

2021 Report to Congress On China's WTO Compliance

Disclaimer: Information provided in this document reflects customs modernization initiatives up until March 2022; this is an ever changing and evolving topic that requires additional research to fully grasp its concepts and goals.

Overview

China's retreat over the last 15 years from reforms to move its economy to a market-based one has led the United States over the past two administrations to view some actions outside of the WTO as necessary to deal with the many distortions in trade being experienced by China's practices. The U.S. position is made clear in the February 16, 2022 report from the U.S. Trade Representative. It has been apparent for some time that the trading system has been unable to address many of the major distortions caused by the state-led, non-market economy of a major country like China. (Stewart, 2022)

"China has not moved to embrace the market-oriented principles on which the WTO and its rules are based, despite the representations that it made when it joined 20 years ago," said Ambassador Katherine Tai. "China has instead retained and expanded its state-led, non-market approach to the economy and trade. It is clear that in pursuing that approach, China's policies and practices challenge the premise of the WTO's rules and cause serious harm to workers and businesses around the world, particularly in industries targeted by China's industrial plans." (USTR, 2022)

In Part One of this report, the USTR provides an assessment of China's WTO membership, including the unique and very serious challenges that China's state-led, non-market approach to the economy and trade continue to pose for the multilateral trading system. (USTR, 2022) China also agreed to take on the obligations set forth in existing WTO rules, while also making numerous China-specific commitments. (Stirling, 2022) In Part Two, the effectiveness of the various strategies that have been pursued over the years to address the unique problems posed by China are reviewed. In Part Three, emphasized are the critical need for new and more effective strategies – including taking actions outside the WTO where necessary – to address those problems. Finally, in Part Four, the numerous problematic policies and practices that currently stem from China's state-led, non-market approach to the economy and trade are cataloged. (USTR, 2022)

Diplomacy

Efforts at plurilateral agreements open to all WTO Members are addressing a number of important issues, though not with regard to major distortions caused by

state-led, non-market economies. (Stewart, 2022)

"The Biden Administration is pursuing a multi-faceted approach to address the harm caused by China's trade and economic policies through both bilateral engagement with China and the use of trade tools to protect American workers and businesses. The Administration's strategy also includes enhanced engagement with allies and partners in order to build broad support for solutions to the many unique problems posed by China and defending our shared interests." (USTR, 2022)

After 20 years of WTO membership, China still embraces a state-led, non-market approach to the economy and trade, despite other WTO members' expectations – and China's own representations – that China would transform its economy and pursue the open, market-oriented policies endorsed by the WTO. In contrast, China's embrace of a state-led, non-market approach to the economy and trade has increased rather than decreased over time.

Even when China changed the specific practices that we had challenged, it did not typically change the underlying policies, and meaningful reforms by China remained elusive. (USTR, 2022)

The road ahead for democratic, market economies is unclear. But the problems with WTO compatibility of the Chinese economic model and the challenges in achieving meaningful WTO reform will likely lead to a much larger role for non-WTO solutions in the future. That will of necessity reduce the relevance of the WTO over time. (Stewart, 2022)

Key Takeaways

- China is not actively cooperating to the trade rules applied by the WTO
- While WTO reform may address some issues, it is unlikely that WTO reform will be achieved for years
- Success of such agreements depends on the willingness of participants to honor commitments undertaken or the effectiveness of enforcement provisions in the agreements

Discussion Questions

- Will the failure of negotiating with the Chinese in this instance encourage the WTO to alter/update their negotiating techniques and policies?
- What is the future of trade with China?