Research of China’s Participation in the WTO Trade Policy Review Process

by

Yang Rongzhen
China Institute for WTO Studies
University of International Business and Economics

中国参与WTO贸易政策审议研究

杨荣珍
对外经济贸易大学中国WTO研究院

Paper originally written in Chinese. English translation provided by Xu Fan,
University of International Business & Economics

Contributed to the RCCPB’s Initiative on China and Global Governance.
Research of China’s Participation in the WTO Trade Policy Review Process

Yang Rongzhen, China Institute for WTO Studies, University of International Business and Economics

Abstract: In 2006, 2008 and 2010, China underwent three trade policy reviews from the WTO. This article first outlines the three reviews, mainly focusing on 5 aspects: transparency, main adjustment of the trade law, foreign investment system, intellectual property, standards and other technical requirements involved in the reviews. Second is a discussion about Chinese capacity building in making and adjusting trade policy during different stages. And next is an analysis of the influence of WTO’s trade policy review mechanism on China based on the discussion.

Key words: China; WTO; Trade policy review

I. Summary of China’s participation in WTO’s trade policy reviews.

China accepted WTO’s trade policy review for the first time in 2006 after its accession into WTO in 2001. Due to huge Chinese trade volume which was among the top 4 largest of the world, it should accept a review every 2 years according WTO’s review rules. Thus, China accepted the second and third reviews in 2008 and 2010 respectively. Following are general introductions of the 3 reviews.


II. Trend of change in Chinese Trade Policy: Some review fields as examples

The main content of WTO trade policy review has a wide range including the
macroeconomic environment, trade and investment policies and specific measures, and the trade policies in specific departments. Restricted to the length of the article, here we only choose 5 aspects to describe changes in Chinese trade policy through the three reviews.

A. Transparency

Transparency is one of WTO’s basic principles. A main function of trade policy review is to find what the contents of this member’s trade policy are and how they changed during two reviews. In China's WTO accession negotiations, the transparency of its trade policies and regulations is a main concern of other members. Thus, transparency is a primary item in all these three reviews.

In the first review in 2006, China demonstrated progress in improving the transparency of legislation and administration after gaining the membership of the WTO. The progresses are reflected as follows. 1) On July 1, 2000, Legislation Law of the People's Republic of China took effect. On Jan 1, 2002, Regulations on Enactment Procedure of Administrative Laws and Regulations on Enactment Procedure of Rules and Regulations took effect. These laws and regulations made the publicity of legislative progress become institutionalization and normalization, made transparency become a foundation. Especially, they required solicit opinions from the general public by various forms such as written materials, hearings, seminars, symposiums and diversified channels like news media and websites through the legislative progress. It gave the public and interested parties chance to fully comment. 2) Administrative Licensing Law of the People's Republic of China which took effect on July 1, 2004 made explicit and strict demands on transparency. To make more government affairs public, 96% of the central government ministries and most local government bodies have already built their own official websites. 3) According to commitments to the WTO, Chinese government has already established Chinese WTO circulars consultation bureau in Commerce Department and the State Bureau of Quality and Technical Supervision, so as to provide information about the related government policies and carry out the obligations and measures of Chinese trade policy circulating required in WTO's agreements. Until the end of the review, China had circulated 629 pieces of trade policies and measures.

In the second review, Chinese government circulated the new progresses in enhancing transparency from 2006 to 2008. The progresses are reflected as follows. 1) On Apr 5, 2007, the State Council posted Rule of Government Information Publicity, which was put in force on May 1, 2008. The rule requires people’s governments at different levels to make public the information obtained or made in the process of executing duty. The information includes: administrative laws, regulations and normative documents (规范性文件); budget and final accounts; items and standards of administrative charges; catalogs, standards and implementation of government procurement items; the response to public emergencies; monitoring and supervision of environmental protection, public health and quality of products and so on. The approaches are government gazettes, websites, news conferences, newspapers, broadcasts and TV programs. Despite information published by the government bodies, citizens, legal persons and other organizations can request the government to publish special information by written applications. 2) China's foreign trade and economic proclamation is the main publication to publish laws, regulations and policies about trade. By the end of 2007, the proclamation has published 3,300

\[WT/TPR/S/161\]

\[WT/TPR/M/161\]
laws, regulations and special measures. 3) On Apr 13, 2006, China circulated 78 subsidy projects implemented from 2001 to 2004 to WTO according to the first paragraph, Article XVI of GATT1994 and article 25 of ASCM.

In the third review of 2010, Chinese government circulated the new progresses in enhancing transparency from 2008 to 2010. The progresses are reflected as follows. 1) China government legal information website is created and maintained by the State Council Legislative Affairs Office. The State Council Legislative Affairs Office opened special system to allow public making comments on draft laws and regulations. Since Feb 2008, most of the administrative laws and regulations have been published on the website to collect comments from the public before posted formally. And so have the regulations of the central government ministries after July 2008. 2) In Apr 2008, the NPC Standing Committee decided that all the draft laws reviewed by the NPC Standing Committee should be made public on the website to collect comments by principle. 3) On May 1, 2008, Rule of Government Information Publicity took effect, and the publicized information are guided and supervised by the General Office of the State Council. In Sept 2007, the National Bureau of Corruption Prevention was established by the State Council. The bureau takes charge of guaranteeing the information transparency of governments at all levels, so as to prevent corruption. This bureau shares information with administration of justice, police and banks, to supervise the flow of doubtful assets. 4) In the aspects of trade policy transparency, all the relevant trade policies, trade remedies, and the laws, regulations and announcements of FDI policy are accessed through the website of the Commerce Department. All the relevant laws, regulations and rules about trade are published in the China's foreign trade and economic proclamation assembled and issued by the Commerce Department. Through May 19, 2010, 586 proclamations had been issued, with more than 1,000 laws, regulations and other measures published. 4

B. Major Trade Law Adjustments

After China’s accession to WTO, a lot of trade laws and regulations have been made within 10 years, and the existing laws and regulations have been adjusted to the WTO’s rules. Although bulk of the adjustments were made in the first several years, but the work hasn’t drawn to an end.

In the first review of 2006, the major adjustments in China’s laws and regulations from 2001 to 2005 are showed in the following table.

Table (1) China’s laws and regulations relevant to trade (by Oct 11, 2005)

<table>
<thead>
<tr>
<th>Legislation</th>
<th>Promulgation (revision)</th>
<th>Implementation</th>
<th>First implementation date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Foreign trade, foreign exchange control and FDI</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Regulation on Origins of Import and Export Goods</td>
<td>2004.8.18</td>
<td>2005.1.1</td>
<td></td>
</tr>
</tbody>
</table>

3WT/TPR/G/199
4See the answers to article 10 of EU questions.
<table>
<thead>
<tr>
<th>Regulation Description</th>
<th>Start Date</th>
<th>End Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regulations on Import and Export of Goods</td>
<td>2001.10.31</td>
<td>2002.1.1</td>
</tr>
<tr>
<td>Measures on Registration of the Foreign Trade Operator</td>
<td>2004.6.19</td>
<td>2004.7.1</td>
</tr>
<tr>
<td>China's Investigating Rules on Barriers to Foreign Trade (replacing China's Investigating Interim Rules on Barriers to Foreign Trade, 2002)</td>
<td>2005.1.21</td>
<td>2005.3.1</td>
</tr>
<tr>
<td>Regulations on Biological Agents And Related Equipment And Technologies</td>
<td>2002.10.14</td>
<td>2002.12.1</td>
</tr>
<tr>
<td>Regulations on Export Control of Missiles And Missile-related Items And Technologies</td>
<td>2002.8.22</td>
<td>2002.8.22</td>
</tr>
<tr>
<td>Foreign Equity Joint Ventures</td>
<td>2001.3.15</td>
<td>2001.3.15</td>
</tr>
<tr>
<td>Foreign Contractual Joint Ventures</td>
<td>2000.10.31</td>
<td>2000.10.31</td>
</tr>
<tr>
<td>Provisions on Foreign Investment Orientation</td>
<td>2002.2.11</td>
<td>2002.4.1</td>
</tr>
</tbody>
</table>

**Laws and regulations relevant to customs and tariff**

<table>
<thead>
<tr>
<th>Regulation Description</th>
<th>Start Date</th>
<th>End Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anti-dumping Regulations</td>
<td>2003.10.29</td>
<td>2004.1.1</td>
</tr>
<tr>
<td>Countervailing Regulations</td>
<td>2004.3.31</td>
<td>2004.6.1</td>
</tr>
<tr>
<td>Regulation on Safeguard Measures</td>
<td>2004.3.31</td>
<td>2004.6.1</td>
</tr>
<tr>
<td>Regulation on the Customs' Protection of Intellectual Property Rights</td>
<td>2003.11.26</td>
<td>2004.3.1</td>
</tr>
</tbody>
</table>

**Standard and technique requirement**

<table>
<thead>
<tr>
<th>Regulation Description</th>
<th>Start Date</th>
<th>End Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Law on the Inspection of Import and Export Commodities</td>
<td>2002.4.28</td>
<td>2002.10.1</td>
</tr>
<tr>
<td>Law on Product Quality</td>
<td>2000.7.8</td>
<td>2000.9.1</td>
</tr>
<tr>
<td>Regulations on China Compulsory Certification</td>
<td>2001.12.3</td>
<td>2002.5.1</td>
</tr>
<tr>
<td>Regulations on Certification Accreditation</td>
<td>2003.8.20</td>
<td>2003.11.1</td>
</tr>
<tr>
<td>Regulations on Security of Hazardous Chemicals</td>
<td>2002.1.9</td>
<td>2002.3.15</td>
</tr>
<tr>
<td>Rules Concerning CNCA’s Implement of Certification Accreditation Administrative Penalties</td>
<td>2003.12.9</td>
<td>2003.12.9</td>
</tr>
</tbody>
</table>

**intellectual property**

<table>
<thead>
<tr>
<th>Regulation Description</th>
<th>Start Date</th>
<th>End Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Copyright Law</td>
<td>2001.10.27</td>
<td>2001.10.27</td>
</tr>
</tbody>
</table>
### Protection of Integrated Circuit Layout Designs

<table>
<thead>
<tr>
<th>Regulations</th>
<th>2001.3.28</th>
<th>2001.10.1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regulations on Technical Import and Export</td>
<td>2001.10.31</td>
<td>2002.1.1</td>
</tr>
</tbody>
</table>


During the second review in 2008, some laws and regulations relevant to trade were passed or revised in China. Among them, the laws and regulations taking effect in 2006 include Company Law, Safety and Quality of Farm Products Law, Regulations on the Administration of Company Registration, Regulations on Customs Statistics, Regulations on Import and Export of Endangered Animal and Plant Species, Respondence Regulation on Anti-dumping Cases of Exports, and so on. The laws and regulations taking effect in 2007 include Property Law (On Oct 1, 2007, defining the property right and the protection of the property owners for the first time), Enterprise Bankruptcy Law (On Jun 1, 2007, defining the procedure of bankruptcy and liquidation of a business corporation and the protection of creditor and debtor). Other regulations include Commercial Franchise Measures (On May 1, 2007), Anti-Monopoly Law (passed on Aug 31, 2007 and taking effect on Aug 1, 2008).

During the third review in 2010, some laws and regulations relevant to trade were passed or revised in China. The laws and regulations taking effect include Rule of Government Information Publicity (On May 1, 2008. Defining the requirements of the publicity of the government information), Enterprise Income Tax Law (On Jan 1, 2008. Unifying the income tax rate of all the domestic and foreign enterprises), Provisional Regulations on Value Added Tax (On Jan 1, 2009. Achieving the transformation of the added tax from production model to consumption model), Patent Law (On Oct 1, 2009, reducing the requirements of minimum registered capital for the basic telecommunication operator with foreign capital), Regulations on Supervision And Management of Security Company (On Jun 1, 2008, enhancing the supervision and management of security companies and the protection of investor’s right). Besides, other laws and regulation taking effect in 2008 include Enterprise Income Tax Law and Implementation Regulation (On Jan 1, 2008), Regulations on Risk Treatment of Security Company (On Apr 23, 2008), Regulations on the Administration of Foreign Contract Projects (On Sep 1, 2008), Provisions on Reporting Threshold for Concentrations of Business Operators (On Aug 3, 2008), Regulations on Livestock or Poultry Genetic Resource Entered or Brought out of Territories And Research And Utilization with Foreign Cooperation (On Oct 1, 2008), Amendment Regulations on Exchange Control (On Aug 5, 2008), Provisional Regulations on Business Tax (On Jan 1, 2009), Regulation on Consumption Tax (On Jan 1, 2009).

### C. Foreign investment system

In 2004, China absorbed the most FDI among all the developing countries. Most WTO members especially the developed members had huge amount investment in China. To protect their investors’ rights, the foreign investment system in China has become a focus in these three reviews. There were two main cores. First was whether Chinese foreign investment laws were consistent with the normative investment rules in WTO. Second was whether Chinese foreign investment market was consistent with its commitments at the beginning.

Before the first review in 2006, China revised the three main foreign investment enterprise laws in order to accord the domestic legal system with the WTO rules. On Oct 31, 2000, Standing Committee of the National People's Congress adopted the revision decision on Law of the
People’s Republic of China on Wholly Foreign Owned Enterprises. On Mar 15, 2001 NPC adopted the revision decision on Foreign Equity Joint Ventures. On Oct 31, 2000 Standing Committee of the National People's Congress adopted the revision decision on Foreign Contractual Joint Ventures. Followings are main revisions of these laws: The obligation of the foreign-invested enterprises to export all or most of their products was replaced by ‘The state encourages establishing foreign-invested enterprises which export their products or have advanced technology. The State may encourage the establishment of foreign capital enterprises that are export-oriented or technologically advanced’; Canceling the rule that supplies like raw materials and fuels should be purchased in China under the same condition, stipulating ‘A contractual joint venture may purchase, on both the domestic market and the world market, the raw and processed materials, fuels, etc. within its approved scope of operation.’ Instead, canceling the rule that enterprises with foreign capital shall manage to balance their own foreign exchange receipts and payments; replacing the rule that the various kinds of insurance coverage of an equity joint venture shall be furnished by Chinese insurance companies by ‘All insurances of joint ventures shall be procured at the insurance companies within the territory of China.’; etc.

Before the first review, China had also revised the foreign investment catalog. Provisions on Foreign Investment Orientation and the Catalog, which was promulgated on Feb 11, 2002 and took effect on Apr 1, 2002, dividing foreign investment projects into 4 categories, namely encouraged, permitted, restricted and prohibited ones. This Catalog was revised again on Jan 1, 2005. Encouraged industries increased from 186 to 262, while restricted industries decreased from 112 to 75. And the new Catalog stipulated that all the industries except encouraged, restricted and prohibited industries belong to permitted industries.

As to the second review, main changes in Chinese foreign investment policies are as follows: 1) The Foreign Enterprise Income Tax Law of the People's Republic of China, which took effect on Jan 1, 2008, unifying the income tax rate of foreign and domestic enterprises to 25%. Before the revision, the rate for the foreign invested enterprises was 15% or 24% but 33% for domestic enterprises. 2) Several laws and regulations related to FDI took effect. Provisions for Takeover of Domestic Enterprise by Foreign Investors, which took effect on Sep 8, 2006, stipulating that foreign investors who acquire domestic enterprises could have the same treatment, criteria and antitrust terms as foreign invested enterprises. Methods on Complaints of Foreign Invested Enterprises, which took effect on Oct 1, 2006, stipulated that when foreign invested enterprises or investors claim their interests are violated by administrative acts, they could put their complaints in writing to complaint centers of foreign invested enterprises or coordination office of foreign invested enterprises in Commerce Department. On May 23, 2007, the Commerce Department and SAFE published Notice on Reinforcing and Standardizing the Approval and Supervision of Foreign Investments in Real Estate jointly, to enhance the approval and supervision of foreign investment in real estate pursuant to the law, especially to control the investment in high-grade real estate tightly. 3) Guiding the Direction of Foreign Investment Provisions, which took effect on Dec 1, 2007, listed 478 Industries Catalogs, encouraged, restricted and prohibited classes were separately 351, 87 and 40. Compared to the previous ones, the encouraged class had been increasing by 37%. More specifically, new catalogs related to saving resources and protecting environment were more than 40, and there were more encouraged and permitted catalogs related to foreign investment in service while cancelling export-oriented policies.
In 2008, China became the third large host country for FDI, ranking after America and France. In the third review of 2010, there were not many changes in laws and regulations related to FDI. Followings are the main changes. 1) On Nov 25, 2009, the Commerce Department published Administrative Regulations on Foreign enterprises or Individuals in China to Establish Partnership, which took effect on Mar 1, 2010. This regulation stipulated that foreign enterprises or individuals should obey Law of the People's Republic of China on Partnerships and the industrial policies on foreign investments when establishing partnerships in China. 2) Catalog of Foreign Investments in Midwest Superior Industries was revised in Jan, 2009 to promote the foreign investment in the central and western regions. New catalog included 410 projects. The investment in these projects would enjoy preferential policies for encouraged investment projects. 3) Interim Regulations on Urban Real Estate Tax was abolished on Jan 1, 2009. The foreign and domestic invested enterprises would be imposed house property tax uniformly from then on. 4) Approval authorities continued to be devolved to the regional governments. Catalog of Government Approved Projects, which was the appendix of State Council’s decision on the investment system, stipulated the range and authority of foreign investment projects to be approved explicitly. 5) Commerce Department promoted investments in China through its bureau of investment promotion. Many provinces provided one-stop service for foreign investors and established investment promotion centers. China also promoted investment through approaches such as international investment and trade exchanges, innovative and high technology exchanges and central China investment and trade exposition.

D. Intellectual property

The trade policy review related to intellectual property consists of two parts, legislation and enforcement. Three reviews of China reflected the changes and progress in these two aspects.

In the first review in 2006, the changes in legislation of intellectual property were reflected in the following events. 1) The Patent Law, the Trademark Law and the Copyright Law were revised one after another to adapt to the requirements of WTO’s regular. The reformulation of the PRC Patent Law implemented in Jul 1, 2001 mainly involved the following pieces. Identify the "promise marketing" with an infringement form of a patent that should be prohibited. Increase the compulsory licensing of dependent patents, and provide the restrictive conditions granted compulsory licensing strictly. Increase explicit rules about judicial review. It pointed out that patent proposer or inventive patentee could file a legal procedures in the People’s Court if they refused to obey the reexaminations or invalid decisions made by the Patent reexamination board. The reformulation of the PRC Trademark Law implemented in Dec 1, 2001 mainly involved: Foreigners should entrust trademark agency when they apply for trademark, to change primary "nation assign" to "trademark agency by national admission". Enlarge the scope of trademark protection, increase protected objects such as collective trademark, certification mark, three-dimension mark and geography mark. Strengthen the protection to well-known trademarks, and make specification with the affirmation to well-known trademarks. Increase priority rules about registered trademark application. Change administrative final judgment to judicial final judgment on the notarization to trademark privileges. Clearly provide the compensation number of trademark infringement. The reformulation of the PRC Copyright Law implemented in Oct 27, 2001 mainly involved: apply foreigners, stateless person for national treatment and most-favored-nation treatment. The protected content adds neighboring rights, performer and
record product fabricant rights and broadcaster’s rights. Change the standard evaluating the legality of using other's work. Increase the rules about evidence preservation before suit with explicit compensation for tort. 2) On Apr 2, 2001, the State Council published Protection of Integrated Circuit Layout Designs Regulations. This regulation integrated circuit layout designs into the range of intellectual property protection. The term of protection was 10 years counted from the date of filing an application for registration or from the first commercial exploitation wherever in the world it occurs, whichever comes first. 3) On Dec 20, 2001, the State Council published the revision of Regulations for the Protection of Computer Software, which took effect on Jan 1, 2002, integrating the computer software into the range of intellectual property protection. 4) On Dec 22, 2004, the Supreme People's Court and Supreme People’s Procuratorate jointly published the Interpretations on Several Issues Concerning the Infringement of Intellectual Property, which elaborates on the criminal laws related to intellectual property, including the reduction of the low limit of criminal liability and restrictions on penalties of different sorts of intellectual property crime.

In the first review in 2006, the implement situations of intellectual property were shown as follows. 1) Strengthen administrative agencies. In 2004, China established the National Working Group of Intellectual Property Protection led by the Vice Premier. The group was Responsible for the supervision and coordination of the national intellectual property protection work. 2) From September 2004 to the end of 2005, the government launched national special activities to protect intellectual property rights, which made notable achievements in every field of intellectual property protection. In 2005, the patent administrative departments at all levels handled 4,767 patent infringement cases. The administrative department for industry and commerce charged 49,412 trademarks infringement cases. The copyright administrative departments at all levels handled 8,060 copyright infringement cases. China’s customs handled 1,208 intellectual property infringement cases. The public security dealt with 3,534 intellectual property infringement cases. The procuratorate organs dealt with 4,143 intellectual property criminal cases. The court system accepts the 3,567 instances of intellectual property infringement criminal cases and 13,424 pieces of the civil cases. 5

In 2008, during the second Trade Policy Review, China further strengthened the protection of intellectual property legislation and enforcement in both sides. It's mainly reflected in: 1) In March 2007, China acceded to "the WIPO Copyright Treaty" and "WIPO Performances and Phonograms Treaty", strengthening the intellectual property protection in the field of Internet. 2) Establishing intellectual property rights working group with many countries and holding meetings regularly. Setting up information-exchange mechanisms with many nations and regions and strengthening the enforcement of intellectual property protection. 3) The legal procedures of patent applications and grants did not change during the review, but the number has greatly increased: In 2006, there were a total of 210,490 patent applications, an increase of 21.4%, of which, domestic applications increased by 30.8% while the foreign applications increased by 10.4%. A total of 57,786 patents were granted, of which more than a half were granted to foreign applicants. In 2006, the Patent Reexamination Board received 2,894 applications for reexamination and finally completed 2,667 trials. In 2006, the Chinese Trademark Review and Adjudication Board received 14,960 trademark review cases. 4,219 trials were completed (the

6WT/TPR/S/199
corresponding figure in 2004 was 10144 and 6305 respectively). 4) The applications and grants of geographical indications were charged by two departments: Trademark Office, General Administration of Quality Supervision and Inspection. By the end of 2006, a total of 219 geographical indications were approved to register in the Trademark Office. And 750 applications were approved by the AQSIO. 5) Issuing four regulations to strengthen enforcement of intellectual property rights, including: The Provisional Regulation on strengthening the link with cracking down on the illegal and criminal activities of infringement of trademark rights, issued on January 13, 2006. The Opinion on timely transfer of suspected criminal cases in the administrative law enforcement, was issued on January 26, 2006. The Provisional Regulation on strengthening the IPR enforcement cooperation, issued on March 24, 2006. The Provisional Regulation on strengthening the link with cracking down on the illegal and criminal activities of infringement of copyright, issued on March 26, 2006. 6) Most of the intellectual property right disputes are resolved through administrative means, but the cases resolved by the judicial process are also increasing: In 2006, the court accepted a total of 14,219 civil IPR disputes, a total of 14,056 cases were resolved, with an increase of 4.95% and 5.92% respectively over 2005. 7) IPR infringement cases handled by the Customs in 2006 doubled to 2,475 from 1,210 in 2005.7

During the third Trade Policy Review in 2010, China strengthened the intellectual property legislation and enforcement further. It mainly included: 1) In June 2008, the State Council issued and implemented the "National Intellectual Property Strategy Outline". The aim is to improve China's development, utilization, management and the ability to protect intellectual property rights. 2) In December 2008, China revised the PRC Patent Law for the third time. The changes are: More severe penalties and the requirements of the patent changed from the "relatively novel" to "absolutely novel". Patents could only be granted to the inventions, utility models and designs that undisclosed anywhere of the world before; Clear that equally importation of patent was allowed; Modify the content of compulsory licensing to adapt to the changes of WTO rules. 3) The Supreme People's Court and the Supreme People's Procuratorate issued again in 2007 the judicial interpretation on the trial of criminal cases of IPR infringement. Since then, the number of criminal cases of IPR infringement has increased significantly. 4) Launch intellectual property protection hotline "12312" in 50 large and medium sized cities to hear complaints online. 5) The number of cases related to the protection of intellectual property has a significant increase. In 2008, over 24,406 civil cases of intellectual property rights at the first instance were handled by the court, and 23,518 of them were completely resolved. The annual growth was 36.5% and 35.2% respectively. The IPR cases handled by the Customs in 2006 increased from 2,475 in 2006 to 11,135 in 2008. 6) A significant increase in the number of patent applications. In 2008, there were a total of 828,328 patent applications, with an increase of 19.3%, of which, domestic applications increased by 22.2%, foreign applications increased by 3.5%. Foreign applications were mainly inventions (85.7%), while designs (42%) and utility models (31%) dominated the domestic applications. In 2008, there were a total of 411,982 granted patents, with an increase of 17%. 7) The trademark registration cycle is shortened from the previous 36 months to an average of 30 months. In 2008, there were 698,000 applications for registration. Finally 750,000 were approved and registered. 8) National and Publication Administration speeds up the registration for computer software. In 2008, there were a total of 49,087 computer software copyright registrations, which was an increasing of 91.25% over 2007. 9) Trademark Office, General Administration of Quality

7ibid.
Supervision and Inspection, the Ministry of Agriculture all have the rights to manage the registration of geographical indications. A total of 301 geographical indications registered in the Trademark Office during the 1994 to 2007 period. From 2008 to the first half of 2009, up to 321 geographical indications registered there. By July 2009, 932 geographical indications were approved by the AQSIQ. And by October 2009, the Ministry of Agriculture has approved a total of 185 geographical indications. 810) Undisclosed information and trade secrets are under protection of Criminal Law, Anti-Unfair Competition Law, Labor Law” and other relevant regulations. 11) On March 20, 2009, the Dispute Settlement Body adopted the China’s panel report about the measures impacting the intellectual property protection (WT/DS362). On April 15, 2009, China notified the Dispute Settlement Body that it’s ready to implement its decisions and recommendations on the case. On February 26, 2010, the Eleventh National People's Congress passed the resolution to revise "Copyright Law". On March 17, 2010, the State Council passed the resolution to revise "Regulations on Customs Protection of Intellectual Property Rights”.

E. Standards and other technical requirements.

After accession to the WTO, China has made extensive adjustments on technical standards, inspection and quarantine, certification and accreditation and other legal regulatory bodies in order to meet the requirements of WTO rules. Especially the Technical Barrier to Trade Agreement’s and the Application of Sanitary and Phytosanitary Measures Agreement’s requirements. Before the first trade policy review in 2006, this adjustment was mainly reflected in: 1) the adjustment of the governing body. In April 2001, the State Council merged the State Bureau of Quality and Technical Supervision with the Entry-Exit Inspection and Quarantine Bureau to establish the China State Administration of Quality Supervision, Inspection and Quarantine (AQSIQ),which is responsible for unified management of quality, metrology, entry-exit inspection, animal and plant quarantine, accreditation, certification, standardization, etc. Also there is a TBT / SPS desk in this institution. From August 2003, the domestic products and imported products used a unified China Compulsory Certification logo (CCC), which replaced the previously applicable logo (import and export products using China Commodity Inspection Bureau logo, the domestic product using the Great Wall logo). 2) The adjustment of laws and regulations. The Republic of China Import and Export Commodity Inspection Law was amended on April 28, 2002, which was then put into effect from October 1, 2002. The Product Quality Law was amended on July 8, 2000. It was put into force on September 1, 2000. The People's Republic of China Certification and Accreditation was promulgated on September 3, 2003, which took effect from November 1, 2003. 3) Standards and technical requirements. Standardization Administration of China (SAC) was established by the State Council in April 2001. It’s responsible for managing China's standardization matters. China has four kinds of criteria: country, industry, local and enterprise standards. Each directory of State, industry and local standards is divided into voluntary and statutory standards. Approximately 14% of the national standards are legal. By the end of 2004, China had 21,342 Chinese national standards, 29,000 industry standards, 13,000 local standards and 1.32 million enterprise standards. Approximately 32% of the national standards are in accordance with ISO / IEC standards. But there is no data to find out the proportion of other standards to the international standards. In April 2004, SAC began to review the current 21,000 national standards to see whether they meet the market requirements or are consistent with

8WT/TPR/S/230
international standards. 4) Certification and Accreditation. From December 3, 2001, the compulsory product certification system replaced the safety and quality licensing system for imports goods (Managed by the former China Inspection and Quarantine Bureau) as well as mandatory product safety supervision and certification system (Managed by the former China State Quality and Technical Supervision Management). China National Certification and Accreditation Commission (CNCA) under the AQSIQ is responsible for the implementation of Mandatory product Authentication System. According to compulsory product Authentication System, which was put into effect on May 1, 2002, those which were related to the system while without mandatory product certification or certification marks cannot be imported or sold in the market. To obtain the CCC logo, the applicant must submit applications to eleven accreditation and certification bodies. If the product meets the basic requirements of relevant standards, the applicant should also apply for the product testing to one of the 124 accredited testing laboratories (ATL). 5) Sanitary and animal and plant quarantine measures. The laws and regulations related to sanitary, animal and plant inspection and quarantine in China include: Entry and Exit Animal and Plant Quarantine (implemented on 1992.4.1), Foodstuffs Sanitation Law (implemented on 1995.10.30), Animal Epidemic Prevention (passed on 1997.7.3), Plant Quarantine Regulations (implemented in 1992.5.13), Import and Export Commodity Inspection Law (revised and implemented on 2002.10.1) as well as the other related detailed implementation rules and methods. According to the Entry and Exit Animal and Plant Quarantine of the PRC, which took effect from April 1, 1992, any animal or plant, in spite of leaving or entering the territory of China, must accept the quarantine inspection. And according to "Entry and Exit Animal and Plant Quarantine Regulations for the Implementation", animal and plant import license is valid for six months. The license must be obtained from the AQSIQ before import. State Food and Drug Administration was established in 2003, whose primary responsibility is to supervise the food, healthcare products, cosmetics and drug safety. 6) Tag. All products sold in China must have Chinese labels. The label should indicate: the name of the product, trademark, manufacturer, country of origin, composition description, weight and capacity, the date of production, guarantee period, instructions, batch number, etc.

The changes of technical standards and other aspects during the first and the second review period are: 1) Standard. China spared no efforts to improve the consistent rate of domestic standards and the international standards. Approximately 34.8% of national standards meet ISO / IEC standards. From April 2004 to September 2005, China gave a comprehensive review to those existing national standards and decided to abolish 2,513 (11.6%), modify 9,536 (44.2%). By the end of 2006, there were in total 21,410 national standards, of which 14.4% belong to the compulsory standards. 2) Food standards. China promulgated 1,800 Eleventh Five Year Plans about food and drug safety. Making more than 90% of the food under food safety supervision system by 2010 was among its objectives. 3) Certification and Accreditation. 22 categories and 159 sub-categories of products belong to compulsory certification products, including household appliances, automobiles, electrical tools, video & audio products. By March 2007, there were 180 registered certification bodies, of which 34 were joint-venture institutions and another three were foreign-owned institutions. 4) Inspection and Quarantine. China promulgated the revised Frontier Health and Quarantine Law on December 29, 2007.

During the third review, the changes included: 1) Standards and Technical Regulations. In 2007, 14.5% of the national standards, 15% of the industry standard and 19% of the local
standards were compulsory standards. In 2008 and 2009, 184 and 199 technical regulations were notified to the WTO respectively. In January 2009, National Standards Commission announced that the foreign-funded enterprises in China had rights to participate in standards development. In 2007, 46.5% of the national standards met international standards. In the same year, China revised the Management of Adoption of International Standards once again to strengthen the cooperation with international standard practice. 2) Inspection and Quarantine. The new Food Safety Law, issued on February 28, 2009, was implemented on June 1, 2009. The law involves and releases the issue of "unification" of the national food safety standards. In 2008 and 2009, the Chinese were informed of the 7 and 90 animal and plant inspection and quarantine measures respectively. In July 2008, AQSIQ revised inspection procedures to facilitate the import and export trade. Before the amendment, the test can only be performed at the port. But the production can go to the destination to be inspected after modified. In 2007 and 2008, China signed 60 bilateral or regional agreements of inspection and quarantine with other WTO members. 3) Certification and Accreditation. In July 2009, AQSIQ issued a revised the Management of Compulsory Products Certification (117/2009) to explain the certification process. Compulsory Product Certification Catalog set out the products required to bear compulsory certification mark. In 2009, the catalog included 23 categories and 172 sub-categories of products, including cable and power tools, household appliances, automobiles, safety parts and components, toys. Those products which are not required to bear compulsory certification mark can apply for voluntary certification. China Quality Certification Center (CQC) is responsible for the voluntary certification system for more than 500 products. China Quality Authentication Center is also the member of International Electro-technical Commission electrical equipment conformity testing and certification organization (IECEE) Certification Body System (CB system). It can issue CB Test Certificate in 52 countries and regions in recognition of CB system. 4) Labeling. The requirements of labeling are under constraint of Standardization Law, Foodstuff Sanitization Law, Product Quality Law and other relevant regulations. Except the export, all products should have a label in Chinese.

III. The analysis of the impact of Trade Policy Review on China

Trade Policy Review Mechanism is an original mechanism of the WTO. It’s a carrier to help realize the effective supervision on domestic trade policy of all the WTO members. The mechanism is different from dispute settlement mechanisms. The panel report or the Appellate Body report of the latter has legal power to enforce. While the reports distributed through the trade policy review are not legally enforceable. However, it is undeniable that the mechanism has a significant impact on the domestic trade policy formulation and implementation for all the members. The three practices of the Trade Policy Review of China confirm this conclusion.

A. The learning process of China's continuously rising level in trade policies.

China’s changing process in the five key areas related to trade policy, which were all mentioned in the three Trade Policy Reviews, are sorted in this paper. This process reflects the learning experience and increasing levels of trade policy of a new member China. The discussions are as follows:

Transparency The general description of the transparency problem and the answers to the questions raised by other members during three reviews, indicating the ongoing and improving process of China's policies and regulations on transparency in government administration. In terms of legislation, the development of Legislative Law as well as series supporting laws and
regulations ensures legislative process to be open, transparent and with wide public participation. In the aspect of administrative law enforcement, the Administrative Licensing Law, Regulations on Open Government Information and other laws as well as regulations can constrain the government's administrative act while protecting the interests of the administrative counterpart more effectively. China's Foreign Economic and Trade Gazette published regularly with all trade-related laws, regulations and policy measures are included. This action meets the WTO rules on the basic requirements of transparency. Following the WTO's requirements, China reports the domestic subsidy program, TBT and SPS measures. The subsequent trade policy reviews after accession to the WTO produced a strong external thrust on improving the transparency on China. If China did not join the WTO, the achievements of transparency are difficult to achieve.

The adjustments on the main trade laws The decades after China's accession to the WTO saw the biggest changes of China's economic and trade laws and regulations. In the first trade policy review period, the main change is reflected in the amendments to existing laws and regulations under the WTO rules. Including the management of the Basic Law of foreign trade such as the amendments to Foreign Trade Law, the amendments to the three laws of the foreign-invested enterprises and the amendments to the three laws of intellectual property. While the new laws during this period were mainly supporting regulations adjunct to the above laws and regulations. In the second trade policy review period, a number of new basic laws were enacted to normalize business activities, including the Corporation law, Bankruptcy Law, Property Law, Anti-monopoly Law. All these make Chinese legal environment more suitable for the market economy requirements. In the third Trade Policy Review period, China’s domestic law remained consistent with WTO rules and was committed to fulfilling the accession commitments, including the Unified Enterprise Income Tax rate, the implementation of opening government information and continuing to modify the Patent Law in order to strengthen the penalties for infringement. In addition, China made a number of service market entering regulations to perform the opening commitments of the services market. As an emerging market economies, China's large-scale amendments on the laws and regulations after the accession to the WTO, not only to fulfill accession commitments, but also to achieve their objectives of economic development.

Foreign investment system In 2000 and 2001, the amendments on the three major laws of foreign-invested enterprises are mainly to change the domestic laws to be consistent with the Agreement on Trade-Related Aspects Investment Measures on the prohibition of some investment measures. We fulfilled the basic commitment of China. During the second Trade Policy Review, China passed an amendment to Income Tax Law, achieving a unified income tax rate for domestic and foreign enterprises, improving a number of foreign investment regulations further, and regulating foreign investment behavior with the legal form to make the legal environment for foreign investment more predictable. The amendments on Foreign Investment Industrial Guidance Catalogue were mentioned in the three reviews. There are increasing encouraged projects while decreasing prohibited items with the constant revision of the directory. That indicates China's growing awareness of open and serious action to fulfill accession commitments.

Intellectual property rights The changes in intellectual property legislation after China's accession to the WTO are mainly reflected in the expanding breadth and depth of intellectual property protection: During the first Trade Policy Review, China's three major laws about intellectual property were amended to expand its protection content of patents, trademarks and copyrights as well as fulfilling the national treatment principle in the areas of intellectual property
protection. In addition to three main areas of intellectual property protection, which are patents, trademarks and copyrights, China has also strengthened the legislation of integrated circuit layout, computer software and other new intellectual property. During the second Trade Policy Review, China focused on international cooperation in IPR protection and participated in a number of international agreements to protect international agreements. As for the enforcement of intellectual property protection, China ensures all relevant administrative departments great importance attached to the intellectual property protection through the establishment of high-level working group of intellectual property rights. In addition, publishing relevant judicial interpretation also does good to strengthen the judicial review process of the intellectual property protection. Through these actions, the number of types of intellectual property rights registered has a significant growth and the number of cases related to intellectual property protection also increased significantly.

**Standards and other technical requirements** Since joining the WTO, China's biggest change in standards and technical requirements has been the adjustment of related institutions and legal amendments. Restructuring was used to manage the domestic and foreign products in a unified way in the aspect of quality standards and other technical requirements. It’s helpful to fulfill the requirements of WTO national treatment principle. And it’s the same aim with the amendments on Import and Export Commodity Inspection Law and Product Quality Law. The newly established Certification and Accreditation is a certification and accreditation for regulating the domestic conduct, implementing standardized management to the relevant agencies and advocating the acceptations of international certification as much as possible. China's consistent rate of national standards with international standards is still very low, but it has improved from 32% to 46% through the efforts dating back to the first review, indicating China's development and improvement in this aspect. With the three reviews, we see China's increasing emphasis on product quality and food safety issues such as mandatory certification management on listed products in the catalog, the establishment of the State Food and Drug Administration to enhance the quality of the food and drug supervision.

**B. The impact of the trade policy review mechanism.**

Through the analysis to the three practices of China's Trade Policy Review, the impact of trade policy review to the members can be summarized as:

a) **The transparency of trade policies and regulations has been improved.**

During the Trade Policy Review, the reviewed members of the WTO needed to provide their general overviews and details as well as goal statements of the domestic trade policies and regulations to all other members. It’s sometimes even necessary to provide the evaluation effect of the policy implementations and regulations. The consultation with the WTO Secretariat staff and the answering to questions raised by other members deepens the international community’s knowledge of China's trade policies and regulations. The periodic review of trade policy system itself is also good for producing stress to improve the transparency for domestic policies and regulations. It can also encourage reviewed members to ensure its policies’ and regulations’ transparency and to develop a transparent implementation process, which benefits the response to the next round of trade policy review.
b) **Trade Policy Review plays a supervisory role. And it’s not an additional obligation of the members.**

The review process of WTO trade policy is mainly as follows: first, filing and issuing the reports from the WTO Secretariat and the policy statements from the reviewed members. Then, other members raise questions followed by a reply from the reviewed members. It reviews all aspects of All Trade Policies and Practices. The standard is “the impact of the multilateral trading system”.\(^9\) In short, trade policy review is collective discussion about whether domestic trade policy of the reviewed members keeps consistent with the WTO multilateral trade rules. Therefore, the reviewing process and the public release of all documents produce a certain pressure on the reviewed countries, where we see its role in monitoring. However, because of the “no intention to impose new policy commitments to all members” of this mechanism,\(^10\) its oversight role is limited to understanding and awareness rather than making judgments on the merits of this basis. So they are not new obligations to the reviewed countries. On the other hand, trade policy review would lead to self-adjustments of the country’s own trade policy to a certain extent. If the reviewed countries consider it necessary to make adjustment to those policy and regulatory issues raised by other members, they would make self-adjustment.

c) **The Trade Policy Review provides a good platform.**

During the trade policy review, the reviewed countries have to put all their trade policies and regulations on the table for other members to appraise. At the same time the reviewed countries must answer various questions about its trade policy raised by other members. This actually provides a good platform. The evaluation of trade policy can be divided into three cases: First, the trade policy with full compliance with multilateral trade rules; Second, the trade policy unclear to other members; Third, there are certain problems in the consistence between the existing trade policy and the multilateral trade rules. In the first case, a good evaluation is a symbol of recognition of the reviewed countries’ efforts. It plays a role in encouraging and promoting the countries to adjust the domestic trade policies. For the second case, the Trade Policy Review Mechanism offers a good opportunity for members to explain their trade policy. They can make the objectives of their policies and regulations, the content and the consistency with multilateral rules known to other members through explanation, which could eliminate potential misunderstandings. For the third case, the members could clearly know the concerns of the other countries. They can also see the understandings from different perspectives. It’s also beneficial to self-evaluation and improvement of future. During the three reviews, China helped to avoid misunderstandings through replies to massive questions and explanations to the confusions. Also it has adjusted those policies and regulations that need further improvement. For example, as for enforcement of intellectual property protection issues and services liberalization, China has carried out certain adjustments after reviewing.

d) **Trade Policy Review promotes the inter-departmental coordination and cooperation at**

\(^9\)Quote from the entry into force of the WTO Agreement in Marrakesh, Annex 3: Trade Policy Review Mechanism, section A
\(^10\)Ibid.
home.

WTO Trade Policy Review covers a wide range. It will involve more than one domestic sector in each review. In addition to the Ministry of Commerce, the NDRC, the Ministry of Finance, the Ministry of Industry, the State Council, the SASAC, over 20 other ministries are included. Not only is it necessary to clarify the divided functions of various departments, but also the intersection of department policies and regulations needs to be coordinated. Therefore, government departments can strengthen mutual understandings and cooperation as well as promoting coordination by using the platform consulting with WTO Secretariat and replying questions during the review process. It contributes to a unified implementation of domestic trade policies.

References:
中国参与WTO贸易政策审议研究

对外经济贸易大学中国WTO研究院 杨荣珍

摘要：中国于2006年、2008年和2010年三次接受WTO的贸易政策审议。本文通过对三次审议情况的概述，特别以审议中涉及的透明度、主要贸易法律调整、外商投资体制、知识产权、标准和其他技术性要求等五个方面的审议内容为主，探讨中国在不同阶段制定与调整贸易政策法规的能力建设情况，并在此基础上分析WTO贸易政策审议机制对中国产生的影响。

关键词：中国；WTO；贸易政策审议

一、中国参与WTO贸易政策审议概况

中国于2001年加入WTO后，于2006年第一次接受WTO贸易政策审议。由于此时中国的贸易总量已经进入世界排名前四，按照WTO贸易政策审议规则，应当每两年接受一次审议。因此，在2008年、2010年，中国分别接受了第二次和第三次贸易政策审议。三次审议的基本情况如下：

2006年2月28日，WTO秘书处发布了《贸易政策审议：WTO秘书处关于中华人民共和国的报告》（WT/TPR/S/161）。2006年3月17日，中国发布了《贸易政策审议：中华人民共和国的报告》（WT/TPR/G/161）。2006年4月19日和21日，WTO进行了第一次对中国的贸易政策审议。审议期间共收到其他成员提出的问题1110个。值得一提的是，此次审议中的秘书处报告的篇幅和其他成员提问的数量都创了WTO贸易政策审议的历史纪录。

2008年4月6日，WTO秘书处发布了《贸易政策审议：WTO秘书处关于中华人民共和国的报告》（WT/TPR/S/199）。2008年5月7日，中国发布了《贸易政策审议：中华人民共和国的报告》（WT/TPR/G/199）。2008年5月21-23日，WTO进行了第二次对中国的贸易政策审议。审议期间共收到其他成员提出的问题900
2010年4月26日，WTO秘书处发布了《贸易政策审议：WTO秘书处关于中华人民共和国的报告》（WT/TPR/S/230）。同日，中国发布了《贸易政策审议：中华人民共和国的报告》（WT/TPR/G/230）。2010年5月31日和6月2日，WTO进行了第三次对中国的贸易政策审议。审议期间，中方共收到27个成员提交的44批、共1508个问题，继第一次审议后再次创WTO有史以来提出问题最多的记录。

二、中国贸易政策的变化趋势——以若干审议领域为例

由于WTO贸易政策审议的具体内容涉及成员的宏观经济环境、贸易与投资政策及在贸易投资领域采取的具体措施、具体分部门的贸易政策等广泛的领域，限于篇幅，本文将从贸易政策审议的广泛领域中选取以下五个重要方面，探讨中国在三次审议中涉及这些领域贸易政策的变化过程。

（一）透明度

透明度原则是WTO的基本原则之一，而贸易政策审议的一个主要作用也是通过审议使其他成员了解被审议成员贸易政策的内容及其在审议期内的变化。在中国加入WTO的谈判中，贸易政策、法规的透明度问题也是其他成员特别关注的问题之一。因此，在三次审议中，每次审议都必然首先涉及到透明度问题。

在2006年第一次审议中，中国向其他成员申明了自加入WTO后在立法和行政领域加强透明度取得的进展，主要体现在：（1）2000年7月1日生效的《中华人民共和国立法法》、2002年1月1日生效的《行政法规制定程序条例》、《规章制定程序条例》等使立法程序公开进一步制度化、规范化，使透明度成为立法活动的一项基本原则。这些法律法规特别要求在立法过程中，要通过书面征求意

WT/TPR/S/161
国际贸易政策通报的义务和措施。截至审议时止，中国已经向 WTO 通报了 629 项贸易政策与措施。12

在第二次审议中，中国政府通报了 2006-2008 年间在增强透明度方面取得的新进展，包括：（1）2007 年 4 月 5 日国务院公布《中华人民共和国政府信息公开条例》，2008 年 5 月 1 日实施。《条例》要求各级人民政府应对其在履行职责过程中制作或获取的信息予以公开，公开的内容包括行政法规、规章和规范性文件；国民经济和社会发展统计信息；财政预算、决算报告；行政事业性收费的项目和依据；政府集中采购项目的目录、标准和实施情况；突发公共事件的应对情况；环境保护、公共卫生、产品质量的监督检查情况等，公开的方式是通过政府公报、政府网站、新闻发布会以及报刊、广播、电视等便于公众知晓的方式公开。除政府机关主动公开的信息外，公民、法人或其他组织还可以通过书面申请方式要求政府部门提供其特别需要的信息。（2）《中国对外经济贸易文告》是公布与贸易有关的法律、法规和政策的主要刊物，截至 2007 年底，《文告》共公布了 3300 件法律、法规和特别措施。13（3）2006 年 4 月 13 日，中国根据《1994 年关税与贸易总协定》第 16 条第 1 款和《补贴与反补贴措施协议》第 25 条的规定，向 WTO 通报了 2001-2004 年实施的新的补贴项目（G/SCM/N/123/CHN），共计 78 项补贴。

在 2010 年第三次审议中，中国政府通报了 2008-2010 年间在增强透明度方面取得的新进展，包括：（1）中国政府法制信息网是国务院法制办统一维护的平台，国务院法制办在该网站上专门开通了可供公众评议法规规章草案的系统，2008 年 2 月以来，国务院发布的大多数行政法规在发布之前，均已在中国政府法制信息网上公布，征求公众评论意见。2008 年 7 月之后，中央政府各部门的部门规章也开始通过该信息网进行公布。（2）2008 年 4 月，全国人民代表大会常务委员会决定，未来所有要经人大常委会审议的法律草案原则上都要向公众公开，征求意见。（3）2008 年 5 月 1 日，《政府信息公开条例》生效，国务院办公厅负责指导和监督政府信息公开。2007 年 9 月，国务院设立国家预防腐败局，负责确保各级政府信息透明度，以预防腐败，该局与司法、警察和银行共享信息，监督可疑资产的流动。（4）在贸易政策透明度方面，所有有关贸易政策、贸易

12 WT/TPR/M/161
13 WT/TPR/G/199
救济和外资投资政策的法规、规章和公告在商务部的官方网站都可公开查询。所有与贸易有关的法律、法规、规章均在商务部汇编和出版的《中国对外经济贸易文告》上公布。截至 2010 年 5 月 19 日，《文告》共编发了 586 期，已经公布了数千项法律法规规章和其他措施。14

（二）主要贸易法律的调整

中国在加入 WTO 后的 10 年内制定了大量新的贸易法律和法规，并对现有的贸易法律、法规进行了修订以符合 WTO 规则的要求。虽然这项工作主要集中于加入 WTO 后的最早几年内进行，但至今仍未停止。

在 2006 年第一次贸易政策审议报告中，中国在加入后 4 年内新制定和修改的对外贸易法律、法规主要体现在下表中：

表 1 中国与贸易有关的主要法律、法规（截至 2005 年 10 月 11 日）

<table>
<thead>
<tr>
<th>立法</th>
<th>颁布（修订）</th>
<th>实施生效</th>
<th>首次实施日</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>对外贸易、外汇管制和对外投资</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>中华人民共和国对外贸易法</td>
<td>2004.4.6</td>
<td>2004.7.1</td>
<td>1994.5.12</td>
</tr>
<tr>
<td>进出口货物原产地条例</td>
<td>2004.8.18</td>
<td>2005.1.1</td>
<td></td>
</tr>
<tr>
<td>货物进出口管理条例</td>
<td>2001.10.31</td>
<td>2002.1.1</td>
<td></td>
</tr>
<tr>
<td>对外贸易经营者备案登记办法</td>
<td>2004.6.19</td>
<td>2004.7.1</td>
<td></td>
</tr>
<tr>
<td>对外贸易壁垒调查规则（代替 2002 年对外贸易壁垒调查暂行规则）</td>
<td>2005.1.21</td>
<td>2005.3.1</td>
<td></td>
</tr>
<tr>
<td>军品出口管制条例</td>
<td>2002.10.15</td>
<td>2002.12.1</td>
<td></td>
</tr>
<tr>
<td>生物两用品及相关设备和技术出口管制条例</td>
<td>2002.10.14</td>
<td>2002.12.1</td>
<td></td>
</tr>
<tr>
<td>有关化学品及相关设备和技术出口管制办法</td>
<td>2002.10.19</td>
<td>2002.10.19</td>
<td></td>
</tr>
<tr>
<td>中外合资经营企业法</td>
<td>2001.3.15</td>
<td>2001.3.15</td>
<td>1979.7.1</td>
</tr>
<tr>
<td>中外合作经营企业法</td>
<td>2000.10.31</td>
<td>2000.10.31</td>
<td>1988.4.13</td>
</tr>
<tr>
<td>外商独资企业法</td>
<td>2000.10.31</td>
<td>2000.10.31</td>
<td>1986.4.12</td>
</tr>
<tr>
<td>指导外商投资方向规定</td>
<td>2002.2.11</td>
<td>2002.4.1</td>
<td></td>
</tr>
<tr>
<td><strong>海关和关税相关法规</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>中华人民共和国海关法</td>
<td>2000.7.8</td>
<td>2001.1.1</td>
<td>1987.1.22</td>
</tr>
<tr>
<td>进出口关税条例</td>
<td>2003.10.29</td>
<td>2004.1.1</td>
<td></td>
</tr>
<tr>
<td>反倾销条例</td>
<td>2004.3.31</td>
<td>2004.6.1</td>
<td>2001.11.26</td>
</tr>
<tr>
<td>反补贴条例</td>
<td>2004.3.31</td>
<td>2004.6.1</td>
<td>2001.10.31</td>
</tr>
<tr>
<td>保障措施条例</td>
<td>2004.3.31</td>
<td>2004.6.1</td>
<td>2001.11.26</td>
</tr>
<tr>
<td>知识产权海关保护条例</td>
<td>2003.11.26</td>
<td>2004.3.1</td>
<td></td>
</tr>
</tbody>
</table>

14 见欧盟提问第 10 条的回答。
2008 年第二次贸易政策审议期间，中国通过并修订了一些与贸易有关的法律、法规，其中，2006 年生效的法律、法规包括：《公司法》、《农产品质量安全法》、《公司登记管理条例》、《海关统计条例》、《濒危野生动植物进出口管理条例》、《出口产品反倾销案件应诉条例》等。2007 年生效的法律、法规包括：《物权法》（2007 年 10 月 1 日），第一次明确规定了财产权，规定了对财产所有人（包括个人和公共实体）的保护；《企业破产法》（2007 年 6 月 1 日），规定了企业的破产程序、债权债务的处理、对债权人债务人权利的保护。其他在 2007 年生效的法规还包括《商业特许经营管理办法》（2007 年 5 月 1 日）。《中华人民共和国反垄断法》于 2007 年 8 月 31 日通过，于 2008 年 8 月 1 日生效。

2010 年第三次贸易政策审议期间，中国通过并修订了一些与贸易有关的法律、法规，包括：《政府信息公开条例》（2008 年 5 月 1 日），规定了政府机构信息公开要求；《企业所得税法》（2008 年 1 月 1 日），统一了所有企业（国内或外资企业）的所得税率；《增值税暂行条例》（修订）（2009 年 1 月 1 日），实现了增值税由生产型向消费型的转变；《反垄断法》（2008 年 8 月 1 日），是中国第一部全面的竞争法；《专利法》（2009 年 10 月 1 日），特别加强了侵权处罚；《外商投资电信企业管理规定》（修订）（2008 年 9 月 10 日），降低了外资基础电信运营商最低注册资本要求；《证券公司监督管理条例》（2008 年 6 月 1 日），加强了对证券公司的监督管理和对投资者权利的保护。此外，2008 年以来生效的其他与贸易有关的法律、法规和规章还包括：《企业所得税法实施
条例》（2008 年 1 月 1 日）、《证券公司风险处置条例》（2008 年 4 月 23 日）、《对外承包工程管理条例》（2008 年 9 月 1 日）、《关于经营者集中申报标准的规定》（2008 年 8 月 3 日）、《畜禽遗传资源进出境和对外合作研究利用审批办法》（2008 年 10 月 1 日）、《外汇管理条例》（修订）（2008 年 8 月 5 日）、《营业税暂行条例》（修订）（2009 年 1 月 1 日）、《消费税暂行条例》（修订）（2009 年 1 月 1 日）。

（三）外商投资体制

2004 年，中国成为吸收外商直接投资最多的发展中国家，WTO 的许多成员特别是发达成员在中国都有大量投资，为了保护本国投资者的利益，在几次审议中，中国的外商投资体制成为其他成员关注的焦点之一。其关注的核心集中在两点：一是中国的外商投资法律体系是否与 WTO 规范投资的规则保持一致；二是中国对外商投资的市场开放是否与加入时的承诺一致。

在 2006 年第一次贸易政策审议之前，中国为了使国内法律体系与 WTO 规则保持一致，先后对三大外商投资企业法进行了修改：2000 年 10 月 31 日全国人大常委会通过对《中华人民共和国外资企业法》的修订决定，2001 年 3 月 15 日全国人大通过了对《中华人民共和国中外合资经营企业法》的修订决定，2000 年 10 月 31 日全国人大常委会通过对《中华人民共和国中外合作经营企业法》的修订决定。上述法律修改的主要内容是：将设立外资企业必须全部或大部分出口的义务，改为“国家鼓励举办产品出口或者技术先进的外资企业”；取消了外资企业的原材料、燃料等物资在同等条件下应尽量在中国购买的规定，改为“按照公平、合理的原则，可以在国内市场或者国际市场购买”；取消了外资企业应当自行解决外汇收支平衡的规定；修改原来要求合营企业的各项保险应向中国的保险公司投保为向中国境内的保险公司投保；等等。

在第一次贸易政策审议之前，中国还对外商投资产业目录进行了修订。2002 年 2 月 11 日颁布、2002 年 4 月 1 日生效的《指导外商投资方向规定》将外商投资项目分为四类：鼓励、允许、限制和禁止。该目录在 2005 年 1 月 1 日被再次修订，其中，“鼓励产业”从 186 个增加到 262 个，“限制产业”从 112 个减少到 75 个，并规定除鼓励、限制和禁止外的产业，都属于“允许”类产业。

在第二次审议期间，中国外商投资政策的主要变化是：（1）2008 年 1 月 1
日生效的《中华人民共和国企业所得税法》统一内外资企业所得税为 25%，而在此之前，外商投资企业适用 15%或 24%的优惠税率，国内企业则适用 33%的税率。
（2）与外商直接投资有关的几项法规颁布实施，包括：① 2006 年 9 月 8 日生效的《关于外国投资者并购境内企业的规定》规定了并购境内企业的外国投资者享受外商投资企业待遇的条件和标准、反垄断条款等内容。② 《外商投资企业投诉工作暂行办法》2006 年 10 月 1 日生效，规定外商投资企业或其投资者在认为其利益受到行政机关行政行为侵害时，可以向全国外商投资企业投诉中心或商务部外商投资企业投诉协调办公室提出书面投诉。③ 商务部、国家外汇管理局 2007 年 5 月 23 日联合发布《关于进一步加强、规范外商直接投资房地产业审批和监管的通知》，依法加强外商投资房地产企业的审批和监管，严格控制外商投资高档房地产。（3） 2007 年 12 月 1 日生效的《指导外商投资方向规定》，共列出 478 条鼓励、限制和禁止类的产业目录，其中鼓励类 351 条、限制类 87 条、禁止类 40 条。与修改前的目录相比，鼓励类增加了 37%。具体而言，新增与节约资源、保护环境有关的鼓励类项目 40 余条，增加外商投资服务业的鼓励类和允许类项目，取消单纯鼓励出口的导向政策。

2008 年，中国是世界上第三大外商直接投资东道国，仅次于美国和法国。在 2010 年第三次贸易政策审议中，中国在外商投资法律、法规方面的变化不大，主要包括：（1） 2009 年 11 月 25 日，商务部发布《外国企业或者个人在中国境内设立合伙企业管理办法》，自 2010 年 3 月 1 日起实施。该办法规定外国企业或个人在中国设立合伙企业，应当遵守《中华人民共和国合伙企业法》的规定，同时应符合中国的外商投资产业政策。（2）修订《外商投资中西部地区优势产业目录》，自 2009 年 1 月实施，以促进外商对中西部的投资。新目录包括 410 个项目，对于这些项目的投资，将享受鼓励类投资项目的优惠政策。（3）自 2009 年 1 月 1 日起，废止《城市房地产税暂行条例》，取消针对外商投资企业征收的城市房地产税，统一征收房产税，实现了内外资企业的平等税负。（4）外商直接投资审批权限继续向地方政府下放。《国务院关于投资体制改革的决定》的附件《政府核准的投资项目目录》明确规定了需进行核准的外商投资项目范围及核准权限。（5）商务部主要通过其投资促进事务局来促进在中国的投资。许多省份均为外国投资者提供一站式服务，且各省均设立了投资促进中心。中国同时还通过国际
投资贸易交流会、高新技术交流会及中国中部投资贸易博览会等手段来促进投资。

（四）知识产权

对知识产权的贸易政策审议包括两大部分：立法和执行。对中国的三次审议内容展现了在这两方面的变化和进步。

2006年第一次贸易政策审议时，在知识产权立法方面的变化体现在：（1）《专利法》、《商标法》和《著作权法》在加入WTO前后相继修订，以适应WTO规则的要求。2001年7月1日起实施的《中华人民共和国专利法》的修订主要涉及：将“许诺销售”认定为侵犯专利权的一种形式予以禁止；增加了依赖性专利的强制许可规定，并严格规定授予强制许可的限制性条件；增加了司法审查的明确规定，专利申请人或发明的专利权人如果不服专利复审委员会做出的复审或无效决定，能够在人民法院提起法律程序。2001年12月1日起实施的《中华人民共和国商标法》修订的主要内容是：外国人在申请商标等事项时，应委托商标代理机构，将原来的“国家指定”改为“国家认可的具有商标代理资格”；扩大商标保护范围，增加了集体商标、证明商标、立体商标、地理标志等保护对象；加强对驰名商标的保护，并对驰名商标的认定做出具体规定；增加了注册商标申请的优先权规定；对商标权的确认上由行政终审制改为司法终审制；明确规定了商标侵权的赔偿数额。2001年10月27日实施的《中华人民共和国著作权法》的主要修订是：对外国人、无国籍人适用国民待遇和最惠国待遇国；著作权的保护内容增加了邻接权——表演者及录音制品制作者权、广播机构的权利；修改了属于“合理使用”他人作品的标准；增加“诉前证据保全”的规定；明确侵权赔偿金额。（2）2001年4月2日，国务院发布《集成电路布图设计保护条例》，将集成电路布图设计纳入知识产权保护的范畴，保护期10年，从登记申请之日或在世界上任何地方首次投入商业使用之日起算，以较早日期为准。2002年1月1日实施，自2002年1月1日实施，将计算机软件纳入著作权保护范畴。2003年12月20日，国务院公布修订后的《计算机软件保护条例》，自2004年1月1日实施，将计算机软件纳入著作权保护范畴。2004年12月22日，最高人民法院、最高人民检察院联合公布了《关于办理侵犯知识产权刑事案件具体应用法律若干问题的解释》，详细阐明了与知识产权有关的刑法规定，包括刑事责任范围的降低、不同种类知识产权犯罪处罚措施的进一步限定。

2006年第一次贸易政策审议时，在知识产权执行方面的状况是：（1）行政
机构的加强。2004 年，中国成立了由国务院副总理领导的国家保护知识产权工作组，负责监督和协调国家知识产权保护工作。（2）2004 年 9 月至 2005 年末，中国政府发起全国性的保护知识产权专项活动，在知识产权保护各领域都取得了显著的成就：2005 年，各级专利管理部门共查处 4767 项专利侵权案件；工商行政管理部门查处 49412 件商标侵权案件；各级著作权管理部门共查处 8060 件著作权侵权案件；中国海关共处理了 1208 件知识产权侵权案件；公安机关共查处了 3534 件知识产权侵权案件；检察机关批捕 4143 件知识产权刑事案件；法院系统受理了 3567 件知识产权侵权刑事案件和 13424 件民事一审案件。15


15 《中华人民共和国贸易政策审议报告》（2006）第 57-63 段。
16 WT/TPR/S/199
增长 5.92% 和 4.95%。第(7)海关处理的知识产权侵权案件在 2006 年成倍增长，由 2005 年的 1210 件增至 2475 件。


17 同上。

18 WT/TPR/S/230
和建议。2010年2月26日，第十一届全国人大常委会通过了修改《著作权法》的决定。2010年3月17日，国务院通过了修改《知识产权海关保护条例》的决定。

（五）标准和其他技术性要求

中国加入WTO后，为适应WTO规则要求，特别是《技术性贸易壁垒协议》和《实施卫生与植物卫生措施协议》的要求，对技术标准、检验检疫、认证认可等方面的法律、管理机构进行了大量的调整。2006年第一次贸易政策审议之前，这方面的调整主要体现在：(1)管理机构的调整。2001年4月，国务院将国家质量技术监督局与国家出入境检验检疫局合并，设立中国国家质量监督检验检疫总局（AQSIQ），负责统一管理质量、计量、出入境检验、动植物检疫、认可、认证、标准化等，并在该机构设立TBT/SPS咨询处。2003年8月起，国内生产的产品和进口产品使用统一的中国强制认证标识（CCC），取代了先前适用的标志（进出口产品为中国商品检验局标志，国内产品为长城标志）。(2)法律、法规的调整。2002年4月28日修订《中华人民共和国进出口商品检验法》，自2002年10月1日实施。2000年7月8日修订《中华人民共和国产品质量法》，自2000年9月1日实施。2003年9月3日公布《中华人民共和国认证认可条例》，自2003年11月1日实施。(3)标准及技术要求。国家标准化管理委员会（SAC）由国务院于2001年4月创建，负责管理中国的标准化事务。中国有四种标准：国家、行业、地方及企业标准。国家、行业和地方标准的每个目录中分为自愿和法定标准，大约14%的国家标准是法定的。截至2004年底，中国共有21342个国家标准、29000个行业标准、13000个地方标准和132万个企业标准。国家标准中约32%与ISO/IEC标准一致，其他标准中与国际标准等同的比例尚无资料。2004年4月，SAC开始对现行的21000个国家标准进行审核，以确定其是否符合市场要求及是否与国际标准一致。(4)认证认可。2001年12月3日起，强制性产品认证体系取代了进口商品安全质量许可制度（由前国家出入境检验检疫局管理）和强制性产品安全监督认证体系（由前中国国家质量技术监督局管理）。国家质检总局下设的中国国家认证认可监督管理委员会（CNCA）负责实施强制性产品认证体系，根据2002年5月1日生效的《强制性产品认证管理规定》，属于强制性产品认证体系目录中的产品，在没有强制性产品认证或认证标识的情况下，不可
在市场上出售及进口。要获得 CCC 标识，必须向 11 个授权认可认证机构提出申请，如果产品符合相关标准的基本要求，申请人还须向 124 个认可测试实验室（ATL）之一申请产品测试。5）卫生和动植物检疫措施。中国有关卫生和动植物检验检疫的法律法规包括：《进出境动植物检疫法》（1992.4.1实施）、《食品安全法》（1995.10.30实施）、《动物防疫法》（1997.7.3 通过）、《植物检疫条例》（1992.5.13实施）、《进出口商品检验法》（2002.10.1修改实施）和相关的具体实施规则和办法。根据 1992 年 4 月 1 日生效的《中华人民共和国进出境动植物检疫法》，任何动植物离开或进入中国境内，都必须接受检疫检查。根据《进出境动植物检疫法实施条例》，动植物的进口许可证有效期为 6 个月，必须在进口之前从国家质检总局获得。国家食品药品监督管理局于 2003 年成立，主要监督食品、保健品、化妆品和药品的安全。（6）标签。所有在中国出售的产品必须有汉语标签，标签上应注明：产品名称、商标、制造商名称和产品产地国、成分说明、重量和容量、生产日期、有效期、使用说明、批号等。

第一次审议到第二次审议期间，技术标准等方面的变化情况是：(1) 标准。中国努力提高国内标准与国际标准的一致率，国家标准中约 34.8% 与 ISO/IEC 标准一致。2004 年 4 月至 2005 年 9 月，中国对现有国家标准进行了全面审查，决定废止 2513 个（11.6%），修改 9536 个（44.2%）。至 2006 年底，国家标准共 21410 个，其中 14.4% 属于强制性标准。（2）食品标准。中国颁布了 1800 个有关食品安全和药品安全的十一五计划，其目标包括在 2010 年使超过 90% 的食品处于安全监督体系之中。（3）认证认可。包括 22 个大类、159 个分类的产品属于强制认证产品，包括家用电器、汽车、电器工具、电视音响等产品。至 2007 年 3 月，共有 180 个注册认证机构，其中 34 个属于中外合资设立的机构，另有 3 个是外商独资机构。（4）检验检疫。2007 年 12 月 29 日公布实施修订后的《中华人民共和国国境卫生检疫法》。

第三次审议期间，有关变化体现在：(1) 标准和技术法规。2007 年，14.5% 的国家标准、15% 的行业标准和 19% 的地方标准属于强制性标准。2008 年和 2009 年，分别有 184 项和 199 项技术法规向 WTO 进行了通报。2009 年 1 月，国家标准委宣布在中国设立的外资企业有权参与标准制定。2007 年，中国再次修改了《采用国际标准管理办法》，以加强
与国际标准的接轨。（2）检验检疫。2009年2月28日公布新的《中华人民共和国食品安全法》，自2009年6月1日实施，该法涉及发布“统一”的国家食品安全标准的问题。2008年和2009年，中国分别通报了7项和90项动物植物检疫检疫措施。2008年7月，质检总局修改了进出口检验程序以便利贸易，修改前，只能在港口检验；修改后，可以到目的地检验。2007年和2008年，中国与其他WTO成员签订了60个有关检验检疫的双边或地区协议。（3）认证认可。2009年7月，质检总局发布了修改后的《强制认证产品管理法规》（117/2009），对认证程序进行了阐释。《强制认证产品目录》列明需要有强制性认证标志的产品，2009年，该目录包括23个大类、172个分类的产品，包括电缆和电动工具、家用电器、汽车、安全零部件和玩具。对于不要求强制认证标志的产品，可以申请自愿认证，中国质量认证中心（CQC）负责500多个产品的CQC自愿认证体系。中国质量认证中心同时也是国际电工委员会电工产品合格测试与认证组织（IECEE）认证机构体系（CB体系）成员，可以签发CB体系内52个国家和地区承认的CB测试认证书。（4）标签。标签的要求受《标准化法》、《食品卫生法》、《产品质量法》及有关法规的约束。除非仅供出口的产品外，都应有中文标签。

三、贸易政策审议对中国的影响分析

WTO贸易政策审议机制是WTO独创的一项机制，是实现对WTO所有成员国内贸易政策进行审查监督的有效载体。虽然该机制与争端解决机制不同，后者通过的专家组报告或上诉机构报告具有法律上的的强制执行力，而经过贸易政策审议散发的报告并不具有法律上的强制执行力，但是，不可否认该机制对成员国内贸易政策的制定和实施产生了重要的影响。对中国的三次贸易政策审议实践印证了这一结论。

（一）中国贸易政策水平不断提高的学习过程

本文对中国在三次贸易政策审议中涉及的五个重要领域贸易政策的变化过程进行了梳理，这一过程反映出中国作为一个新成员的学习经历和贸易政策水平的不断提高。分述如下：

关于透明度问题，通过三次审议中对透明度问题的概括性描述、各成员的提问和回答，表明中国在提高政策法规透明度及政府行政透明度方面的不断努力和
完善的过程。在立法方面，通过制定《立法法》及与其配套的一系列法规、规章，保证了立法程序的公开、透明及公众尽可能多地参与；在行政执法方面，则通过《行政许可法》、《政府信息公开条例》等法律、法规，约束政府的行政行为，更有效地保护行政相对人的利益；《中国对外经济贸易文告》定期公开发布，所有与贸易有关的法律、法规和政策措施都包括其中，满足了 WTO 相关规则中有关透明度的基本要求；中国根据 WTO 的通报要求，通报了国内补贴项目、TBT 措施和 SPS 措施。加入 WTO 以及其后的多次贸易政策审议，对中国提高透明度产生了强大的外部推力，如果中国没有加入 WTO，上述在透明度方面取得的成就是难以实现的。

关于主要贸易法律的调整，中国加入 WTO 后的十年是中国经济贸易法律、法规体系变化最大的时期。在第一次贸易政策审议期间，主要的变化体现在根据 WTO 规则对原有法律、法规进行的修订，包括管理对外贸易的基本法——《对外贸易法》的修订、三大外商投资企业法的修订和三大知识产权法的修订，而此期间新制定的法律、法规主要是配合上述法律实施的配套法规。在第二次贸易政策审议期间，新制定了一些规范企业经营活动的基本法律，包括《公司法》、《企业破产法》、《物权法》、《反垄断法》，使中国的法律环境更加适应市场经济的需求。在第三次贸易政策审议期间，中国继续致力于使国内法律与 WTO 规则保持一致并履行加入承诺，包括统一内外资企业所得税率、实施政府信息公开、继续修改《专利法》以强化侵权处罚，此外，为履行服务业市场开放承诺，制定了多项服务业市场进入的管理法规。作为一个新兴的市场经济国家，中国在加入 WTO 后对法律、法规体系进行的大规模修订、新订，既是为了履行加入承诺，同时也是自身经济发展的客观需要。

关于外商投资体制，2000—2001 年对三大外商投资企业法的修改主要是为了使国内法与《与贸易有关的投资措施协议》中关于禁止性投资措施的规定相一致，履行了中国加入时的基本承诺。第二次贸易政策审议期间，中国通过修订《所得税法》，实现了内外资所得税率的统一，并进一步完善了外商投资的若干法规，以法律形式规范外商投资行为，使外商投资的法律环境更具有可预见性。三次审议期间，均涉及外商投资产业指导目录的修订，随着该目录的不断修订，鼓励类项目逐渐增加，限制、禁止性项目逐渐减少，表明中国不断扩大开放的意识和认
真履行加入承诺的行动落实。

关于知识产权，中国加入WTO后在知识产权立法方面的变化主要体现在扩大了知识产权保护的广度和深度：第一次贸易政策审议期间，中国对三大知识产权法进行了修订，其内容主要涉及扩大专利、商标、著作权的保护范围，并履行知识产权保护领域的国民待遇原则。除专利、商标、著作权这三个知识产权保护的主要领域外，中国还加强了对集成电路布图设计、计算机软件等新型知识产权的保护立法。第二次贸易政策审议期间，中国主要致力于知识产权保护的国际合作方面，参加了多项知识产权保护国际协议。在知识产权执行方面，中国通过设立高级别的知识产权工作组的形式，保证了各相关行政部门对知识产权保护工作的重视，此外，通过多次发布相关的司法解释的形式，强化知识产权保护的司法审查程序。通过上述行动，各类知识产权登记注册的数量出现了显著增长，与知识产权保护相关的案件数量也明显增加。

关于标准和其他技术性要求，加入WTO后，中国在标准和技术性要求方面的最大变化是相关机构的调整和法律的修订，机构的调整主要是为了在产品质量标准和其他技术性要求方面对国内外产品实施统一的管理，以履行WTO要求的国民待遇原则，而对《进出口商品检验法》和《产品质量法》的修订也同样是为了实现上述目标。新制定的《认证认可条例》，则是为了规范国内的认证认可行为，对相关机构实施规范化管理，并倡导在可能的情况下尽量接受国际认证。中国的国家标准与国际标准的一致率虽然仍较低，但经过努力已经由第一次审议时的32%提高到第三次审议时的46%，表明在这一方面的发展和提高。经过三次审议，可以看出中国对产品质量和食品安全问题的日益重视，如对列入目录的产品实施强制性认证管理、成立国家食品药品监督管理局加强对食品药品的质量监督。

（二）贸易政策审议机制的影响

通过对中国的三次贸易政策审议实践的分析，可以归纳出贸易政策审议对被审议成员的影响，主要体现在以下几个方面：

1. 提高贸易政策法规透明度

通过贸易政策审议，被审议成员不仅需要向WTO所有成员提供其国内贸易政策法规的总体概况和详细内容，而且要向其他成员解释其政策法规制定的目标、产生的过程，甚至提供政策法规实施效果的评估情况。通过与WTO秘书处工作人
员的磋商、对其他成员提问的答复等，促进了国际社会对中国贸易政策法规的了
解和理解。而贸易政策的定期审议制度本身，也对提高国内政策法规透明度产生
了一定的压力，促使被审议成员保证其政策法规制定和执行过程的公开透明，以便于继续应对下一轮的贸易政策审议。

2、贸易政策审议具有一定的监督作用，但并不增加成员的新义务

WTO 贸易政策审议的过程主要是：制作和发布 WTO 秘书处报告和被审议成员
政府政策声明——其他成员提问——被审议成员答复，审议的内容包括“全部贸
易政策和做法”，审议的标准是“对多边贸易体制运行的影响”，简而言之，贸
易政策审议就是对被审议国国内贸易政策与 WTO 多边贸易规则是否具有一致性的
集体讨论，因此审议的过程及公开发布的所有文件都对被审议国产生一定的压
力，从而起到一定的监督作用。但是，由于该机制“无意向各成员强加新的政策
承诺”，因此，其监督的作用也只限于了解和知晓，而不是在此基础上做出是非
曲直的评判，对被审议成员并不直接产生新的义务。虽然如此，贸易政策审议仍
在一定程度上会导致被审议国贸易政策的自主调整，因为通过审议，对于其他成
员提出的某些政策法规问题，被审议成员本身也认为存在调整的必要时，将会在
审议后对该政策法规进行自主调整。

3、贸易政策审议提供了一个良好的交流平台

在贸易政策审议过程中，被审议成员既需要将自己的所有贸易政策法规摆在
桌面上供其他成员评议，同时又要对其他成员就其贸易政策提出的各种疑问进行
答复，这实际上提供了一个良好的交流平台。对于贸易政策的评价可以分为三种
情况：一是完全符合多边贸易规则的贸易政策；二是其他成员在理解上存在疑问
的贸易政策；三是现有贸易政策与多边贸易规则的一致性存在一定问题。对于第
一种情况，好的评价将肯定被审议成员的努力，对其进一步调整国内贸易政策起
到鼓励和促进作用；对于第二种情况，贸易政策审议机制正好为被审议成员阐释
其贸易政策提供了机会，通过解释和说明使其他成员了解其政策法规的目标、内
容及其与多边规则的一致性，消除可能存在的误解；对于第三种情况，则使被审
议成员了解其他成员的关注点所在，同时明确其他成员理解问题的不同角度，以
利于今后自我评价和改进。通过三次审议，中国通过对海量问题的答复，解释疑

19 引自《马拉喀什建立世界贸易组织协定》附件 3：《贸易政策审议机制》A 条。
20 同上。
惑，帮助避免误解，并对其认为需进一步改进的政策法规进行了调整。例如，对知识产权保护的执行力度问题、服务业开放问题，中国在审议后均进行了一定的调整。

4、贸易政策审议促进了国内各部门间的协调合作

WTO贸易政策审议涉及范围广泛，每次审议都会涉及到国内多个部门，除商务部外，还包括发改委、财政部、工信部、国资委等20多个国务院部委。在审议中，不仅各部门的职能划分需要得到澄清，各部门制定的政策法规存在的交集也需要进行协调一致。因此，利用贸易政策审议这个平台，各政府部门在与WTO秘书处人员进行的多次磋商和在审议过程中对其他成员提问的答复过程中，加强了相互理解和配合，促进了各部门间的协调合作，并将有利于国内贸易政策的统一实施。

参考文献:
1、伯纳德·霍克曼、迈克尔·考斯泰基著，刘平、洪晓东、许明德译：《世界贸易体制的政治经济学》，法律出版社，1999年1月。
2、曲延英：《WTO贸易政策审议机制研究》，上海三联书店，2009年1月。
3、宋才发：《WTO规则与中国法律制度改革》，人民法院出版社，2005年5月。
4、程大为：WTO对华第三次贸易政策审议的制度效应，《WTO经济导刊》2010年第7期。
5、谢羽中：WTO贸易政策审议机制的特征与实践效果的法律关联研究，《世界贸易组织动态与研究》2009年第3期。
6、刘光溪：《WTO贸易政策审议机制的理论与应用》，《世界贸易组织动态与研究》，2002年第4期。
7、WTO Document，WT/TPR/S/161，28 February 2006。
8、WTO Document，WT/TPR/S/199，16 April 2008。
9、WTO Document，WT/TPR/S/230，26 April 2010。
10、WTO Document，WT/TPR/G/161，17 March 2006。
11、WTO Document，WT/TPR/G/199，7 May 2008。
12、WTO Document，WT/TPR/G/230，26 April 2010。
13、WTO Document，WT/TPR/M/161，6 June 2006。
14、WTO Document，WT/TPR/M/199，24 July 2008。
15、WTO Document，WT/TPR/M/230，29 June 2010。