Strategic selection

First of all, the issue of FTA establishment is of top priority, and the content of FTA should be expanded and deepened step by step. We should adopt the principle of earlier making compromise, earlier reaching success and earlier enjoying benefit. We should also emphasize the significance of reaching agreements early. When faced with difficulties in negotiations, we should put aside sensitive problems for a moment. Given the existence of sensitive products, compromises could be made so as to reach FTAs as soon as possible, with cooperation to be expanded and deepened progressively.

Secondly, when establishing an FTA with a developed country, we should make choices. Our first choice will be an establishment with a country in Oceania (Australia, New Zealand); The second is with small developed countries near North America and EU, (Iceland, Canada) which have free
trade agreements: Before the occasion comes, avoiding proposing schemes on the establishment of FTA with Europe, America or Japan. Turning away the high risk of establishing FTA with developed countries, the plan should be considered after perfect preparation.

Thirdly, the establishment of FTA could be realized with countries who acknowledge China's status in the world market. The FTAs in which China participate can be divided into two types, one is prompted by China initially, such as China-ASEAN10+1; the other is prompted by other countries while China responds. The presupposition for this kind is the recognition of of this country of China's position of its market economy. The reason is stipulated in Article15 of The Protocol on China's Accession to the World Trade Organization, which claimed that China could not be recognized as a “market economy” in the 15 years after accession. According to this article, the EU and the US could calculate the dumping of Chinese goods and dumping profit margin with the price of each production factors of the surrogate countries and high level of anti-dumping duties could be imposed. China has seized the opportunity to make a breakthrough to this restriction when forming FTA and its “market-oriented economy” status is admitted by many members of WTO, such as Chile, New Zealand, Australia, Singapore and Iceland.

iii) The Functions of Chinese guilds and institutes in FTA negotiations

The Chinese government takes a dominant role in coordinating the interests of enterprises and industry, which is totally different with the negotiating approaches of India that rely on industry associations or that of the US and Europe relying on large individual corporations. Chinese guilds, institutes and those converted from public administrative departments without an explicit status of law could be difficult in enterprises overall consultation and coordination. The “four-body interaction” consultation coordination mechanism dominated by the Commerce Department (including the business institutions headquarter overseas) is participated jointly by the local commerce departments, industry associations and institutes. Relevant enterprises also play an important role in both foreign FTA negotiations and trade frictions.

Chinese industry associations and institutes often provide the government with initiative assistance to do relevant researches and investigations that mainly include organizing meetings, writing reports and questionnaire surveys. The first is organizing meetings such as the conference organized by the WTO Institute in June 2009 in which more than 100 representatives of the state-owned enterprises and private enterprises participated. The ministry of Commerce and supervisors of similar departments were also invited to introduce the latest situation of FTA negotiations and national policies. At the same time, participants also had chances to listen to the meeting statements by representatives of enterprises, communicate with conventioneers and then understand the concerns of enterprises on FTA negotiations.

The second is writing reports such as on tariff concession in chemical industry. The chemical enterprise industry association wrote reports directly to the government department in charge of FTA negotiations, reflecting the concerns of enterprises and asking for more consideration of them in FTA negotiations. In the report, the chemical enterprise industry association analyzed every detail even down to the department - products – tariff. With the initiative assistance of
industry association, the government can not only take measures to maximize the interests of enterprises or industries in FTA negotiations, but also conduct cross-sector and inter-regional policy coordination.

The third is questionnaire surveys. In 2008 and 2009, some industry associations, led by Chinese Ministry of Commerce, conducted questionnaire surveys among key enterprises across the country for two times. The surveys were mainly on interest demands of Chinese enterprises in the FTA and factors that affect the utilization of the FTA. Research showed that: Firstly, compared with 80% of FTA utilization in North America and 50% utilization in the EU, Chinese enterprises’ utilization of the FTA is low, and the China-ASEAN FTA, the maximum utilization of Chinese enterprises, was only 35.6%. Secondly, 71.6% of the enterprises suggested that the government should provide more information about preferential policies on the use of FTA while 65.8% of the companies advised the government to provide more training on the FTA. Thirdly, the services of Chinese government are mainly provided by the Ministry of Commerce, Customs, the General Administration of Quality Supervision, China Exit and Entry Inspection and Quarantine Bureau, the Ministry of Foreign Affairs and other departments, while 55% of the enterprises chose to refer to the Ministry of Commerce when encountering problems in the use of FTA.

In a word, we can believe that Chinese guilds and institutes still play a peripheral or marginal role in the FTA negotiations. The system of trade negotiations based on truly demands of industries and enterprise should be strengthened and only in this way, demands in multilateral trade negotiation could be closer to the endogenous development of the domestic industry. (Hanmin Zhou, 2011)

Conclusion: The coexistence and complementarity of the WTO and FTA’s is a new pattern for global trade governance

(I) Legal relationship between FTA and WTO

i) The existence of regional trading arrangements is allowed in the framework of the WTO multilateral trading system on the WTO legal basis, Article 24 of GATT, Article 5 of GATS and Enabling Clause that authorize and recognize the establishment of FTA.

ii) According to Article 24 of GATT (General Agreement on Tariffs and Trade) FTA could be established when meeting the following conditions: (a) Trade barriers do not increase substantially after integration; (b) Consenting to eliminate tariffs on substantially all goods exchanged in the whole area and other trade restrictions; (c) Approval by two thirds of WTO members when these measures are reported to the WTO. The purpose of these rules is to ensure that such arrangements could facilitate trade among countries within a group without raising trade barriers to the outside. Accordingly, the regional trade arrangements should complement the multilateral trading system rather than posing a threat on it.

ii) According to Article 5 of GATS (General Agreement on Trade and Service), FTA is allowed to exist under certain circumstances: (a) Regional integration of trade in services should cover a multitude of service departments; (b) Eliminating substantially all discriminatory measures in
departments committed by the multilateral organization during the time when the agreement takes effect or other reasonable period of time; (c) Regional economic integration agreement will not constitute higher barriers to trade and investment for a third country.

iii) According to the Enabling Clause. it is reasonable under the multilateral trading system for developing countries to implement "differential and more favorable treatment, mutual benefit and fuller participation of developing countries," to establish preferential trade arrangements, free trade area or customs unions.

ii) The existence of FTA is a super-WTO process
i) FTA and WTO are on the parallel institutional development, not affiliations of the system. A country must follow the rules and fulfill its commitments only within the scope of the WTO for its WTO membership. Simultaneously, each member could adjust the economic relations through establishing FTA's according to general international law outside the WTO.

ii) In spite of having the same aim to maximize the benefits of free trade, an FTA requires more stringency in the degree of openness than WTO commitments, which seeks a faster pace of market opening, a wider opening and a deeper range of open content as a super-WTO process.

iii) Issues unresolved between FTA's and the WTO
Are FTA and WTO partners or competitors? Is FTA exactly a help or a hindrance to the WTO multilateral trading system? Issues unresolved coexist with controversies. In fact, the core points of controversies are: whether FTA's damage the multilateral trading system; how to make FTA's comply with basic principles of WTO.

Actually, the Doha Ministerial Conference has started to solve the relationship issues between FTA and WTO, emphasize the necessity of maintaining harmonious relations between multilateral and regional process. In order to manage FTA more effectively and minimize the FTA proliferation to WTO at risk, ministers had decided to enter into negotiations to clarify and improve norms and procedures concerning FTA in WTO.

The Doha Round of negotiations on FTA is at present carried out along the following two paths: one is FTA transparency; the other is FTA institutional issues, such as multilateral surveillance mechanism. However, it is still faced with various political and legal problems. And currently it provides more sustainable foundations for the WTO and FTA's to fully integrate FTA's into the WTO system.

Meanwhile, APEC has actually completed a study on the relationship between FTA's and the WTO, proposed FTA "best practices" guidance document and made detailed explanations and suggestions on the consistency, comprehensiveness, beyond WTO commitments, transparency, facilitation, dispute settlement, rules of origin, cooperation, sustainable development, audit and other content of FTA's and the WTO.

(II) FTAs are the WTO's experimental area
FTA is most likely to become a driving force of global trade governance for the most important evidence is that the FTA could become the WTO’s experimental area. The WTO is considered not to be burdened with global trade governance in the new century without further reform because of the dilemma in Doha Round and its regulatory mechanisms shortages. But as a global international mechanism, the WTO is a product of the benefit distribution between powers and is usually under the circumstances that “A slight move in one part may affect the situation as a whole”. The procedure of the WTO reform seeking consistent interests may be plunged into “Omission”, while the introduction of a small international mechanism plays a role in the reform of the experimental area, which is a prerequisite to achieve this goal. As a regional economic integration organization, FTA's become the experimental area of the WTO for a global trade system reform.

Setting up economic development experimental zones and groping the way across the river are the successful experiences of China’s reform and opening up. In accordance with Deng Xiaoping’s “groping the way across the river” theory, Shenzhen, one of China’s Special Economic Zones, is faced with various reform challenges. It "blazed a new trail" for the Chinese reform and finally achieved the reform successfully. Then the successful experience of Shenzhen Special Economic Zone is gradually extended to the whole country, driving the great success of the reform and opening up of all of China.

WTO can refer to the concept of reform in China. If we regard WTO as China's reform, FTA can be viewed as China's Shenzhen Special Economic Zone. In the same way, we can believe totally that FTA's trying and practicing can help the WTO to complete reforms and enable it to shoulder global trade governance and greater responsibility in the new century. FTA's trail explores and accumulates experience for the WTO in two aspects: first is to explore how to innovate experience in perfecting and correcting defects of WTO rules, the second is to explore how to innovate experience in solutions to problems of institutional mechanisms in global trade governance. Then the successful innovation of FTA rules and institutional mechanisms are to be supplied to improve that of the WTO system.

FTA can be a pioneer, exploring new establishment and implementation of trade rules to correct and improve the deficiencies and defects of the existing WTO rules. For example, with the WTO Anti-Dumping Law, there is no rigor at the legal level and irrationality of the economic theory. FTA can provide several types of experimental approaches to correct and improve the defects and shortages. One experimental approach is repealing Anti-Dumping Law and replacing it by Competition Law. For instance, the primary objective of Canadian government in North American FTA negotiations is to replace the Anti-Dumping Law and Countervailing Duty Law by Competition Law within the FTA framework. Another experimental approach is to make improvement on the existing Anti-Dumping Law, such as the EU (European Union), who launched anti-dumping investigations in other countries outside the economic zone, has completely eliminated the possibility of initiating anti-dumping investigations among its members and resorting to anti-dumping measures.
FTA can be a pioneer, exploring the way of innovation in solving “frontiers” which the existing WTO system cannot resolve yet.

One of the “frontiers” is the contradiction between a balanced development of trade and the equal enjoy of fruits of the development for all members. For example, the ASEAN FTA, the world’s largest regional FTA formed by developing countries, was established for new, balanced, universal applicable and win-win multilateral trading systems, in which balanced development in trade is pushed and fruits of the development can be enjoyed equally. It promotes international trade order in a more fair and rational direction. If ASEAN FTA solved the tough problems, the successful experience would make a substantial contribution to the WTO global trade governance.

The second of the “frontiers” is inequality of opportunity to develop regional industry cooperation. So many enterprises in developed countries and multinational corporations choose to invest in underdeveloped areas fundamentally for the purpose of grabbing market share and carving up the local resources, yet not helping the entire region develop. So, the result include widened regional disparities and unequal opportunities. However, FTA can provide a platform for industrial cooperation between countries and regions, and solving the inequality of opportunities in developing regional industry cooperation. These successful experiences in practice will also contribute a lot to the WTO global trade governance.

The third of the “frontiers” is the inclusiveness of national interests under different conditions and different development degrees. According to Western Integration Theory and experiences of European integration, the integration process will inevitably lead sovereignty to supranational powers in a certain degree. Completely different with the EU, ASEAN FTA has created regional cooperation successfully in accord with different levels of developing countries and their conditions. Comprised of ten nations of different social systems and development levels, ASEAN reflects regional integration features asserted by developing countries of unanimity and noninterference in each other’s internal affairs. The survival and successful development of ASEAN FTA is a reflection of the reasonableness and value of the “ASEAN Pattern”, which has the same characters with the League of Arab States, The Organization of African Unity and other regional organizations in developing countries. These areas will successfully provide FTA with inclusiveness of national interests in different conditions and with different development degrees. And again, these successful experiences in practice will contribute a great deal to the WTO global trade governance.

(III) Conclusions: The coexisting and complementing of WTO and FTA is a new pattern for global trade governance in the 21st century.

WTO is vital in global trade governance for that it is not only a frame of multilateral trade system but also a system of global trade rules which provides the world with regulations, regimes and services for the solving of big trade problems. So, there is no doubt that it is a main subject in global trade governance. Although the importance of the developing countries and the right of speech thereof are not fully embodied and there exists some other shortages and weak points,
the function of the WTO in safeguarding the stability and openness of the world economy is irreplaceable. However, in the new century, a harsh challenge will be posed on the governing ability of the WTO. WTO can no longer meet the needs of the further development of global trade governance. Under this occasion, WTO should keep its pace with time, and acquire the ability of self-improving, developing and institutionalizing when new problem arise in this area.

At the same time, we could anticipate that in comparison with the WTO, FTA’s enjoys more likelihood to become the most active impetus to the global trade governance. Firstly, FTA’s can bring more economic profit or higher earning expectation by trade liberalization within the region, whereas the WTO has many difficulties in trade liberalization considering its broadness in countries and regions involved. Secondly, the cooperation between FTA countries may extend to political and military area, thus promoting the sharing of military and security resources between those countries. While WTO still remains as an organization drafting global trade rules. Its influence on political and military resource sharing is very limited. Finally, head and senior interaction mechanism in FTA provides an important platform for decision makers of each country to communicate face to face, which can enhance trust, reduce suspicions when disputes arise, and create conditions for countries to solve disputes in a cooperative way. Meanwhile WTO doesn’t have such a mechanism.

Global trade governance in the new century should insist on the principle of “walking on two legs”, which means that for one thing, we should maintain and develop the WTO multilateral trade system and trade rules, pushing Doha Round of trade talks forward; for another, when the WTO steps in difficult process, FTA could be a substitute. Lots of interrelated FTA will make trade and investment develop in a faster and more convenient way thus will prosper the whole world.

FTA supplements and perfects the system of the WTO by practicing in a way like “groping across the river”, which could or will be able to solve a number of problems in global trade governance and is or will be the basis for the formation of a regime or system related to global trade governance. We may say that FTA provides global trade governance with a platform of economic cooperation, instructions on negotiation and rules, and a convenient and balanced channel. FTA is becoming a policy tool for global trade governance and an endogenous nursery of a new system.

In short, the WTO and FTA’s have become two different ways through which countries all over the world could participate into the globalization of economy and trade. Both of them have advantages and disadvantages, and each could be a supplement to the other. The development of global trade governance will certainly require the coexistence and complementation of WTO and FTA, which, in this sense, are also new patterns themselves. The coexistence and complementarity of the WTO and FTA’s play a significant role in building a harmonious world, helping to establish a peaceful and prosperous global governance on the basis of common rules, negotiations, cooperation, mutual benefits and the respects for various cultures.

China will take part in globalization and regional economic integration actively, firmly expand the opening-up policy, and will insist on expanding trade globally and within the trade areas,
liberalizing and facilitating investment, trying to build an eternal, peaceful, co-prosperous and harmonious world.

“Conception makes civilization”. Before the 20th century, human society was a civilization of war emerged from the conception of competition and zero-sum game. However, the 21st century will be a harmonious world made by cooperation and win-win conception.
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试验区和摸着石头过河是中国改革开放的成功经验。全球贸易治理可参照中国经验，视区域经济一体化 FTA 为全球多边贸易治理机构 WTO 的试验区。贸易均衡发展和所有成员都均等享受发展成果的全球贸易治理难题，以及 WTO 多边贸易治理机构的不足之处，均可通过区域 FTA 摸着石头过河的实践性和试验性作用，探索破解全球贸易治理难题的成功经验、法规和机制，再补充到 WTO 多边体系中使之成为更完善的全球贸易治理机构。因此，WTO 和 FTA 并存与互补是长期态势，是全球贸易治理的新模式。
一、全球化

（一）新世纪全球化

新世纪以来，我们现在正经历的全球化是政治、科技、文化和经济多方面、多领域的全球化。如果人们仍然认为全球化只是经济方面，就是一个错误。

这是一个巨大变化的时代。在这个时代，基金经理、银行家、企业家，以及数以百万计的个人投资者，可以只点击鼠标就将庞大的资本从世界的一侧送达到另一侧。当他们这样做时，他们似乎可能控制或动荡整个世界经济。

在这个时代，媒体技术掀起一次次浪潮，即时电子通信可以把世界一个角落发生的事瞬间让全世界都知晓。瞬时电子通讯不只是新闻或信息传达更迅速，而是彻底地改变了我们生存的方式。

在这个时代，全球化正在创造的国际化社会从来没有存在过，扩大的不平等成为全球最严重社会问题。人们对这类全球问题感到无能为力不是个人感受，而是作为全球问题应对机制的现有国际组织治理能力的丧失感，以及传统的以发达国家为重心的全球治理模式正在失效的事实。

在这个时代，几乎所有问题都可能溢出国家的边界，超出单独一个国家应对的能力。几乎没有什么问题可以离开多个国家共同的努力协调与合作而得到解决，没有什么国家现在可以完全地独立专行。发达国家与发展中国家，大家都在一条船上，共同合作采取配合行动应对层出不穷的全球性问题，已具有生死攸关的意义。

（二）全球贸易新特点

新世纪以来，全球贸易呈现出了一些新特点：一是全球化已经影响到无论
发达国家还是发展中国家的国内经济发展、收入分配和社会稳定，同时可能还将其他领域涵括了进来，因此全球贸易问题其实已经聚集到“内政、文化、国家主权和其他不容易通过讨价还价找到折中方法的复杂问题上”（周毅之，2010）。

二是全球贸易出现了向南南贸易与贸易区域化转变的新纪元趋势。虽然现在发达国家综合国力和核心竞争力领先的基本格局没有改变，但从根本上看全球贸易新纪元出现的趋势是发达国家和发展中国家一种此消彼长的实力变换。

三是贸易自由化已成为全球贸易发展的主流，但与此同时，国际金融危机和主要经济体所选择的国内政策，又对全球贸易发展的模式带来冲击。全球贸易不平衡持续扩大，贸易保护主义有新表现形式，如美国对华贸易策略转变，出现贸易保护新动向，贸易争端增多成了中美贸易关系的主流（Gary Hufbauer，2010）。贸易保护主义对全球贸易的冲击，增加了各国领导人对WTO多边体制和多哈回合谈判的需求，背后依旧是大国之间对新规则制定的利益博弈。

（三）全球贸易治理前沿问题

新世纪给全球贸易治理带来了严峻挑战。如果现有的国际贸易组织不能正确应对或破解已经被时代提到当前全球贸易治理议程上的重大全球难题或称为全球贸易治理前沿问题，诸如：一是所有成员都均等享受全球贸易发展成果难题；二是全球贸易均衡发展和地区之间机会不平等难题；三是包容不同国情和不同发展水平国家利益融合的全球贸易发展模式难题，那么现有的国际组织全球贸易治理功能将难以为继，将遭遇治理能力的丧失和功能失效的挑战。

二、世界贸易组织（WTO）
WTO（世界贸易组织）是一个政府间多边国际贸易组织，是人类历史上第一个以普遍公认原则和规则为基础，所有成员（不管发展水平如何）由共同承诺组织起来的全球贸易体系。WTO 成立至今，已有 153 个成员，其 GDP 占世界总额 80%，贸易量占全球总额 95% 以上。WTO 是第一个全球贸易治理国际机构，它的成立开启了以推进全球贸易自由化为核心目标的全球贸易治理航程，而其多边贸易回合谈判就是实现这核心目标的首要方式。

（一）WTO 多哈回合谈判

2001 年 11 月，在卡塔尔首都多哈举行了第四次 WTO 部长级会议，发动了 WTO 成立以来第一轮多边贸易回合谈判——有利于发展中国家的多哈回合发展议程谈判。多哈谈判确定了九个领域，即农业、非农产品市场准入（NAMA）、服务贸易、知识产权、规则、争端解决、贸易与环境、“新加坡议题” 和贸易与发展问题的二十个议题，与粮食安全、气候变化、能源安全和建立有关发展的发展全球伙伴框架都有着紧密联系，是联合国千年发展目标的重要组成部分。

2003 年 9 月，在墨西哥坎昆召开了第五次 WTO 部长级会议，致力解决农业谈判框架模式，由于分歧会议无果而终。有人认为坎昆会议受挫是多边贸易体制的失败，更多人认为是多边贸易体制走向成熟的表观，过去那个仅由美、欧、加、日四方主导 WTO 议程设定和谈判进程的时代已不再，而由发展中成员以议题为纽带组成联盟，对谈判决策过程和包容性施加影响，成为了一种重要方式。

2005 年 12 月，在中国香港举行了 WTO 部长级会议，收效甚微。2006 年 7 月，WTO 部长级会议再一次因分歧严重破裂，随后，WTO 总干事帕斯卡尔·拉米建议整体“中止” 多哈回合谈判。

2007 年初，在日内瓦召开WTO小型部长会议，重启多哈回合谈判。中国政府
派了二十多个部委来参加谈判，为推动会议产生实质性成果做出了重要贡献。此次会议通过极其艰苦的努力，就二十个议题中的十八个达成了协议，然而在第十九个议题（即关于发展中国家农产品特殊保障条款）上谈判破裂。虽然到7月份形成了一个文本草案，在此基础上农业和非农市场准入谈判主席又在2008年2月、5月和7月提交了经过修订的文本草案，但由于特殊保障机制（SSM）这一核心问题没能解决，最终还是丧失了一个非常有可能取得突破的机会。丧失这个机会并非偶然，发展中国家要保护工业品补贴，发达国家要保护农产品补贴，谈判深入到这个阶段，国家利益分歧就很难调和。事实上，美国和欧盟的农业补贴政策严重损害了发展中国家的利益（孙振宇，2008）。

此外，服务贸易谈判是153个成员对包括120个部门（银行、电讯等）服务贸易进行双边讨价还价，其复杂性就足以反映多哈回合谈判进程的艰难。

2008年11月，在华盛顿20国集团领导人召开峰会，呼吁早日结束多哈回合谈判，以尽快恢复世界对WTO作为全球贸易治理有效多边体制的信心。当年12月，WTO公布了在过去几个月内取得了实质性进展的新文本（草案），WTO总干事帕斯卡尔·拉米评论认为，除20%涉及核心利益平衡的农业和非农产品市场准入（NAMA）的“硬骨头”没任何进展外，多哈回合谈判至此，已经完成了80%的议题目标，虽然依然没有发现促使建立最终谈判模式的政治动力。

2009年11月30日，WTO总干事帕斯卡尔·拉米与各成员的部长们表达了加快并在2010年完成谈判的政治愿望。2010年5月4日，拉米向WTO总理事会报告将以鸡尾酒法(cocktail approach)推进多哈回合谈判成果汇总进程。

（二）WTO与全球贸易治理

1. 机制上WTO是实施全球贸易治理有效的法制体系
WTO有一整套史无前例地得到广泛认可和接受的规则，代表了全球贸易治理的法治体系，用来调整世界贸易秩序和规范各国政府的贸易行为。WTO法治体系中作用最重要的是三大机制：一是贸易谈判机制，WTO有全体成员通过贸易谈判机制达成或制定的各种适用协定组成的法律文本和一整套规则，并得到各国政府较好的遵守。二是争端解决机制，WTO有对其规则强行执行的争端解决机制，为解决成员间的贸易争端，提供了一个强有力的法律威慑手段和相对完善的法律制度框架。三是贸易政策审议机制，WTO有定期对其成员按贸易额排名进行政策审议机制，审议范围之广包括货物贸易、服务贸易和知识产权，以至于深入到成员的金融服务、补贴和农业的国内规章及国内支持措施方面，达到了各成员贸易政策与WTO规则相符合。

WTO的贸易谈判和争端解决这两个机制解决了世界上其他国际治理机构缺少的公平性和权威性问题，尤其是WTO使用法律程序解决争端（司法化）的典范可能是全球贸易治理中最显著的创举；与此同时，WTO贸易政策审议机制更是产生了无法估量的外溢作用，深刻地影响了主权国家的国内政策。

2、实践中WTO取得了对全球贸易治理可圈可点的成就

WTO在全球贸易治理方面取得的最重要的成就，简言之，一是协调了各成员方利益，规范了各国的贸易行为，使贸易保护主义在全球受到了明显遏制；二是保持了各国关税持续降低，对补贴等非关税贸易壁垒进行了有效约束；三是达成了各种协定，使贸易自由化进程在全球范围得到了有力推进。

3、WTO存在着对全球贸易治理能力失效的内在缺陷

新世纪以来，世界经济重心向亚洲转移，WTO多边贸易体制的经济政治权力基础发生了变化，但WTO体制没有相应改变，这应该就是导致多哈回合谈判停滞
不前的内在原因所在。

多哈回合谈判陷入的困境突显了 WTO 多边贸易体制在全球贸易治理上的局限性，深刻反映出 WTO 体制机制上内在的某些缺陷：一是 WTO 协商一致原则的局限性，协商一致保证了 WTO 规则和决策能够得到所有成员的认可，但也使得每一轮贸易谈判都久拖不决，特别是 WTO 成员已超过 150 个，协商一致就严重妨碍了 WTO 的有效性。二是 WTO 争端解决机制的不足，争端解决（尤其是进入专家组阶段）耗时太长、费用太高，通常发展中成员金钱和法律能力比发达成员都极为不足，这就很大影响了 WTO 争端解决的公平性。三是 WTO 反倾销法律的缺陷，反倾销作为 WTO 合法贸易救济手段，由于自身法律的缺陷在 WTO 框架下被滥用，成为各国进行贸易战的最主要武器，沦为了贸易保护主义的工具。

与此同时，多哈回合发展议程谈判进程的停滞也充分反映了 WTO 试图解决诸多全球贸易治理前沿问题的艰难，以及 WTO 新世纪全球贸易治理之路的曲折漫长。

（三）中国加入 WTO 十年

1、加入 WTO 十年中国与 WTO 共赢

2001 年 11 月 9-14 日，WTO 第四届部长会议在多哈（卡塔尔）举行，正式批准中国加入世界贸易组织；2001 年 12 月 11 日，《中国加入 WTO 议定书》生效，中国正式成为 WTO 第 143 个成员。这不仅是中国历史上，而且也是 WTO 历史上的一个里程碑事件。2011 年迎来了中国加入 WTO 十周年的庆典。

入世十年，WTO 规则为中国作为其成员提供了在全球产业链中，各个经济体之间的贸易来往，提供了一个更加透明、更加安全、更加可以预测的世界市场。入世十年，WTO 推动了中国史无前例的对外开放，促进了中国举世瞩目的市场经济体制改革和产业结构调整，推动了中国法律制度大刀阔斧的改革，使中国全面
融入了世界经济。


加入 WTO 十年，中国赢了，世界赢了，中国与 WTO 共赢。

2、中国全面融入世界经济

1）WTO 推动中国经济对外开放

加入 WTO 十年，中国对外开放进入了全方位、多层次、宽领域的新阶段。首先是 WTO 推动理念转变，中国真正实现了从“由改革促开放”到“由开放促改革”的重大理念转变，用开放促改革和发展，并用改革和发展深化开放的互动模式，使中国取得了显著的发展和增长效应。（张燕生，2011）

其次，中国全面履行了加入 WTO 的开放承诺，逐步扩大了农业、制造业和服务业的市场准入，放开了对外贸易经营权。一是关税与非关税限制水平显著下降。中国平均进口关税从入世前的约 15%削减到 2010 年的 9.5%。二是对外贸易持续高速增长。中国货物贸易进出口总额在 2001 年加入 WTO 之际还只有 5096 亿美元，到 2010 年已达到 29728 亿美元，几乎突破 3 万亿，十年中翻了五倍，已经成为
世界货物贸易第一大出口国和第二大进口国；中国加工贸易在中国整个对外贸易中的比重从 2001 年的 47.4% 下降到了 2010 年的 38.9%；同时，其增加值率从 2001 年的 56.9% 提升到了 2010 年的 77.4%；中国服务贸易进出口总额从 2001 年的 719 亿美元增长到 2010 年的 3624 亿美元，增长四倍，目前 100 个服务贸易部门开放，开放度 62.5%，达到了发达国家水平，已经成为世界服务贸易第三大进口国和第四大出口国。三是引进外资和对外投资保持连续增长势头。中国引进和实际利用外资在 2010 年突破了 1000 亿美元；而对外直接投资在 2010 年流量达到 688 亿美元，占全球当年流量的 5.2%，同比增长 21.7%，连续九年保持增长势头，年均增速为 49.9%，到 2010 年底中国直接投资存量已超过 3000 亿美元，位居全球第五，首次超过日本、英国等传统对外投资大国。

总之，加入 WTO 十年中国经济对外开放取得了令人瞩目的成就，中国经济发展已经成为全球经济发展强有力的推动力，是世界经济发展重心向亚洲转移的主要原因。

2) WTO 推动中国市场经济体制改革和产业结构调整

加入 WTO 十年，为中国市场化改革提供了一种机制，或者说是外资的约束和压力，推动了中国市场经济体制改革和产业结构调整的进一步深化。当然，来自 WTO 要求中国市场化改革的约束和压力并不是国际社会强加于中国的，恰恰相反，是中国为了自身发展，首先自主进行国内经济体制改革，然后才是借助 WTO 外力推动，有效克服了国内改革的阻力，达到了发展的目的。

加入 WTO 之前，中国政府非常担心中国的弱势产业，即第一产业的农业、第二产业的汽车、第三产业的金融，会被入世的风暴冲垮。为了应对入世对中国的弱势产业的冲击，经国务院批准政府在 2000 年成立了相继成立产业损害调查
局、公平贸易局、世贸司等保护产业安全、执行世贸规则的机构，并立即对附加值高、产业链长、关联度大的汽车产业展开调研，调研结果建议以更加开放的方式，将中国汽车产业发展方针由“自主创新与发展”调整为“自主创新与引进先进技术相结合”的方针（张志刚，2011）。

加入WTO，开创了中国产业市场化进程，意想不到地是，与中国政府担心的恰恰相反，中国弱势产业在加入WTO后的产业市场化进程中获得了极大的发展。以汽车为例，正是在开放的市场竞争中形成了符合市场规律的专业化分工新格局，中国汽车产业获得了极大的发展，技术和产品质量有了突飞猛进的提高。2005年中国就由汽车零部件净进口国变为净出口国，2009年中国汽车产销量分别达到1464万辆和1479万辆，产销量均超美国，2010年中国汽车产量1827万辆，汽车产品进出口贸易总额累计1085.31亿美元，首次突破1000亿美元，跃居世界第一。加入WTO十年，中国为其弱势产业投入了大约数千亿元进行产业结构调整和技术改造，在国企为主的企业界大规模实施现代企业制度改革，以提升弱势产业生产力水平作为入世最积极的应对，目前，中国生产的900多种产品所占的国际市场份额居全球首位。从2001年到2010年，在光纤接入互联网设备市场上，中国规模以上电子信息制造业收入增长近4.6倍，软件业收入增长17倍，电信业收入增长近7.6倍，而中国企业占据了世界前五大生产商中的三席，分居第一、第二和第四位。

加入WTO十年，中国在农业问题上的应对政策调整最深，农产品平均关税从18.8降到15.2%。中国的粮食产量从2001年的45263.7万吨增加到2005年的48401万吨，之后连续四年稳定在1万亿斤，到2010年已达到10928亿斤，成为了世界农产品贸易第四大国，取得了举世瞩目的惊人成就。
加入 WTO 十年，中国经济以两位数的增长几率快速增长，综合国力显著提高。GDP 从 2001 年仅有 1 万多亿美元，到 2010 年即超过 6 万亿美元（2010 年中国 GDP 为 39.80 万亿元人民币，按现行汇率计算合 6 万亿美元），年均增长超过 10%，在经济总量上已先后超过英国、法国、德国和日本等西方发达国家，成为仅次于美国的世界第二大经济体。

总之，加入 WTO 十年中国经济体制改革加速，产业市场化结构调整加快，特别是在这次金融危机中，中国出口没有负增长，这与入世推动中国市场经济体制改革和产业结构调整有关，国企、银行、农业方面的竞争力都在增强，这充分证明了中国加入 WTO 是英明决策、利国利民。

3) WTO 推动中国法律制度改革

加入 WTO 十年，中国对现有的不符合 WTO 规则的法律法规开展了全方位大规模清理修改工作，中央政府部门共清清和修改了各种法律法规和部门规章 2300 多件，地方政府共清理 19 万多件地方性法规、政府规章和其他政策措施，通过清理修改法律法规工作，中国成功兑现了其当初的承诺，接纳了 WTO 的几大基本原则（易小准，2011）。

与此同时，国内在涉外经济领域的立法也逐步与 WTO 规则相吻合，增强了民主法治和法律的可操作性。中国系统修订了外商投资法律，统一了内外资企业的所得税，制定实施了《反垄断法》，积极推动了外汇体制改革，扩大了人民币的跨境使用，并将逐步实现人民币资本项目可自由兑换。

此外，WTO 推动了中国依法行政，政府职能转变，达到法律制度改革的出发点在约束政府、促进法律制定和程序透明的重要职能上。
3、中国全面融入世界多边贸易体制

长期以来中国不愿意参加多边主义安排，中国的外部关切都集中在自身发展问题上。但加入WTO后，中国一方面以入世为契机加快国内经济和社会改革的步伐；另一方面也尽可能多参加国际社会多边组织。十年之间在多边贸易体制中，中国经历了从学习规则，熟悉规则到掌握规则，运用规则，参与创立规则的过程，正在逐渐成为世贸组织的成熟成员。中国向WTO学习如何融入全球多边体制，这是一个渐进的学习过程，呈现出一条学习轨迹，该学习轨迹（学习过程）大体可以分为：学习和运用WTO规则阶段；参与WTO新规则制定阶段；成熟处理WTO成员之间关系阶段；主动参与全球贸易治理阶段。

1）学习和运用WTO规则

入世前后，中国在全国范围大规模动员普及学习WTO法律法规。在中央党校开设WTO规则专题班，国家领导人亲自向省部级领导宣讲加入世贸组织的重要性及相关知识。当时的国家经贸委会同有关部门，迅即在全国进行巡讲，开展全国范围大规模世贸知识普及活动，短短两个月内，就有 500 万人踊跃参加。从领导人到普通百姓如此重视WTO规则的学习，世界上史无前例。

从学习规则、熟悉规则到掌握规则、运用规则，入世后的中国政府迅速成为WTO规则，特别是WTO贸易救济措施的主动使用者。因为正如一个硬币的两面，与入世后中国贸易总额和顺差显著增长同样引人注目的是中国贸易摩擦的剧增，即随着中国在世界贸易中份额的增长，中国作为一方，其贸易争端的数量也同样增长。2005 年至 2009 年，中国进出口总额占世界贸易量的 10%，遭遇的反倾销案却占世界反倾销案总数的 34.7%。中国成为连续 16 年是世界上遭遇反倾销最
多的国家，连续 5 年是世界上遭遇反补贴最多的国家。2011 年 7 月份，无论是作为被告，还是作为原告，中国总共被牵扯进 20 起世贸组织受理的贸易争端中，作为第三方，中国被牵扯进的贸易争端，也多达 70 余起，涉及的内容从反倾销、反补贴、保障措施到知识产权等。事实上，中国政府一向认为，WTO 现有法规的不完善和不公平是使中国遭受如此之多反倾销的重要原因之一，正是 WTO 反倾销法允许发达国家把中国当作“非市场经济国家”，并且允许计算倾销幅度时采用“归零法”，这两项使得中国产品经常性地被不公平裁定为高额倾销幅度同时被征收高额反倾销税。入世后中国政府一直把应对贸易摩擦作为重要任务来学习，熟练掌握了应对贸易摩擦的一般途径：政治交涉（高层对话）、法律抗辩（指导商会法律应对）、企业界合作（两国企业对话协商）；并且在如何运用世贸规则来保护本国企业权利的学习过程中，成为了一个 WTO 规则的主动使用者，充分运用世贸组织争端解决机制，进行投诉、进行辩护。比如，中国调查机关把美国和欧盟两大贸易伙伴对中国的双反（反倾销、反补贴）措施告上了 WTO 争端解决，并采取了反制措施，当然，中国调查机关对反制措施还是很谨慎的，除非认为影响到中国核心利益才会采取。为保住中国企业在国际竞争中的市场份额，维护企业利益，中国政府灵活运用贸易救济措施，沟通与协商、交涉与谈判，战略上每案必争、每案必保；策略上打规则牌、法律抗辩、高层对话、争端解决，尽量降低贸易磨擦不利影响。正是世贸组织的三大原则，使得中国能够平和地解决她与其他世贸组织成员之间的贸易争端问题。

中国学习和运用 WTO 规则的宝贵知识和经验，不仅可以保护中国企业的利益，也有利于中国立法者拟定一个更好的国内法律体系，更大程度地与国际法律框架保持一致。实际上，2006、2008 和 2010 年，WTO 曾先后三次审议中国贸易政策。
WTO 的看法是，中国政府所表示与国际法律框架保持一致的决心是严肃认真的，而且也做出了非同寻常的努力。

2) 参与 WTO 新规则制定

启动多哈发展回合，正值中国刚成为 WTO 大家庭的一员。因此在多哈回合发展阶段谈判的初始阶段，中国参与程度十分有限。但是随着时间的推移，中国从幕后走出来，开始主动在谈判中发挥作用。2005 年中国作为东道主，组织 WTO 贸易部长在大连聚首，为同年 12 月在香港成功举办 WTO 部长级会议铺平了道路。2008 年 7 月，在日内瓦 WTO 小型部长会议上，中国政府派出了二十多个部委参加谈判。中国商务部陈德铭部长，与来自澳大利亚、巴西、欧盟、印度、日本、美国等部长一起，不懈努力，达成共识，推动谈判，起到了关键作用。中国不再仅仅被现有规则所束缚而积极参与新规则制定，开始积极参加各领域的谈判，提出了 100 多份提案，其代表性和话语权得到明显提升，影响力开始显现，并且进入了 WTO 的谈判核心圈。WTO 的 153 个成员中有 50 个成员从不参加会议，真正关注谈判的只有 60 个国家，实际参加谈判的就 30 个国家，而进入谈判核心圈的就是美国、欧盟、日本、中国、印度、巴西那么几家。中国积极、全面地参与 WTO 多哈回合的各领域谈判，实现了由规则的遵循者、接受者向规则的共同制定者的重大转变，中国成为了多边贸易体制未来发展不可或缺的重要力量（周汉民，2011）。在 G20 峰会上，中国领导人也始终如一，明确表态，支持多边贸易体制，尽快结束多哈发展回合谈判。

中国认识到，虽然谈判是在政府层面进行，但最终目的还是要为企业服务，WTO 规则运用最终的利益要落在本国企业身上，因此，为中国企业争取最大利益
中国政府参与 WTO 新规则制定的基本立场。比如，为了维护中国节能环保企业的利益，中国政府关注美国增收碳关税是否会纳入新一轮多哈谈判议程，中国不希望碳关税成为 WTO 多哈谈判的关注点，因而批评 WTO 秘书处所作的一个有利于美国国内保护而不利于贸易自由化的报告，从内容和程序上都对这个报告进行了批驳，认为 WTO 秘书处是个中立机构，没有成员授权无权作这样一个报告。这件事反映了中国在 WTO 新规则制定上已有很大的话语权，没有中国的表态，WTO 似也无法通过一个新规则。

3) 成熟处理 WTO 成员间关系

在成为谈判核心圈有影响力的成员之后，中国在 WTO 中活动的核心是学习如何成熟处理与其他成员的国际政治与经济关系。中国与世界主要国家之间贸易摩擦进入了高发期，学习处理好与其他 WTO 成员的关系，是中国在多边体系中做一个成熟成员，互利共赢，有所作为的学习阶段。

中国积极调整与发达成员的经贸关系。中国与发达国家之间的经贸关系传统上是一种纵向分工关系，这种纵向分工关系互补性比较强。但随着中国在制造业的众多领域，包括装备制造业的竞争力日益增强，与发达国家制造业横向分工关系有所增强，形成了一种纵横交错，互补与竞争并存的复杂关系，学会处理好这种关系是中国的重要任务。贸易摩擦是横向经贸关系中的常见现象，中国企业应该主要通过创新和突出产品特色，走差异化竞争之路。此外，对于发达成员，中国是尽可能不在谈判中做出新的承诺，以维持中国“入世”所确定的开放程度。虽然发达成员视中国为其“利益攸关者”，同时尽可能地推动中国进一步开放市场，例如，欧盟贸易委员曼德尔森曾在公开演讲中提及：“中国从 WTO 中获益，也
须推动多哈回合的成功,并发挥关键的领导者角色”,但中国的态度始终是:一方面,切实履行“入世”承诺;另一方面,在多哈回合谈判中,尽管有建设性贡献,但没有意愿在WTO中担当领导者角色。

中国积极维护和发展发展中成员的经贸关系。在“入世”协议中,中国的发展中国家这一地位并没有被明确地确定,在未来的谈判中,中国被视为发展中国家且由此享受例外和优惠待遇的可能性也不大。但无论基于事实还是基于政治、外交考虑,中国都坚持自己是发展中国家,这一性质在相当长一段时间内不会改变。从战略层面来看,在多边贸易体制中,中国和广大发展中成员在根本利益上是一致的,中国在WTO中的基本原则和立足点在于充分关注发展中成员利益,坚持与其他发展中成员一起,维护多边贸易体制和国际政治经济秩序朝着更加公正合理的方向发展。但从策略层面来看,中国在谈判中虽然必然会站在发展中国家一方,由于与发展中国家的利益并非完全一致,中国也不会选择成为发展中国家的领导者。对与一些发展中成员存在的一些贸易争端和贸易问题,中国坚持平等对话,耐心地予以解决。中国高度重视南南合作,一如既往地加强与发展中国成员的经济和技术合作,对广大发展中成员提供力所能及的经济技术援助,共同为人类发展做出贡献。

中国对欠发达成员严格履行了其入世的缩减税率的承诺,并将进一步执行给予欠发达成员的免税配额。同时,中国承诺逐步给予与中国建交的最不发达成员95%税目的输华产品零关税待遇,到2010年底,中国免除了44个最不发达成员238亿元人民币的债务。

4）主动参与全球贸易治理
2011年，中国在十二五规划文件中第一次明确提出了“积极参与全球治理”。

中国主动参与全球贸易治理的目标，一是推动国际经济体系改革，促进国际经济秩序朝着更加公正合理的方向发展。二是推动建立均衡、普惠、共赢的多边贸易体制，反对各种形式的保护主义。三是推动区域合作进程，加快实施自由贸易区战略。

中国是WTO的受益者，将坚定不移遵循自己是WTO多边贸易体制的参与者、维护者和建设者的角色定位，在现有WTO体系框架内，积极主动地参与全球贸易治理。中国一直以来都是多边体制的积极支持者，在目前全球治理体系中，WTO是多边体制中最重要的，其对维护世界经济稳定和贸易开放起到了无可替代的重要作用。虽然发展中成员的话语权和重要性在WTO还很不足，此外还有内在机制与体制上种种缺陷，但中国参与全球贸易治理的理念是选择维持WTO现状而非寻求系统性大变革。真正的挑战可能来自WTO规则本身，只要在体系内协商、合作甚至妥协，通过改革和完善WTO的规则，就可以实现WTO多边国际体系的发展和变革，把已经建立的国际秩序进行充实和完善。

中国主动参与全球贸易治理，就是将继续旗帜鲜明地反对各种形式的贸易保护主义，推动在全建立均衡、普惠、共赢的多边贸易体制，重视加强区域经济一体化建设；与此同时，中国将以加入WTO十周年为契机，主动第二次入世，坚定不移扩大对外开放、奉行互利共赢战略、在全球和区域范围内扩大贸易与投资自由化和便利化，使中国从世界工厂走向世界市场，世界服务。

二、自由贸易区（FTA）
（一）全球 FTA

FTA（Free Trade Agreement/Area）——是区域自由贸易协定或自由贸易区，是指两个或两个以上经济体为实现相互之间贸易自由化而签订的区域贸易安排，缔约方所构成的区域就成为自由贸易区。由于具体国情、发展阶段以及利益需求不同，各经济体签订的FTA也有所不同，除包括相互取消货物贸易关税和非关税贸易壁垒外，广义的FTA还包含知识产权保护、投资、政府采购、竞争政策、中小企业合作、服务业开放、人员移动、标准化以及金融货币等领域的相互承诺。

FTA的大发展出现在20世纪90年代末期，由于WTO多哈回合谈判陷入困境，各国开始热衷于建立FTA，在世界范围内掀起了区域经济一体化的浪潮。进入21世纪的十年来，全球FTA呈现出爆炸性发展势头，FTA不仅日益成为世界各国贸易政策的核心组成部分，且迄今为止，FTA的贸易量已占全球贸易量的50%左右；FTA的内容已经超越单纯的商品贸易，向服务、投资、知识产权和劳动力流动等领域扩张，并且超越传统的贸易政策壁垒层面，着眼于运输、海关服务、技术标准和国内竞争政策等一切能够降低贸易成本的因素。

全球FTA中，欧盟是区域经济一体化程度最高的。欧盟FTA的特点是，签订的FTA主要集中在周边国家；且欧盟成员必须整体与其他国家签订FTA。由于欧盟已实现了27个成员间货物、服务、资本和劳动力的自由流动，也已实现了货币的一体化，所以欧盟的单一国家不能与另外的国家签订自由贸易区。

美国是区域经济一体化进程的后来者。但在实践中，美国缔结FTA的步伐不仅很快，而且涵盖的内容广泛，这反映美国改变了长期以来仅主导全球多边贸易体系的战略取向，采取了两条腿走路的“双轨”政策，把区域经济合作也列入了未来战略重点。美国FTA的特点是以北美自由贸易区（NAFTA）为基础向中美洲
和南美洲推进，立足美洲，插足中东和欧洲。

日本也是迟来的 FTA 参与者。长期以来日本重点一直放在推进全球多边贸易体制上，认为 FTA 会削弱多边体制。当美国转向 FTA 战略后，日本的政策也随之发生转变。在 2001 年，日本通产省发表《国际贸易白皮书》，首次阐明多边贸易体制的不足以及建立 FTA 的必要性。日本 FTA 的特点是第一步达成日韩 FTA，第二步以日韩 FTA 和日—东盟 FTA 为主轴吸收中国加入，第三步吸收中国台湾和香港，“实现更广阔的东亚一体化”。

东盟 FTA 进程自 20 世纪 90 年代末开始，进入 21 世纪后大幅加速。东盟现已分别与日本、中国、韩国和印度签署了 FTA，到 2015 年包括越南四国在内的东盟 FTA 将彻底形成。

FTA 还在不断地向全球深度和广度发展，除双边、区域、跨洲FTA 网络化发展迅速，就是大洲范围的 FTA，如亚洲 FTA，也呼之欲出。最近几年 APEC 成员热衷于 FTA 受到广泛关注。包括澳大利亚、韩国、美国、新加坡、智利、新西兰、中国、泰国、墨西哥、日本等国家都是亚太经合组织（APEC）成员，这些属于亚太地区的国家积极参与 FTA，反映出下一步 FTA 的大发展将出现在亚太地区。

（二）FTA 与全球贸易治理

1. FTA 对贸易自由化的意义

一是 FTA 推行贸易自由化的目标以及涉及的内容与 WTO 相似，甚至超越了 WTO（WTO plus）贸易自由化的内容，如服务贸易自由化，都出现在双边和区域 FTA 中。

二是 FTA 贸易谈判具有 WTO 没有的优点，在 FTA 谈判中可以通过增加贸易量或者提供其他援助进行所谓“补偿性谈判”，即在谈判过程中，可以先达成过
渡性安排，平衡当事国的利益，然后再签订双边或区域 FTA。由于 FTA 谈判比较 WTO 谈判更容易获得成功，因此可以预见未来更多贸易自由化、便利化措施都将首先在区域 FTA 内实施。从这个意义上说，FTA 将成为各国加速推动贸易自由化的重要方式。

三是局部贸易自由化可以促进全球贸易自由化进程。不久将来可能乐见到的是，庞大的亚洲 FTA 建立起大洲范围的均衡、普惠、共赢的多边贸易体制，进而与 WTO 全球多边贸易体制合作，共同带动全球走向和平与繁荣。

2、FTA 对建设和谐世界的意义

中国国家主席胡锦涛 2005 年 9 月 15 日在联合国成立 60 周年首脑会议上发言《努力建设持久和平、共同繁荣的和谐世界》，提出了“和谐世界”的概念。“和谐世界”就是指在互信、互利、平等、协商、尊重多种文明的基础上谋求世界的“永久和平与共同繁荣”。

FTA 对和谐世界的建设目标具有积极意义：一是 FTA 的协商与法制可为和谐世界建设目标提供重要政策工具。恐怖主义、贫富差距、霸权主义、经济摩擦是当今世界广泛存在的不和谐现象，而 FTA 可以推动这些问题的解决符合和谐世界建设目标。二是 FTA 的经济一体化为政治和谐提供了平台。事实上，FTA 形成更大区域的共同利益，使主权国家相互间就有更大的利益融合，政治和谐与和平发展就更可能成为共同的追求。三是 FTA 贸易共赢的外溢作用，可以增加社会福利，达到区域成员共同繁荣。

3、FTA 成功典范的意义和贡献（典型案例）

中国—东盟 FTA 是由中国国家组成的全球最大的 FTA，是世界南南合作的成功典范，其建成后对区域经济一体化、贸易自由化、建设和谐世界目标的重要
贡献，更是代表 FTA 对新时代全球贸易治理有着正向作用及普遍意义的实践证明和典型案例。

2002年11月，中国与东盟签署了《中国一东盟全面经济合作框架协议》。2004年11月，双方签署了自由贸易区《货物贸易协议》，并从2005年7月开始相互实施全面降税。2007年1月和2009年8月，双方又分别签署了《服务贸易协议》和《投资协议》。2010年1月1日，中国-东盟FTA正式全面启动。

中国-东盟 FTA 覆盖面积达 1400 万平方公里，约 19 亿人口的大市场，占到全球的 13%的贸易总额，有近 6 万亿美元的经济规模。其经济规模可与欧盟及北美 FTA 匹敌，而人口总数则超过了欧美这两个 FTA，是世界上发展中国家组成的全球最大的区域性 FTA。

中国-东盟 FTA 包括了贸易、投资、服务业和经济技术合作，其开放程度要高于对 WTO 的承诺。表现在：一是货物贸易领域，中国与东盟的印尼、马、菲、新、泰、文莱六国 90%的商品削减关税，双方 7000 余种商品实现了零关税。二是服务贸易领域，中国在建筑、环保、运输、体育和商务等 5 个服务部门 26 个分部门向东盟国家开放市场；东盟 10 国分别在金融、电信、教育、旅游、建筑、医疗等 6 个行业向中国开放市场。三是投资领域，中国与东盟国家消减双向投资壁垒涵盖了农业、制造加工业和服务业等多个方面。四是经济技术合作领域，正如中国商务部副部长齐心表示，随着中国-东盟 FTA 的全面建成，中国-东盟 FTA 的合作已由最初的单一货物贸易形式，扩展到农业、信息通信、人力资源开发、相互投资、湄公河开发、交通、能源、文化、旅游、公共卫生、环保等 11 大重点领域。

中国-东盟 FTA 正式全面启动后，据统计，2010 年 1 至 10 月，中国与东盟
双边贸易达到2354亿美元，已超过2009年全年双边贸易2130.11亿美元的水平，同比增长42%，其中东盟国家顺差为132亿美元。正如中国商务部副部长易小准所说“中国-东盟FTA是一个双赢的制度性安排”，对此，马来西亚国际贸易与工业部秘书长拉哈曼·马麦特完全同意称“我们越来越认识到，中国-东盟FTA很多优惠政策都等着我们去充分挖掘和利用，这样必然能形成一个合作共赢的结果。”

就东盟方面而言，中国-东盟FTA的意义和贡献，一是其降低了全球金融和经济危机对东盟国家的冲击。在此次金融危机中主要靠对欧美市场出口的东盟各国经济有的出现了零增长甚至是负增长，正是中国-东盟FTA的优惠政策为东盟国家提供了向中国增加商品和服务出口的更多机会，使东盟经济率先走出了低谷。二是中国13亿人大市场促进了东盟国家扩大就业和经济发展。东盟已经超过了日本成为中国第三大贸易伙伴、第四大出口市场和第三大进口来源地，与此同时，东盟成为了中国企业“走出去”的主要目的地之一，中国在东盟国家直接投资额已经突破100亿美元大关。

就中国方面而言，中国-东盟FTA的意义和贡献，首先中国政府认为，其除了推动区域内贸易、投资和经济合作之外，还显现出许多正外部溢出效应，一是推动人民币走向地区化，中国东盟以美元结算的贸易今后几年能以人民币结算。二是作为关系协调的争端解决机制得到完善，使中国东盟区域内的贸易通过协商和谈判，大大减少了以反倾销为代表的贸易摩擦对彼此的伤害。三是中国东盟在FTA框架下商定较多的国内敏感部门例外，有助于国内易受冲击的相关产业部门更好地进行结构调整。其次中国企业家对中国-东盟FTA普遍持欢迎态度，中国商务部对企业所作调查结果显示：44.3%的企业认为最重要的好处是“因市场开
放易于出口”；34.9%的企业认为“贸易更便利了”；28.2%的企业认为“推动投资和开拓新业务”；也有21.6%的企业认为“进口增多，竞争性增强”是负面影响。

正是中国-东盟FTA产生的合作共赢成果，使中国与东盟从磋商伙伴、对话伙伴一步步发展成为了战略合作伙伴关系。在未来，中国将坚定支持东盟在建立东亚FTA中发挥主导作用。东亚完全不同于欧洲，东亚国家之间在经济、政治、宗教等方面存在着巨大差别，这是建立东亚FTA的严重障碍，尽管建立东亚FTA的方案还在探讨之中，但这已是大势所趋。与此同时，用经济相互依存程度的加深作为安全保障已经成为许多亚洲国家谋求实现经济增长的主要手段，FTA已经成为许多亚洲国家在日程上一个政治和经济综合的战略问题，因而，整个亚洲的大洲FTA的建立也正孕育着重大的机遇。

（三）中国参与FTA

1、中国参与FTA进程和内容

2001年之前，中国对外谈判的重点是加入WTO，当时的国内外条件都不容许中国将精力转向FTA谈判，因此中国是参与FTA的后来者。

2001年，中国参与了第一个区域贸易安排——《曼谷协定》（现更名为《亚太贸易协定》）。

2002年11月，中国与东盟签署了《中国-东盟全面经济合作框架协议》。

2003年6月30日，内地与香港之间“更紧密经贸关系安排（CEPA）”正式签署，之后每年连续签署五个补充协议。同年10月，内地与澳门之间的CEPA正式签署。

2004年11月，中国与东盟十国签署了自由贸易区《货物贸易协议》，对7000个产品实行零关税，并从2005年7月开始相互实施全面降税，这标志着中国加入了一个真正意义上的FTA。2007年1月和2009年8月，双方又分别签署了《服务
贸易协议》和《投资协议》，2010年1月1日，中国-东盟FTA正式全面启动。

以2004年签署中国－东盟FTA为代表，中国开始进入FTA建设的快速轨道。
2006年签署了中国－智利FTA，占智利98%的产品和占中国97%的产品进一步开放，中国成为智利第一大贸易出口国；2007年签署了中国－巴基斯坦FTA，巴基斯坦一个主要服务部门和中国六个主要服务部门进一步开放；2008年签署了中国－新西兰FTA，新西兰63.6%的产品和中国24.3%的产品实行零关税；2009年签署了中国－新加坡FTA，从新加坡进口90%的产品实行零关税，货物贸易、服务贸易和人员实现自由流动；2010年签署了中国－秘鲁FTA，双方90%以上的产品分阶段实施零关税，秘鲁90个部门和中方16个部门进一步开放。

与此同时，中国正在与冰岛、挪威、海合会（海湾阿拉伯国家合作委员会）、澳大利亚、哥斯达黎加以及南部非洲关税同盟等六个国家或地区进行FTA谈判。谈判内容涵盖广泛，如中国与澳大利亚FTA，内容包括贸易、投资、服务、海关便利化、技术规则和标准、商务人员流动、知识产权、电子商务、中小企业合作、透明度、能力建设、政府采购、竞争政策、环境问题等。

此外，中国还正在与韩国、日本、印度、瑞士、乌兹别克斯坦等多个国家进行FTA的可行性研究，如中日韩FTA、东盟+3FTA（EAFTA）、东亚峰会框架（CEPEA）等可行性研究。

截止至2010年，中国已经与五大洲三十一个国家和地区有17个FTA，其中生效的包括十七个国家和地区的9个FTA。

2、中国参与FTA策略选择

一是优先解决FTA的建立问题，然后分阶段逐步拓展和深化的FTA内容。采取早让步、早成功、早受益的做法，强调优先达成协议的重要性。当谈判合作领
域和合作内容遇到困难，可先暂时搁置敏感问题，允许贸易敏感产品例外情况存在，主动让步尽快达成 FTA 协议，之后再分阶段逐步拓展合作领域和深化合作内容。

二是与发达国家建立 FTA 有所选择。首选大洋洲的发达国家（如澳大利亚、新西兰等）建立 FTA；次选北美、欧盟有自由贸易协议的周边发达国家（如冰岛、加拿大等）作为 FTA 对象国；时机不成熟时不主动提出与欧、美、日建立 FTA 的方案，避免与发达国家建立 FTA 的较大风险，待条件成熟时再考虑与发达国家建立 FTA。

三是与承认中国“市场经济”地位的国家建立 FTA。中国参与的 FTA 分两种类型，一类是中国主动推动的 FTA，如中国一东盟的“10+1”；另一类是其他国家主动的，中国做出回应参与的 FTA，但前提是对方必须承认中国的“市场经济”地位。其中的缘由是《中国加入世界贸易组织议定书》第 15 条规定，中国自入世之日起 15 年内可以不被其它缔约方视之为市场经济体，依据该规定，欧盟和美国就可以用替代国价格来认定中国产品的倾销和倾销幅度，从而对中国产品施加高额反倾销税。中国抓住了签订 FTA 的机遇就这个限制取得突破，得到很多 WTO 成员国家承认了其“市场经济”地位，如智利、新西兰、澳大利亚、新加坡、冰岛等国。

3、中国行业协会和学会在 FTA 谈判中的作用

中国 FTA 谈判既不像印度是依靠行业协会，也不像美欧是依靠个体能力很强的企业，主要还是依靠政府进行企业和行业的利益协调。中国的企业行业协会和学会由于体制上一般都是从政府行政部门精简转换过来，没有明确的法律地位，很难在 FTA 谈判中起到企业总体协商和利益协调的作用。通常是由中国商务部
（包括驻外经商机构）主导，地方商务主管部门、行业协会和学会，以及有关企业共同参与的“四体联动”协商协调机制，不仅在对外FTA谈判方面，并且在贸易摩擦应对方面也发挥着重要作用。

而中国企业行业协会和学会的作用，通常是主动地协助政府做有关调查研究工作，一般有组织会议、撰写报告和问卷调查三种方式。一是组织会议。如WTO学会2009年6月组织会议，邀请100多名有代表性的国企、民企领导人参加会议，请商务部若干主管司局长到会介绍FTA谈判，最新情况和国家政策，同时听取会议企业代表的发言，与会议代表互动，了解企业对FTA谈判的利益诉求。

二是撰写报告。如化工部门的减让经常是谈判最后交锋的问题。化工行业协会就直接撰写报告给政府主管FTA谈判的部门，要求政府在相关的FTA谈判中考虑化工部门的行业企业的意见，反映企业的利益诉求。化工行业协会的报告提出分析，有进有取，有保有舍，有攻有守，细化到部门—产品—税号。正是在企业行业协会主动协助下，政府不仅在FTA谈判中可以做到企业或行业利益最大化，而且可以跨部门和跨地区进行政策协调。

三是问卷调查。如在2008和2009年中国商务部直接领导一些相关产业的行业协会组织两次全国范围重点企业问卷调查，主要调查研究中国企业对FTA的利益诉求，以及影响企业利用FTA的因素。调研结果显示：其一，相比北美FTA的高达80%利用率、欧盟FTA的50%的利用率，中国企业对FTA的利用率总体偏低，对中国—东盟FTA是中国企业利用率最高的也仅达到35.6%。其二，71.6%的企业认为政府应为企业提供更多的有关利用FTA优惠政策的信息；65.8%的企业希望政府能够提供更多有关FTA的培训。其三，中国企业对FTA政府服务方面的诉求对象主要集中于商务部、海关、质检总局、出入境检验检疫局以及外交部等部门。55.0%
的企业在利用FTA中遇到问题会向商务部求助。

总之，可以认为，中国企业行业协会和学会在FTA谈判中的作用仍处于决策外围或边缘地带，真正以产业和企业为基础的贸易谈判诉求形成体制亟待加强建设，只有形成了由产业和企业为基础的贸易谈判诉求机制，才能使中国在多边贸易谈判中提出的要价更贴近国内产业内生发展的需求（周汉民，2011）。

四、结论：WTO和FTA并存与互补

是全球贸易治理的新模式

（一）FTA与WTO的法律关系

1、FTA的存在有WTO法律依据

在WTO多边贸易体制框架下允许区域贸易安排的存在，FTA的建立有WTO法律依据，主要根据GATT第24条、GATS第5条以及授权条款得到授权和认可。

1）根据GATT（关税与贸易总协定）第24条，FTA可以在满足下列条件的情况下存在：一是贸易壁垒在一体化以后大体上不增加；二是同意在一段合理的时期内消除实质上全部的区内货物交换的所有关税和其他贸易限制；三是以上措施将向WTO通报，需获得WTO2/3成员的多数同意。这些规则的目的在于保证此类安排能够便于集团内国家的贸易，而又不提高对外部世界的贸易壁垒。据此，
区域贸易安排应当是多边贸易体制的补充而不应对其构成威胁。

2）根据 GATS（服务贸易总协定）第 5 条，允许 FTA 在符合一定条件的前提下存在：一是服务贸易领域的区域一体化要涵盖众多服务部门；二是在服务贸易区域一体化协定生效或一段合理的时间内，协议各方在多边承诺的部门内，消除实质上所有的歧视性措施；三是区域经济一体化协定将不对第三国构成更高的贸易和投资壁垒。

3）根据授权条款，对发展中国家实行“差别和更优惠待遇、互惠和发展中国家更全面参与”的内容，发展中国家建立优惠贸易安排、自由贸易区或关税同盟是在多边贸易体制下的合理行为。

2、FTA的存在是超WTO进程

1）FTA与WTO在体制上并行发展，两者并无隶属关系。一个国家，如是WTO成员，它只是在WTO范围之内，遵循规则，履行承诺。在WTO范围之外，各成员可根据一般国际法，通过建立FTA调整相互之间的经济关系。

2）FTA与WTO虽然目的完全相同，都是让自由贸易的利益最大化，但FTA内容上都是WTO+，FTA开放程度更高于WTO的承诺，FTA作为一种“超WTO”进程，要求有更快的市场开放速度、更宽的开放范围和更深刻的开放内容。

3、FTA与WTO相互关系仍有问题没有解决

FTA与WTO是伙伴还是竞争者？FTA到底是帮助还是阻碍WTO多边贸易体系？争论一直存在，问题没有解决。其实，FTA与WTO相互关系争论的核心，一是如何认识FTA的存在是否损坏多边贸易体制基础的问题；二是如何使FTA能够遵守WTO基本原则的问题。
事实上，WTO多哈部长会议已经开始着手解决WTO与FTA的相互关系问题，强调了在多边进程和区域进程中保持二者和谐关系的必要性。为了达到更好管理FTA发展、最小化FTA扩散给WTO带来风险的目的，部长们已经决定举行澄清、改善WTO文件中有关FTA规范和程序的谈判。

目前多哈回合中关于FTA规范的谈判是沿着两条路径进行的：一条路径是有关FTA的透明化问题；另一条路径是有关FTA的制度性问题，如多边监督机制。但WTO要把FTA完全纳入到自己的体制内，来为FTA和WTO间更加可持续的关系奠定基础，目前还面临各种各样的政治和法律难题。

与此同时，APEC实际上已经完成了一些FTA与WTO相互关系的研究工作，提出了FTA“最佳实例”指导性文件，对FTA与WTO保持一致、全面性、超越WTO承诺、透明度、便利化、争端解决、原产地规则、合作、可持续发展、审议等内容都做出了详细说明和建议。

（二）FTA是WTO的试验区

FTA最可能成为影响全球贸易治理的推动力量，其最重要的证据就是FTA可以成为WTO的试验区。

由于多哈回合的困境及自身规则机制的不足，WTO被认为远不能担负起新世纪全球贸易治理的更大责任，被认为必须改革。但WTO是全球性国际机制，是大国权力利益分配的产物，通常“牵一发而动全身”，寻求利益一致的WTO改革之道，可能会长期陷入“只破不立”或“不作为”的境地，而引入小国际机制起到改革的试验区作用，是实现这个目标的前提。在这个意义上，FTA作为区域经济一体化组织可以是WTO全球多边贸易体系改革的试验区。

试验区和摸着石头过河是中国改革的成功模式。中国深圳特区遵照邓小平摸
着石头过河的理论，直面各种改革难题，以先试先行的实践，为中国改革全局“杀出一条血路”，率先取得改革成功，再把深圳特区成功经验逐步推广运用到全局，带动了整个中国改革开放取得伟大成功。

WTO改革的理念可以参考中国改革的理念，若把WTO视为中国改革的全局，则可把FTA视为中国深圳特区，根据中国改革成功的实践经验，完全可以相信，通过FTA先行先试的实践，试验性为WTO探索和积累两方面的经验，一是探索如何创新完善和纠正WTO规则不足与缺陷的经验；二是探索如何创新解决全球贸易治理难题的机制体制的经验，再以FTA的成功经验所创新的规则和机制体制补充完善到WTO现有的规则和机制体制中去，就可以帮助WTO完成改革，并有能力担负起新世纪全球贸易治理的更大的责任。

1、FTA可以先行先试，探索新贸易规则的确立与实施，以纠正和完善WTO现行规则之不足与缺陷

如WTO反倾销法，其存在着法律层面的不严密性和经济理论层面的非合理性的缺陷，则FTA可以提供若干种实验性的做法，对WTO反倾销法进行纠正和完善。一种实验性做法是废除反倾销法，用竞争法取代反倾销法，如北美FTA谈判，加拿大的首要目标之一就是在FTA内废止反倾销法和反补贴法，而用竞争法取代之。另一种实验性做法是对现有反倾销法进行改良，如欧盟这样的经济共同体已经完全消除了成员之间彼此发起反倾销调查和适用反倾销措施的可能性，仅作为一个共同体来对经济区之外的其他国家发起的反倾销调查。

2、FTA可以先行先试，探索如何创新成功经验来解决现有WTO体系无法解决而新世纪全球贸易治理必须能够解决的“前沿问题”。

“前沿问题”之一是贸易均衡发展和所有成员都均等享受发展成果难题。如
东盟FTA作为世界上由发展中国家组成的全球最大的区域性FTA，其建立的宗旨就是推动建立贸易均衡发展和所有成员都均等享受发展成果的均衡、普惠、共赢的多边贸易体制，促进国际贸易秩序朝着更加公正合理的方向发展。如果东盟FTA解决了贸易均衡发展和所有成员都均等享受发展成果的难题，其实践创造的成功经验，将会为WTO全球贸易治理做出实质性贡献。

“前沿问题”之二是地区之间产业合作发展机会不平等难题。造成地区差距扩大和发展机会不平等，是因为一些发达国家的企业和跨国集团到不发达地区去，根本目的就是要占领那里的市场、拿走那里的资源，而不会想把那里的地区发展起来，这就是他们造成的地区发展机会不平等。而FTA可以为国家和地区之间进行产业合作提供平台，可以提供解决地区之间产业合作发展机会不平等难题先行先试的实践，其实践创造的成功经验，将会为WTO全球贸易治理做出实质性贡献。

“前沿问题”之三是包容不同国情、不同发展水平国家利益融合的难题。按照西方一体化理论和欧洲一体化的经验，一体化进程必然导致一定程度的主权转移，形成超国家的权力。与欧盟完全不同，东盟FTA成功创造了符合发展中国家的水平和国情的区域合作。由社会制度和发展水平不同的十个国家组成的东盟，体现的是发展中国家坚持全体一致和互不干涉内政原则的地区一体化的特点。东盟FTA若能够成功生存和发展，就证明了“东盟方式”存在的合理性及其价值，东盟和阿拉伯国家联盟、非洲统一组织以及其他发展中国家的地区组织具有相似的特点，这些地区也一定会成功创造包容不同国情、包容不同发展水平的发展中国家和最不发达国家利益融合的FTA，其实践创造的成功经验，将会为WTO全球贸易治理做出实质性贡献。
（三） 结论：WTO 和 FTA 并存与互补是新世纪全球贸易治理的新模式

全球贸易治理中 WTO 是重要的，它既是一个多边贸易体制的框架，又是一套全球贸易法治的规则体系，能为世界提供解决重大贸易问题的规则、制度和服务，当仁不让是全球贸易治理的主体。虽然发展中成员的重要性和话语权还没有得到充分体现，也有诸多的不足和缺陷，但 WTO 对维护世界经济的稳定和开放起到的重要作用尚无可替代。然而，新世纪对 WTO 的治理能力提出了严峻挑战，从全球贸易治理的未来看，WTO 已远远不能满足需要，WTO 必须与时俱进，随着全球贸易治理产生的新问题而能够自我完善、发展和制度化。

与此同时，可以预见较之 WTO，FTA 更可能成为影响新世纪全球贸易治理最具活力的推动力量。首先，FTA 通过实现区内的贸易自由化，能够为成员国带来更大的经济收益或具有更高的收益预期，而 WTO 由于涉及的国家和领域广泛，在实现贸易自由化的路途上困难重重。其次，FTA 的合作常常会扩展至政治和军事领域，推动成员国间军事和安全信息的共享，但 WTO 仍然停留在全球贸易规则的制定这个层面，在政治和军事层面的信息共享仍然十分有限。最后，FTA 制度安排中的首脑和高层互动机制为国家决策者之间面对面交流提供了重要的平台，有助于在争端出现时增信释疑，为冲突国家以合作方式解决争端创造了条件，而 WTO 明显缺少国家和政府首脑级的会晤机制。

新世纪全球贸易治理应该坚持“两条腿走路”的原则，一方面，积极维护和完善 WTO 多边贸易体系和规则的发展，推动多哈回合谈判早日取得成功；另一方面，在 WTO 多边进程艰难的情况下，FTA 区域进程是一种替代，众多交叉的 FTA 将促进贸易和投资以更快、更便捷的速度发展，以有利于世界经济贸易共同繁荣。FTA 通过“摸着石头过河”创造实践经验，正在或将要可以解决全球贸易治理的
若干难题，正在或将要形成关于全球贸易治理新规则和新制度，用以补充和完善WTO体系。可以说，FTA以经济合作为全球贸易治理提供了平台；以协商与法治为全球贸易治理提供了方向；以内外平衡为全球贸易治理提供了便捷通道。FTA日益成为全球贸易治理的政策工具和全球贸易治理制度内生发展的苗圃。

总之，WTO和FTA已成为世界各国参与经济贸易全球化的两种途径，两者互有长短利弊，完全可以互补。WTO和FTA并存与互补是全球贸易治理发展的必然要求，从这种意义上说，WTO和FTA并存与互补是新世纪全球贸易治理有效的新模式。此外，WTO和FTA的并存与互补对建设和谐世界有重要意义，意义就在于在规则、谈判、合作、共盈，尊重多种文明的基础上建立永久和平与共同繁荣的全球治理。

中国将积极参与全球化和区域经济一体化，坚定不移地扩大对外开放，坚决主张在全球和区域范围内扩大贸易与投资的自由化和便利化，与世界各国一起推动建设一个持久和平、共同繁荣的和谐世界。

“观念造成文明”，人类社会20世纪以前是由竞争与零和博弈的观念积淀而成的战争文明，21世纪将由合作与共赢的观念造就一个和谐世界的文明。
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