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0521818214 - China and the World Trading System: Entering the New Millennium

Edited by Deborah Z. Cass, Brett G. Williams and George Barker

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CHINA AND THE WORLD
TRADING SYSTEM
Entering the New Millennium

China, the world's sixth largest economy, has recently joined the rules-based international trading system. What are the implications of this accession? Leading scholars and practitioners from the United States, Europe, China, Australia and Japan argue that China's membership will affect the WTO's decision-making, dispute resolution and rules-based structures. It will also spur legal and economic reform, have far-reaching social, political and distributional consequences in China, facilitate a new role for China in international geo-political affairs, and alter the shape, structure and content of the international trading system as a whole. This book will be of interest to international trade lawyers and economists as well as scholars of China and international relations.

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PREFACE

This book arose from a research project funded by the Australian Research Council and the Australian Department of Foreign Affairs and Trade (DFAT). The idea for the project first emerged in 1997 in discussions between Deborah Cass and Geoff Raby, former head of the Trade Negotiations Division at DFAT, and subsequently Australian ambassador to the World Trade Organization; and Graeme Thomson, formerly principal adviser in the DFAT Trade Negotiations Division, who oversaw much of Australia's role in the accession negotiations. The success of the project owes a great debt to the inspiration of Geoff Raby, and to the generosity of Graeme Thomson, who was always willing to share the wisdom of his vast experience in trade relations, and his understanding and appreciation of the unique questions arising from the Chinese accession. Invaluable advice and assistance was also received from other DFAT personnel during the project, including Toni Harmer, Ian Macintosh, Klea Maniatis, John Stroop and Antony Taubman in Canberra, Philippa Kelly in Beijing, and Rick Wells in Geneva.

The three-year project, which ran from 1998 to 2001, produced a series of results, in the form of seminars, working papers, essays, a website, a major conference and ultimately this publication. It was instrumental in bringing together, sometimes for the first time, interested parties from business, government and academia, to discuss the crucial issue of China's accession to the World Trade Organization. In March 2001 an international conference was held in Canberra, Australia, as a culmination of the project. Keynote speakers included the leading GATT/WTO scholar, Professor John Jackson, from Georgetown University; Professor Raj Bhala, from George Washington University; Dr Sylvia Ostry, former Canadian trade representative, distinguished research fellow at the University of Toronto and now member of the WTO Director General's Expert Advisory Group; and Mr Jeffrey Gertler, senior counsellor in the Legal Affairs Division of the

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WTO, who acted for thirteen years as secretary to the WTO Working Party on China's Accession. The essays in this collection arose from this conference.

The original application for project funding was made by Deborah Cass and Ian McEwin in 1997, who began the research by holding a series of seminars in 1998. In 1999, while Deborah Cass was on leave in the United States, research assistance was provided by Jian Fu, Brett Williams and Fabio Spadi and administrative assistance by Kate Booth. Between them, Jian Fu and Brett Williams conducted research in Australia, Geneva, and China.

Ian McEwin left the project in 2000 and was succeeded by George Barker, director of the Centre for Law and Economics at the Law Faculty of the Australian National University, and a director of Legal and Economics Consulting Group (LECG). Brett Williams continued as principal research officer and was assisted during this time by Faye Liu, Tanya Canny, Scott Ralston and Wang Qiang. In addition, during 2000, Brett Williams identified most of the conference speakers who comprise the authors of this collection.

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On 11 December 2001, three years after beginning our research, China joined the World Trade Organization. It is a great privilege to have been amongst the first to study this momentous event. We present the fruits of that study in the confidence that the book will shed some light on a range of fascinating issues for future study by lawyers, trade specialists, industry, diplomats and the international community generally.

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ABBREVIATIONS AND ACRONYMS

Abbreviations

Protocol	Protocol on the Accession of The People's Republic of China, 10 November 2001, Doha, (published in Ministerial Decision of 10 November 2001, 'Accession of the People's Republic of China', WT/L/432, dated 23 December 2001). Available at http://www.wto.org/english/thewto_e/acc_e/completeacc_e.htm .
WP Report	Report of the Working Party on the Accession of China, WTO/ACC/CHN/49, 1 October 2001. Available at http://www.wto.org/english/thewto_e/acc_e/completeacc_e.htm .
Doha Declaration	Doha Ministerial Declaration, adopted on 14 November 2001 (WT/MIN(01)DEC/1, dated 20 November 2001).
Paris Convention	Paris Convention for the Protection of Industrial Property of 1883, as revised.
UPOV Convention	International Convention for the Protection of New Varieties of Plants, done 2 December 1961. UPOV 1961/72 means the treaty amended by the Act of 10 November 1972; UPOV 1978 refers to the Act of 23 October 1978; UPOV 1991 refers to the Act of 19 March 1991.
Vienna Convention	Vienna Convention on the Law of Treaties, done at Vienna, 23 May 1969, in force 27 January 1980, 1155 UNTS 331; (1969) 8 ILM 679.

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WTO Agreement Marrakesh Agreement Establishing the World Trade Organization, done at Marrakesh, 15 April 1994, in force 1 January 1995, (1994) 33 *ILM* 1144.

Acronyms

AAMA	American Apparel Manufacturers Association
AICs	administrations for industry and commerce
ALL	Administrative Litigation Law of the PRC
APEC	Asia Pacific Economic Co-operation forum
AQSIQ	the PRC State General Administration for Quality Supervision and Inspection and Quarantine
ASEAN	Association of Southeast Asian Nations
ATC	the WTO Agreement on Textiles and Clothing
BMAIC	Beijing Municipal Administration for Industry and Commerce
BZC	bonded zone trading companies
CAAC	Civil Aviation Administration of China
CBI	Caribbean Basin Initiative
CCB	China Construction Bank
CCF	China-China-Foreign joint venture enterprises
CCP	Chinese Communist Party
CEECs	central and eastern European countries
CIQ-SA	the former State Administration for Entry–Exit Inspection and Quarantine of China
CITA	the USA’s Committee for Implementation of Textile Agreements
CITIC	China International Trust and Investment Corporation
CNAC	China National Aviation Corporation
CPA	chartered public accountant
CPC	UN Central Product Classification Categories
CPL	Criminal Procedure Law of the PRC
CSBTS	the former China State Bureau of Technical Supervision
DSB	Dispute Settlement Body
DSR	Dispute Settlement Reports
DSU	WTO Understanding on Dispute Settlement

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ECJ	European Court of Justice
ELVIS	the USA's Electronic Visa Information System
EU	European Union
FDI	Foreign Direct Investment
FIE	foreign-invested enterprise
FSU	Former Soviet Union
FTC	foreign trade corporations
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
GEDA	Guangzhou Economic and Technological Development Area
GI	geographical indication
HS	Harmonized System
IBRD	International Bank for Reconstruction and Development
ICB	Industrial and Commercial Bank of China
ICP	internet content providers
ICSID Convention	International Convention on the Settlement of Investment Disputes between States and Nationals of Other States
IFF Regulations	Administrative Regulations on Foreign Investment in the International Freight Forwarding Industry
IFFEFI Regulations	the Regulations on the Examination and Approval of International Freight Forwarding Enterprises with Foreign Investment
IIPA	International Intellectual Property Alliance
IMF	International Monetary Fund
IPR	intellectual property right
ISP	internet service providers
ITO	International Trade Organization
JVCE	Joint Venture Commercial Enterprises
MEI	the former PRC Ministry of Electronic Industries (now part of MII)
MFA	Multi-Fibre Arrangement
MFN	most favoured nation
MII	the PRC Ministry of Information Industry
MMF	man-made fibre

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MNC	multinational corporation
MOC	the PRC Ministry of Communication
MOFTEC	the PRC Ministry of Foreign Trade and Economic Co-operation
MOR	the PRC Ministry of Railways
MOU	Memorandum of Understanding
MPS	the PRC Ministry of Public Security
MPT	the former PRC Ministry of Posts and Telecommunications (now part of MII)
NAFTA	North American Free Trade Agreement
NGO	non-governmental organization
NME	non-market economy
NPC	National Peoples' Congress of the PRC
NTB	non-tariff barrier
NV	normal value
OECD	Organization for Economic Co-operation and Development
PCT	Patent Co-operation Treaty
PNTR	permanent normal trading relations
RMB	renminbi, the PRC currency
SABIC	Shanghai Administrative Bureau of Industry and Commerce
SAIC	the PRC State Administration of Industry and Commerce
SC	Standing Committee of the National Peoples' Congress of the PRC
SCER	State Commission for Economic Restructuring
SCIO	the PRC State Council Information Office
SCM	the WTO Agreement on Subsidies and Countervailing Measures
SDPC	State Development Planning Commission
SEMC	the PRC State Encryption Management Commission
SETC	the PRC State Economic and Trade Commission
SEZ	special economic zone
SOE	state-owned enterprise
SPS Agreement	the WTO Agreement on Sanitary and Phytosanitary Measures
State Council	State Council of the PRC

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ABBREVIATIONS AND ACRONYMS

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STIB	China's State Textile Industry Bureau
TBT Agreement	the WTO Agreement on Technical Barriers to Trade
TPRM	Trade Policy Review Mechanism
TRAB	Trademark Review and Adjudication Board
TRIMs	Agreement on Trade-Related Investment Measures
TRIPs	Agreement on Trade-Related Aspects of Intellectual Property Rights
TRQ	tariff-rate quota
TVE	township and village enterprises
UPOV	Union for the Protection of New Varieties of Plants
USO	universal service obligation
USTR	United States trade representative
VAT	value added tax
WFOE	wholly foreign-owned enterprise
WIPO	World Intellectual Property Organization
WTO	World Trade Organization