

A Decade in Hindsight

Key Note Address

Professor Thomas Cottier

World Trade Institute, Switzerland

“China in the WTO at Ten”

International Workshop and Roundtable on WTO Law

3-9 November 2011, Xi’an, China

Dear Mr. Vice President
Excellencies
Colleagues and students

I am deeply honored by your invitation to offer a key note at the outset of the conference commemorating the tenth anniversary of the accession of the People’s Republic of China to the WTO. I should like to thank Professor Shan for this occasion to visit Xi’an – a town bridging East and West and which owes its rich and ancient history and wealth to long distant trade along the Silk Road. Nobody else thus would be more suitable to organize this conference than the Silk Road Institute for International and Comparative Law and Xi’an Jiatong University. I am particularly fond to address a young audience of students and future policy makers and lawyers in the audience.

The accession of China to the WTO, after fifteen years of long and hard negotiations was, at the time, an event overshadowed by the attack on the World Trade Center towers in New York on September 11, 2001, and by the subsequent effort to launch the Doha Development Agenda later in the year. In hindsight, however, it is evident that the accession of China amounts to the single most important event in international trade policy and diplomacy at the outset of the new century and millennium. It has influenced global trade, trade policy and development more than anything else during these first ten years of China’s membership in the WTO. The accession is a landmark both for China, and for the rest of the World. The world’s largest and hard working force joined the world economy. It changed the fundamentals in many respects.

The accession was a landmark for China in many ways. Membership provided the basis for more stable and predictable market access abroad, guaranteeing most-favored nation treatment. The legal framework of the WTO and the Protocol of Accession set out the path for legal and institutional reform, and to lock-in these reforms in what amounts to a constitutional framework for international trade regulation. No other country has made comparable educational efforts to absorb the new body of law which was bound to exert a strong influence. The rule of law moved center stage. I still remember the days as a delegate to the committee on China’s accession when all this was highly controversial and contested by China on the basis of national sovereignty and non-interference in domestic affairs. I still remember a conference an academic conference in Chicago discussing the pro and cons of imposing additional obligations relating to judicial review and transparency. I am glad to hear

today that these elements of the accession process turned out to be of great value and importance the country in bringing about stability, predictability and more justice. They have contributed to a new understanding of law and its role in society and the economy. They marked an important step in the process of development. The accession reinforced foreign direct investment and further expansion of manufacturing. In less than a decade, China became the manufacturing power house of the globe, and the second largest economy of the world. Accession to the WTO no doubt has strongly contributed to this achievement which primarily rests with the Chinese people.

The accession was not without subsequent frustrations. China faced additional hurdles in the field of trade remedies and enhanced exports were paralleled by an increasing number of anti-dumping investigations and countervailing duties imposed on Chinese exports around the world. China challenged some of these measures in WTO dispute settlement. Within a decade it gained full experience of the multilateral system, also by participating as a third party in many cases. Learning by doing was her *leitmotiv*. China faced a number of important complaints in regulatory areas, in particular intellectual property and audiovisual services and raw materials which amount to important and complex leading cases which give rise to controversial debate and difficulties today. I still remember, during accession negotiations, when the Chinese delegate complained about the complexity of issues and the process of accession when his Indian colleague replied: It is one thing to join the WTO – the real difficulties start once you are a Member. Yet, the record of China's dispute settlement is not unusual. Arguments won and lost on this important avenue of peaceful settlement of international disputes are on balance. Again, the rule of law became an important factor in determining foreign economic relations of the country, and is bound to stay. The cases also show that trade policy is a never ending process. Much remains to be done, as in all countries alike. The name a few: The realization of intellectual property protection against counterfeiting and piracy calls for further fine-tuning, balancing the needs of exporters and investors and domestic innovation, creativity and the need for jobs. Freedom of information is a key ingredient to the market economy, addressing information imbalances which otherwise may have destabilizing effects. Export restrictions remain an unresolved problem for which new rules need to be found.

The accession of China to the WTO equally was a landmark for the rest of the World. While China prepared herself for the accession and membership with great care and effort, it is doubtful whether other countries did so to the same extent. In hindsight, it would seem that the West and developing countries failed to realize that not only was China joining the WTO, but that they were equally joining the Chinese economy with its vast and deep human resources. Perhaps less so in trade policy, but in other areas of international relations, the implications were not sufficiently assessed. This is particularly true for monetary policy.

The accession of China to the WTO strongly reinforced exports to the World. Levels today are manifold those of 2001. Access to relatively inexpensive products allowed for growth without inflation in industrialized countries. Federal Reserve Boards and National Banks, given their main and sometimes sole preoccupation with inflation and deflation, were thus in a position to expand the supply of cheap money, both to consumers and states. Low interest rates, in return, triggered speculation and led to the financial crisis in the United States and Europe. Banks too big to fail had to be rescued with tax payer's money. Low interest rates equally invited governments to borrow instead of taxing corporations and individuals. China became, within the last decade, the prime holder of US government bonds, fuelling the US treasury and economy.

I am not blaming China for this at all. My point is that the accession of China to the WTO and its new role in the world economy was not sufficiently reflected in monetary and fiscal policies of governments. The world was not sufficiently prepared beyond the bounds of international trade regulation properly speaking. It also shows how interrelated trade and monetary affairs are, and that problems can only be solved with joint efforts in international cooperation and shared responsibility.

The accession of China has fundamentally changed to position and role of the country in international trade policy. While testing the system in its first decade and learning by doing, the second and subsequent decades will witness enhanced responsibility of China for the multilateral system as a global public good to which we all have to contribute. The challenges ahead need to be addressed and solved in what today has become a multipolar world and of which China is a mainstay. Further efforts need to be made to conclude the agenda of the Doha Round so that WTO can move on to contemporary and pressing issues. Efforts need to be made to address the complex relationship of trade and monetary affairs. Efforts need to be made to come to grips with increasing preferential trade, eroding MFN and complicating trade relations beyond what is useful, in particular for China. We need to tackle the problem of global warming and climate change in a truly concerted effort. It cannot be done without active participation and leadership of China. Trade policy will play an important role in creating incentives to join multilateral commitments for the protection of climate as a truly global public good, and China must be part of it. I am confident, looking in hindsight on a highly successful decade for China that the same may be said after the next decade of China's membership to the WTO. I wish you a very successful conference. Thank you for your attention.