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# China Threat? Evidence from the WTO\*

James SCOTT AND Rorden WILKINSON\*\*

*The rise of China has elicited a voluminous response from scholars, business groups, journalists and beyond. Within this literature, a 'China Threat Theory' has emerged which portrays China as a destabilizing force within global politics and economics. Though originating in Realist accounts, this China Threat Theory has spread across to other approaches, and it increasingly forms the backdrop against which scholarly work positions itself. Our article contributes to this debate by examining China's role within the World Trade Organization (WTO). It assesses the extent to which China has been the disruptive power that it is often claimed to be. In particular, the article examines the change identified in Chinese diplomacy around 2008, and argues that this is attributable to the process of learning and socialization that China had to undergo as a new member, coupled with its elevation to a position of decision-making power. Contrary to the China Threat Theory, we find little to suggest that China has adopted an aggressive system challenging mode of behaviour.*

Since the People's Republic of China (PRC) embarked upon a programme of reform beginning in 1978, China's 'rise' has generated considerable debate. Outside of China, much of the debate has concentrated on whether China will be a 'system challenging' (i.e., a 'revisionist') power, or one that is 'status quo' preserving, despite the well noted ambiguities in these terms;<sup>1</sup> and the central issue of much scholarly research has been directed at trying to determine what the PRC's 'intentions' are such that a proclamation can be made one way or the other. Sitting behind this debate is a longer-standing scholarly and policy concern

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<sup>1</sup> Alastair Iain Johnston, *Is China a Status Quo Power?* 27 Intl. Sec. 3 (2003).

with the extent to which China represents a 'threat' to the international system that dates back more than two hundred years to the West's first regularized dealings with China.<sup>2</sup> Indeed, much of the debate hinges on whether China has, to paraphrase Yongjing Zhang,<sup>3</sup> re-entered international society, or whether it is possible, to borrow Alastair Johnston's phrase, 'to socialize a dictatorial, nationalistic, and dissatisfied China' within that society.<sup>4</sup>

Within China, much recent debate has centred on responding to charges of 'China Threat' emphasizing the PRC's 'peaceful rise'.<sup>5</sup> Yet, even though Chinese International Relations theory has appropriated Anglo-American frameworks as the dominant modes of analysis,<sup>6</sup> these interventions have been aimed more at domestic audiences than they have been produced as rebuttals for foreign consumption or scholarly debate. As William Callahan argues, 'Chinese identity production involves spreading anti-China discourse within the PRC in order to draw the symbolic boundaries that clearly distinguish Chinese from foreigners'. The result, he argues, 'continually reproduces and circulates [a] set of images of a peacefully rising China that is the victim of criticism that only comes from abroad'.<sup>7</sup>

Yet, for all of the scholarly industry that has sought to pronounce on the intentions debate, little progress has been made. While few would want to suggest that China is a serious threat to world peace in the near future – Robert Kaplan's account of 'How we would fight China'<sup>8</sup> and John Mearsheimer's claims that China's rise will inevitably be unpeaceful notwithstanding<sup>9</sup> – most would want to withhold a longer term judgment. In this article, we seek to make a contribution to the wider debate about China's intentions by reviewing the record of its first decade of membership of the World Trade Organization (WTO). As in the more general literature on China's intentions, debate about its role in the WTO is divided among those that see China as a threat,<sup>10</sup> those that do

<sup>2</sup> Oliver Turner, *China's recovery: Why the writing was always on the wall*, 80 *Political Q.* 111–118 (2009); Scott Kennedy, *The Myth of the Beijing Consensus*, 19 *J. Contemporary China* 461–477 (2010).

<sup>3</sup> Yongjin Zhang, *China's Entry into International Society: Beyond the Standard of 'civilization'*, 17 *Rev. Intl. Stud.* 3–16 (1991).

<sup>4</sup> Johnston, *Is China a Status Quo Power?* p. 5.

<sup>5</sup> For an early account, see Herbert Yee & Zhu Feng, *Chinese perspectives of the China Threat: myth or reality*, in *The China Threat: Perceptions, Myths and Reality* (Herbert Yee & Ian Storey eds., RoutledgeCurzon 2002).

<sup>6</sup> Qin, Yaqing, 'Development of International Relations Theory in China: Progress through Debates', 11 *Int'l Relations of the Asia-Pacific* 231–257 (2011).

<sup>7</sup> William A. Callahan, *How to Understand China: The Dangers and Opportunities of being a Rising Power*, 31 *Rev. Intl. Stud.* 709–710 (2005).

<sup>8</sup> Robert D. Kaplan, *How We would Fight China*, *The Atlantic* 1–12 (2005).

<sup>9</sup> John J. Mearsheimer, *China's Unpeaceful Rise*, 105 *Current History* 160–162 (2005).

<sup>10</sup> See C. Fred Bergsten, *A Partnership of Equals*, 87 *For. Affairs* 57–69 (2008); Amrita Narlikar, *New Powers: How to Become one and How to Manage Them* (Hurst & Company 2010).

not,<sup>11</sup> and that those that suggest in the short term the PRC appears to be status quo preserving in its behaviour but who wish to reserve judgment about the orientation of its future intentions.<sup>12</sup> We add our voice to the debate through a thorough examination of China's role in the WTO; and we find that China's decade record in the WTO suggests it is what Scott Kennedy calls a 'stubborn status quo power'.<sup>13</sup> In contrast to much of the existing literature, we seek to move beyond political proclamations and contestations that have surrounded key events in the first decade of the PRC's membership as the focus on analysis, and to place our examination within the broader context of China's post-1978 reform process and its drive for WTO accession, thereby eschewing a reliance on specific moments in time as the source of our evidence. We set our examination of the primary and secondary materials against data gathered during a sustained programme of targeted interviews conducted with key individuals working in all of the major diplomatic missions and international organizations based in Geneva dealing with WTO issues.<sup>14</sup> These interviews built on a longer research scheme examining the evolution of the world trade system, with a particular focus on developing countries therein. The results of the research for this article were then set against a critical examination of the extant literature.

The article begins with a review of the literature on the perceived threat China's rise constitutes. It then explores China's accession to the WTO as a means of establishing the rule-following – that is, the stubbornly status quo orientated – character of China's post-accession trade diplomacy and to explain 'moments' of assertiveness as a function of this behaviour rather than as a departure therefrom. Thereafter, we explore two 'phases' of China's multilateral trade diplomacy broadly corresponding with the period from accession in 2001 to early 2008 and from July 2008 to the present. Here, we show that while a discernible step change has taken place in China's multilateral trade diplomacy, this change is consistent with the outcome of a process of learning and with the PRC's de facto elevation to a position of decision-making power rather than with a more aggressive system challenging mode of behaviour. In the final section, we offer our concluding comments suggesting that China's first decade in the WTO has

<sup>11</sup> C.L. Lim & JiangYu Wang, *China and the Doha Development Agenda*, 44 *J. World Trade* 1309–1331 (2010).

<sup>12</sup> Wei Liang, *China: Globalization and the Emergence of a New Status quo Power?* 31 *Asian Persp.* 125–149 (2007).

<sup>13</sup> Scott Kennedy, *China in Global Governance: What Kind of Status Quo Power?* in *From Rule Takers to Rule Makers: The Growing Role of Chinese in Global Governance* 9–22 (Scott Kennedy & Shuaihua Cheng eds., ICTSD/RCCPB 2012).

<sup>14</sup> These interviews were set up, and preliminary conversations conducted, between January and April 2011 with the interviews themselves taking place during May and June 2011. Follow-up meetings designed to fill in any gaps and try out some of the ideas contained herein were held in September 2011, December 2011 and September 2012.

underpinned a longer process of socialization that is embedding China as a key player within, and not as a challenger to, the existing multilateral system.

## 1 CHINA THREAT

China's rise has elicited a colossal literature commenting on the phenomenon, its impacts and origins. As this literature has evolved, an increasing focus of attention has been placed on the 'China Threat Theory' – a debate surrounding the degree to which China represents a challenge to regional and global political and economic stability. The greatest attention has often been accorded to headline-grabbing Realist accounts that form the core of the China Threat Theory. A key contribution to this is John Mearsheimer's claim that China's rise must inevitably lead, through the Realist logic of state competition within an anarchic system, to conflict with the US as each seeks to dominate the region.<sup>15</sup> Robert Kaplan's account of 'How we would fight China' is in a similar vein,<sup>16</sup> while Bernstein and Munro also see China as striving restlessly for regional dominance.<sup>17</sup> Such accounts have helped to structure the debate concerning China's rise, channelling academic and wider commentary towards assessments of the degree to which China will challenge the dominance of the US regionally and within global institutions.

Not all accounts have seen conflict as being inevitable. More optimistic arguments have been put forward even among Realists. Other strands of the Realist tradition have been employed to counter the 'offensive Realist' theory espoused most clearly by Mearsheimer, arguing that more nuanced Realist frameworks do not entail inevitable conflict from China's rise.<sup>18</sup> Johnston, by contrast, takes a more empirical route arguing that there is not yet sufficient evidence one way or the other to access the standard Realist claims that China is a strongly revisionist power.<sup>19</sup>

Similarly, the assumptions concerning Realist logic have been called into question. Walter C. Clemens and Ely Ratner each highlight the importance of understanding China's actions as being driven by the circumstances it faces, rather than seeking to derive China's future actions as inevitable outcomes of its rising

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<sup>15</sup> Mearsheimer, *China's Unpeaceful Rise*.

<sup>16</sup> Kaplan, *How we would fight China*.

<sup>17</sup> Richard Bernstein & Ross Munro, *The Coming Conflict with America*, 76 *For. Affairs* 18–32 (1997).

<sup>18</sup> Charles Glaser, *Will China's Rise Lead to War? Why Realism Does Not Mean Pessimism*, 90 *For. Affairs* 80–91 (2011); Jonathan Kirshner, *The Tragedy of Offensive Realism: Classical Realism and the Rise of China*, 18 *European J. Intl. Rel.* 53–75 (2012).

<sup>19</sup> Johnston, *Is China a Status Quo power?*.

power.<sup>20</sup> Ratner argues that China's future behaviour will depend to a large extent on the security environment it faces, both internal and external. Likewise, Clemens argues that China's actions over recent years are a response to the US military build-up in the Asia region. Though conflict remains possible, China need only be a threat if the US pushes it into being one through adopting an overly aggressive stance. Ikenberry, offering a Liberal Institutional perspective, argues that the institutions that structure the global economy will facilitate China's peaceful rise.<sup>21</sup> Unlike other times of the rise of a new great power, the world is currently structured by an open, rules-based system (albeit Western dominated) that will help to ease the tensions caused by shifting power structures.

Indeed, the close enmeshment of China within the global economic system has been highlighted as a reason for China being less of a threat than more pessimistic accounts make out, with economic interdependence between the US and China being a strong impediment to greater conflict. Liang argues that China's policy options have been deeply constrained by its highly globalized economy, with its reliance on global markets as an outlet for exports and a source of investment.<sup>22</sup> Similarly, Breslin highlights the important role that engagement with the global economy has played as a source of economic growth for China.<sup>23</sup> If China is to continue to secure access to what it needs to maintain its rise it must, he argues, establish credentials as a responsible global actor. As such, China will be unwilling to challenge the existing system in any fundamental way. Suzuki makes a similar case, criticizing arguments that have been put forward that China has cultivated soft power through disregarding Western models of development and thereby represents a threat to the status quo.<sup>24</sup> He then supports this through an examination of China's role in supporting UN peacekeeping operations that have aimed at spreading liberal democracy. Kennedy also strongly rejects the idea that China's rise has been through following a 'Beijing Consensus',<sup>25</sup> arguing that China's policies have differed only marginally from the basic tenets of the Washington Consensus orthodoxy. As such, China has presented little of a challenge to the fundamental basis of the global economic order.

<sup>20</sup> Walter C. Clemens Jr, *Why pick a fight with China?* 7 *Global Asia* 116–119 (2012); Ely Ratner, *The Emergent Security Threats Reshaping China's Rise*, 34 *The Wash. Q.* 29–44 (2011).

<sup>21</sup> G. John Ikenberry, *The Rise of China and the Future of the West*, 87 *For. Affairs* 23–37 (2008).

<sup>22</sup> Wei Liang, *China: Globalization and the Emergence of a New Status Quo Power?* 31 *Asian Persp.* 125–149 (2007).

<sup>23</sup> Breslin, *China's emerging global role*.

<sup>24</sup> Shogo Suzuki, *Chinese Soft Power, Insecurity Studies, Myopia and Fantasy*, 30 *Third World Q.* 779–793 (2009).

<sup>25</sup> Kennedy, *The Myth*. See also Peilin Li, *China's New Stage of Development*, 9 *China: Intl. J.* 133–143 (2011). For the argument in favour of the Beijing Consensus, see Joshua Cooper Ramo, *The Beijing Consensus* (Foreign Policy Centre 2004).

Even if China has no intentions of challenging the existing system, for others the mere fact of China's rise combined with the purported decline of the US suggest that conflict (though not necessarily military conflict) will increase. Bremmer and Roubini highlight the current power vacuum, with the old powers following the financial crisis being unable to provide international leadership and global public goods.<sup>26</sup> Meanwhile the new powers are too focused on domestic development and maintaining social order to take on the burdens of such responsibilities. The outcome is that no single country or bloc of countries, they argue, has the leverage or will to drive a truly international agenda, resulting in intensified conflict over vital issues such as trade, financial reform and climate change. Robert Wade provides a counterbalancing argument, contending that the shift in power from West to East, or North to South, is much smaller than is often made out. The US continues to be the dominant state, though now 'more fearfully and defensively'.<sup>27</sup> Nor is this the first time that the irrevocable decline of the US has been prematurely foretold.<sup>28</sup>

Each of these perspectives seeks to address or comment on the degree to which China represents a threat to the current world order. Such is the dominance of this debate within the literature that it has begun to generate its own meta-commentary.<sup>29</sup> Callahan, for instance, examines the way in which Chinese commentators have reacted against the China Threat Theory and used it to assert a counterclaim of China's 'peaceful rise'. Both concepts, Callahan argues, are caricatures that ultimately limit our understanding of China's rise.<sup>30</sup>

More recently, the China Threat Theory has developed further with the suggestion that from around 2008 China's foreign policy across a range of issues has become more aggressive.<sup>31</sup> Within the trade sphere, this has centred on China's participation in the July 2008 WTO mini-Ministerial, where it was described by US commentators as 'playing hardball',<sup>32</sup> and through a more aggressive use of the dispute settlement system. Gao argues that China has moved from being a 'rule

<sup>26</sup> Ian Bremmer & Nouriel Roubini, *A G-Zero World: The New Economic Club Will Produce Conflict, not Cooperation*, 90 *Foreign Affairs* 2–7 (2011).

<sup>27</sup> Robert Wade, *Emerging World Order? From Multipolarity to Multilateralism in the G20, the World Bank, and the IMF*, 39 *Pol. & Soc.* 347 (2011).

<sup>28</sup> Susan Strange, *The Persistent Myth of Lost Hegemony*, 41 *Intl. Org.* 551–574 (1987).

<sup>29</sup> Callahan, *How to understand China*; Emma V. Broomfield, *Perceptions of Danger: The China Threat Theory*, 12 *J. Contemporary China* 265–284 (2003); see also Emma Mawdsley, *Fu Manchu versus Dr Livingstone in the Dark Continent? Representing China, Africa and the West in British broadsheet newspapers*, 27 *Political Geography* 509–529 (2008).

<sup>30</sup> Callahan, *How to understand China*.

<sup>31</sup> See Nick Bisley, *Biding and Hiding No Longer: A More Assertive China Rattles the Region*, 6 *Global Asia* 62–73 (2011); Michael D. Swaine, *China's Assertive Behaviour: Part One: On 'Core Interests'*, 34 *China Leadership Monitor* (2011), and other associated articles; *The Economist*, *Facing up to China* (4 Feb. 2010); David Shambaugh, *The Chinese tiger shows its claws*, *Fin. Times.* (17 Feb. 2010).

<sup>32</sup> Stephen Castle, *Balance of Power Shifts to China at Global Trade Talks*, *N.Y. Times* (28 Jul. 2008); see also Lim & Wang, *China and the Doha Development Agenda*.

taker' to a 'rule shaker' or even 'rule maker' within the WTO.<sup>33</sup> Perhaps, the clearest expression of this position, however, comes from Fred Bergsten, who argues that though the US and EU have sought to integrate China into the global trade regime, China 'is pursuing strategies that conflict with existing norms, rules and institutional arrangements'.<sup>34</sup> Though Bergsten acknowledges the importance to China of a continued stable trading regime and access to export markets, limiting the extent to which it seeks to revise the WTO system, he argues nonetheless that 'China has been playing at best a passive and at worst a disruptive role' in the Doha Round. Indeed, for Bergsten:

China's refusal to contribute positively to the Doha Round . . . has all but ensured the talks' failure. Beijing has declared that it should have no liberalization obligations whatsoever and has invented a new category of WTO membership ('recently acceded members') to justify its recalcitrance. Such a stance by a major trading power is akin to abstention and has practically guaranteed that the Doha negotiations will go nowhere.<sup>35</sup>

Bergsten's identification of China as the key impediment to progress is echoed elsewhere. Mattoo, Ng and Subramanian, for instance, contend that China's exchange rate practices are the 'great elephant in the room' that is undermining the Doha negotiations, since its undervalued exchange rate is seen as nullifying any tariff concessions.<sup>36</sup> Although they seek to avoid blaming China outright, they argue that 'the reality and basis of Chinese trade dominance needs to be confronted as the world seeks to revive Doha or look beyond it'.

The China Threat Theory within the trade literature is often recast as a debate over whether China is a 'system maintainer', 'system reformer' or 'revisionist' power.<sup>37</sup> A broad consensus has emerged that China has a great deal at stake in the trade system, since it relies on trade and export processing in particular for its current development model,<sup>38</sup> and is therefore a broadly 'system maintaining' actor. The success China has had in utilizing the trade system to its advantage and its reliance on continued stable access to both export markets and imports of critical raw materials suggests that it has little to gain from any radical challenge to

<sup>33</sup> Henry Gao, *Elephant in the Room: Challenges of Integrating China into the WTO System*, 6 Asian J. World Trade Org. & Intl. Health L. & Policy 137–168 (2011).

<sup>34</sup> Bergsten, *A Partnership of Equals*, p. 58.

<sup>35</sup> Bergsten, *A Partnership of Equals*, p. 60.

<sup>36</sup> Aaditya Mattoo, Francis Ng & Arvind Subramanian, *The Elephant in the 'Green Room': China and the Doha Round*, <http://www.voxeu.org/article/elephant-green-room-china-and-doha-round> (2011).

<sup>37</sup> Margaret M Pearson, *China in Geneva: Lessons from China's Early Years in the World Trade Organization*, in *New Directions in the Study of China's Foreign Policy* 242 (Alastair I. Johnston & Robert S. Ross eds., Stanford U. Press 2006).

<sup>38</sup> Andong Zhu & David M. Kotz, *The Dependence of China's Economic Growth on Exports and Investment*, 43 Rev. Radical Political Econ. 9–32 (2011); Chiara Piovani & Minqi Li, *One Hundred Millions Jobs for the Chinese Workers! Why China's Current Model of Development is Unsustainable and How a Progressive Economic Program Can Help the Chinese Worker, the Chinese Economy, and China's Environment*, 43 Rev. Radical Political Econ. 77–94 (2011).



the current system. Nonetheless, as noted in the review above, China is nonetheless frequently identified as a key problem state, either through intransigence in the negotiations over core areas or through maintaining an undervalued exchange rate. Though most commentators do not consider China to be trying to make wholesale revisions to the global trade system, China is often seen as being an obstacle to future trade deals – a view we find not to be supported by the empirical record.

The picture that emerges from this literature is that the China Threat Theory has become a key lens through which China's actions are examined. And yet, all too often this approach obscures as much (if not more) as it elucidates. In particular, it leads to an unhelpful search for turning points in China's foreign policy that mark the revealing of China's 'true intentions'. Actions that, were they undertaken by any other state, would be seen as a normal part of trade diplomacy are instead interpreted through the lens of the China Threat Theory to cast China in an obstructionist, aggressive and irrational light. Furthermore, such analysis is too often ahistorical, failing to place China's entry to the WTO into the context of its reform trajectory and the particular problems generated therein. In addition, the China Threat Theory fails to appreciate sufficiently the range of factors shaping China's diplomacy. For present purposes, what is excluded is a sufficient understanding of how institutional rules and procedures help to shape particular moments in, or characteristics of, state action.

In the following sections, we examine key aspects of the China Threat Theory as it is applied to China's participation in the WTO. We highlight how China's actions are more satisfactorily explained through understanding the way in which China's behaviour has been shaped by a process of institutional learning and socialization that participation in the WTO has brought. We begin this through an examination of China's accession process and the course of economic reforms from which this emerged before exploring the empirical record of China's first decade in the WTO.

### 1.1 REFORMING CHINA, WTO ACCESSION

China's WTO entry was part of a wider strategy pursued by certain elites within the Chinese Communist Party (CCP) to reform the domestic economy and engage more formally in the multilateral trade regime. It is important to understand this process as these reforms shaped the nature of China's accession to the WTO, which in turn has had a dramatic impact on China's further trade strategy.

Since 1978, China has moved from a state-dominated, somewhat insular economy to one that is more open with a larger role for markets.<sup>39</sup> Particularly following the Tiananmen Square uprising, the CCP followed a strategy of export-led growth, with manufacturing jobs secured through increased openness to inward investment used as a means of furthering (particularly urban) development and employment. This increased dramatically the role that trade, particularly exports, played in China's development. The CCP consequently sought to secure access to the world's biggest consumption markets, most importantly that of the US. Accession to the WTO was a means of achieving permanent 'normalized' trade relations with the US and securing greater market access and predictability for exporters.

The WTO accession, along with the reform process more generally, was always a divisive issue within the CCP. China's leadership was divided between those seeking greater liberalization and more conservative forces opposing further global economic integration. For the liberalizing elements, it was hoped that accession would help reform State Owned Enterprises (SOEs) and raise confidence in China as a stable, open economy, thereby increasing foreign direct investment (FDI) in the wake of the Asian financial crisis.<sup>40</sup> For others, liberalization threatened to hand increasing influence in China's affairs to outside parties. One of the most notable effects of this power struggle was the impact it had on the accession process, with periods of intensification noticeable in moments when liberalizing forces held sway, and periods of relative abeyance during moments when less internationalist tendencies were in the ascendance. In the end, it was the liberalizing forces that held sway. Zhu Rongji's restructuring of central government saw internal blockages to trade liberalization reduced and his powerbase strengthened.<sup>41</sup> Moreover, he and his supporters sought to use WTO accession as a means of securing further reform. As Breslin argues, WTO accession was seen as 'an external tool to *enforce* marketization and reform [at home], brought about by international globalizing elites wishing to lock China into multilateral trade norms and aiming to promote domestic political and economic change within China'.<sup>42</sup>

<sup>39</sup> For details of this reform period, see, among many others, Nicholas R. Lardy, *Foreign Trade and Economic Reform in China 1978-1990* (Cambridge U. Press 1992); and Lowell Dittmer & Guoli Liu, *China's Deep Reform: Domestic Politics in Transition* (Rowman & Littlefield Publishers 2006).

<sup>40</sup> See Wang Yong, *China's Stakes in WTO Accession: The Internal Decision-Making Process*, in *China's Accession to the World Trade Organization: National and International Perspectives* (Heike Holbig & Robert Ash eds., RoutledgeCurzon 2002); and Hui Feng, *The Politics of China's Accession to the World Trade Organization: The Dragon goes Global* (Routledge 2006).

<sup>41</sup> Yong, *China's Stakes*, p. 27.

<sup>42</sup> Shaun Breslin, *Reforming China's Embedded Socialist Compromise: China and the WTO*, 15 *Global Change, Peace & Sec.* 214 (2003), emphasis in original.

China's accession to the WTO was greeted with a degree of euphoria both within China and within the rest of the world (though dissent was also present in both). Partly as a result of the push by Zhu Rongji to cement reform while he had the opportunity, China made extraordinary concessions as part of its accession. Though in principle entitled to accede as a developing country, China's attempts to do so were blocked by the major trading powers. Instead, China was required to give concessions that far exceeded both the obligations of previous developing country accessions and those of long-standing developing country members. Indeed, in some areas (such as in agriculture) China's obligations went beyond those of developed countries, for example in being required to eliminate all agricultural export subsidies.<sup>43</sup> China bound all of its tariff lines and did so at a lower average level than comparable developing countries. Tariffs on non-agricultural goods were reduced to an average of 9.2% (from a pre-accession level of 42.9%) and those on agricultural products to 15.7% (from 54%).<sup>44</sup> This compares to India's 34.4% (non-agricultural) and 113.1% (agricultural), and Brazil's 30.7% (non-agricultural) and 35.4% (agricultural).<sup>45</sup> Tariff peaks were also eliminated. All in all, China's post-accession tariff profile is far more akin to that of a developed rather than developing country. Commitments made in the services sector were wider and deeper than most other WTO members.<sup>46</sup> Key areas that had been heavily restricted were opened up, such as banking and insurance, and policies that had previously been applied to FDI to encourage the creation of domestic productive capacity, such as domestic content requirements, were banned through the requirement to apply the Agreement on Trade Related Investment Measures without exceptions.<sup>47</sup> Moreover, existing WTO members were allowed to discriminate against Chinese exports for a transition period following its accession.<sup>48</sup>

The stringency of the accession process unsurprisingly had important impacts on China's diplomacy. First, though many in China are positively disposed to the WTO (indeed, Chinese tourists often stop off to have their photos taken outside the WTO building during visits to Geneva),<sup>49</sup> the burdensome requirements of

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<sup>43</sup> C. Fred Bergsten, Bates Gill, Nicholas R. Lardy & Derek Mitchell, *China: The Balance Sheet: What the World Needs to Know about the Emerging Superpower* 36 (PublicAffairs 2006).

<sup>44</sup> World Trade Org., *Statement by HE Mr Bo Xilai, Minister of Commerce: Hong Kong Ministerial Conference*, 14 Dec. 2005, WT/MIN(05)/ST/59; and WTO Tariff Profiles 2010.

<sup>45</sup> WTO Tariff Profiles 2010. Note that these figures refer to bound, not applied, tariff rates.

<sup>46</sup> Aaditya Mattoo, *China's Accession to the WTO: The Services Dimension*, 6 J. Intl. Econ. L. 229–339 (2003).

<sup>47</sup> Robert Z. Lawrence, *China and the Multilateral Trading System*, in *China and the New World Economy* 148 (Barry Eichengreen, Yung Chul Park & Charles Wyplosz eds., Oxford U. Press 2008).

<sup>48</sup> Under para. 16 of the accession document, WTO, *Accession of the People's Republic of China Decision of 10 Nov. 2001*, 23 Nov. 2001, WT/L/432.

<sup>49</sup> Authors' interviews with delegates and secretariat staff; author's observations.

accession were unpopular domestically being seen by some (as well as manipulated by others) as reminiscent of the ‘unequal treaties’ forced on China by Britain in the nineteenth century, or the ‘Twenty-One Demands’ imposed by Japan in 1915.<sup>50</sup> As a result, it has been important for the CCP to be seen to be protecting the interests of the people and not caving into Western pressure, protecting agricultural producers and industrial employment.<sup>51</sup> This has, in turn, reduced the negotiating room the Chinese delegation has had in the Doha Development Agenda (DDA). Second, the large reductions in tariffs that were made at accession have also restricted China’s current negotiating space. China’s bound rates (averaging 10%) and applied rates (averaging 9.6%) are very close, ensuring that any deal made in the DDA would ‘bite’ immediately into applied tariffs. This is unlike most other developing countries, which have a large amount of ‘water’ (i.e., the extent of the gap between the rate of application and the bound tariff ceiling) in their tariff schedules.

The picture that emerges is of an accession process strictly determined by the WTO’s underlying power relations, which in turn has had an impact on Chinese diplomacy within the DDA. Far from being bent on reforming the institutions of global trade governance, the liberal side of the CCP sought to utilize accession to the WTO to cement domestic reforms and to secure markets. Moreover, they were willing to pay an exceedingly high price to do so. This does not fit well with the images generated by the China Threat Theory of the PRC as a rising power threatening to overturn the existing system or demand a position of great influence therein. Rather, the terms of accession suggest a much weaker position than is often made out.

## 2 CHINA’S EARLY WTO DIPLOMACY

China’s participation in the WTO post-accession can be split into two periods. In the early years (2001–2008), China generally kept what looked from the outside to have been a ‘low profile’ – though this relative quiet belay much activity, including the building of the largest trade mission to the WTO, and a steep process of learning.<sup>52</sup> What looks like a low profile comes from China’s reticence to take a lead on any issue or attempt to rewrite the rules in anyway.<sup>53</sup> The only areas in which China stood out were over Taiwan and the Transitional Review Mechanism (TRM). With regard to the first, the PRC put pressure on the WTO secretariat to

<sup>50</sup> Laura J. Loppacher & William A. Kerr, *Integrating China’s Biotechnology Industry into Global Knowledge Creation*, 7 *J. World Intell. Prop.* 550 (2005); Yong, *China’s Stakes*, p. 33.

<sup>51</sup> Lim & Wang, *China and the Doha Development Agenda*, p. 1320.

<sup>52</sup> Authors’ interviews. See also Henry Gao, *From the Periphery to the Centre: China’s Participation in WTO Negotiations*, 1 *China Persp.* 59–65 (2012).

<sup>53</sup> Lim & Wang, *China and the Doha Development Agenda*, p. 1309; authors’ interviews.

downgrade Taiwan's membership status to 'office of permanent representative' rather than 'permanent mission'. This pressure resulted in Director-General Supachai Panitchpakdi approaching the Taiwanese delegation with a request to change its membership status, which was inevitably refused.<sup>54</sup> This, in turn, resulted in the PRC's refusal to negotiate with Taiwan, though in subsequent years this stance has softened and a number of official consultations between the two delegations have taken place,<sup>55</sup> with the delegations associating freely in Geneva.<sup>56</sup> That said, tensions continue to emerge at times. For instance, in 2007 Taiwan briefly blocked the appointment of China's Zhang Yuejiao to the Appellate Body claiming that this would compromise its impartiality.

The second issue on which China took a strong stance was over the review mechanism put in place to monitor the implementation of its accession agreements. The TRM was highly unpopular within China and caused considerable resentment invoking 'images of foreigners, especially the United States, snooping into China's affairs'.<sup>57</sup> The TRM also served as a nagging reminder of the high price China paid for accession.<sup>58</sup> The Chinese government resented the singling-out for special treatment embodied in the TRM process and other areas of the accession protocol and resisted its requirements, complying with the letter of the law on the TRM issue but no more. As a senior Chinese delegate put it to us, China's delegation used the ambiguities of the text to exercise a form of passive resistance. Since the TRM articles were unclear about whether China needed to make a formal written response to questions raised, the Chinese delegation chose only to respond orally and not to provide a text.

Inevitably, the TRM process was at times acrimonious. As Pearson notes, '[i]n one meeting, a senior member of the PRC delegation . . . reportedly "made a pounding-the-table type of speech," directed at the United States that linked the TRM process to "neo-imperialism"'.<sup>59</sup> Though China greatly resented the TRM and considered it unnecessary, the US and EU invested considerable resources in the process. By 2002, the United States had fifty-three full-time staff serving in China, Geneva and Washington working exclusively on China's WTO compliance.<sup>60</sup> It was with considerable relief on the Chinese side that the final TRM review was undertaken in 2010, after which China became part of the

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<sup>54</sup> See Pearson, *China in Geneva*, p. 249; Lawrence, *China and the Multilateral Trading System*, p. 152.

<sup>55</sup> Pearson, *China in Geneva*, p. 248.

<sup>56</sup> Authors' interviews.

<sup>57</sup> Pearson, *China in Geneva*, p. 250.

<sup>58</sup> Lawrence, *China and the Multilateral Trading System*, p. 153.

<sup>59</sup> Pearson, *China in Geneva*, p. 251.

<sup>60</sup> Paulo D. Farah, *Five Years of China's WTO Membership: EU and US Perspectives on China's Compliance with Transparency Commitments and the Transitional Review Mechanism*, 33 *Leg. Issues Econ. Integration* 289 (2006).

normal WTO Trade Policy Review Mechanism. The experience nonetheless generated ‘bad feelings’ among China’s trade delegation, and the resentments generated have certainly not been forgotten.<sup>61</sup>

Beyond these issues, China maintained a relatively low profile compared with other large developing countries (particularly India and Brazil) during the immediate post-accession years.<sup>62</sup> It would be a mistake to assume that China was not actively engaged, however. In 2003, China made the third largest number of written submissions to the WTO. China joined the G20 coalition that was created around the Cancún ministerial conference – though it has offered only support, rather than leadership, to the coalition. Indeed, a senior Chinese delegate reported to us that ‘China has no intention of leading any group... [including] any developing country group’ reflecting the strategy of Deng Xiaoping, much to the annoyance of the US and EU. China was initially conciliatory as a defendant and reluctant as a complainant in the Dispute Settlement Mechanism choosing to settle cases bilaterally rather than proceed to a panel,<sup>63</sup> though this has since changed with China becoming more active – a point to which we return below.<sup>64</sup>

China’s initial period of relative ‘quietude’ was to be expected given the necessity of undergoing a process of institutional learning and adaptation. It was perhaps also to be expected that, as China became more familiar with WTO practices, it would take on a more active role. It is this move to a more active phase that has prompted suggestions in the literature that China has become more aggressive and begun to show more obviously its real ‘intentions’, which are inevitably interpreted as presenting a threat to global stability. It is to this more ‘active’ period that we now turn.

### 3 POST-2008: A MORE AGGRESSIVE CHINA?

The current preoccupation with China’s ‘intentions’ has inevitably led to perceptions that the PRC is no longer a passive and conciliatory player but a disruptive one. Indeed, perceptions of this change in Chinese diplomacy are seen by some as a significant element in the inability of members to find agreement in the DDA. Fred Bergsten has been a key proponent of this view, as noted in the quote above.<sup>65</sup> A succession of US Trade Representatives have argued along similar lines. Susan Schwab, for instance, argues that:

<sup>61</sup> Pearson, *China in Geneva*, p. 251; and authors’ interviews.

<sup>62</sup> Gao, *From the Periphery to the Centre*.

<sup>63</sup> Marcia Don Harpaz, *Sense and Sensibilities of China and WTO Dispute Settlement*, 44 J. World Trade 1155–1186 (2010).

<sup>64</sup> Lim & Wang, *China and the Doha Development Agenda*, p. 1324; and Wenhua Ji & Cui Huang, *China’s Experience in Dealing with WTO Dispute Settlement: A Chinese Perspective*, 45 J. World Trade 1–37 (2011).

<sup>65</sup> Bergsten, *A Partnership of Equals*, p. 60.

even as it became obvious over the decade that emerging economies had become a dominant force in global economic growth and trade, those nations' perceptions of their consequent needs and responsibilities had failed to keep pace.<sup>66</sup>

The US has linked greater liberalization by China not only to securing US agreement to any deal, but also to the 'development' content of the round.<sup>67</sup> Clearly, in this view China is a disruptive and problematic negotiator that has caused, or at least contributed to, the collapse of the DDA. The next section of the article explores the three areas in which China's role has generally held to have been more assertive and which are often cited in accounts that point to a more malignant turn in the PRC's likely intentions. The three areas are: (i) WTO negotiations; (ii) the issue of recently acceded members (RAMs); and (iii) dispute settlement. Our analysis finds that there is little evidence to substantiate the view that China is a disruptive, let alone a system challenging power. Rather, the evidence suggests that China continues to be a responsive, rule-following, stubbornly status quo orientated one that has learnt the rules of the game and plays within them (sometimes robustly).

### 3.1 THE NEGOTIATION PROCESS AND THE 2008 MINI-MINISTERIAL

To understand China's role in the negotiation process, it is worth recapping how WTO negotiations are conducted. The WTO carried forward the GATT practice of trade negotiations being undertaken within small groups comprising the most significant trading nations. Agreements reached within these groups are then expanded to include less significant members in a series of 'concentric circles'<sup>68</sup> or via what Gilbert Winham terms a 'pyramidal' system.<sup>69</sup> This institutional practice places certain key states at the epicentre of negotiations and ensures they are able to have a direct influence on agendas while those on the sidelines are less able to influence the process. In the years immediately following accession, China resisted the established process of small-group, 'green room' meetings. At the Doha Ministerial, China witnessed (as an observer) the marathon green room discussions taking place, in which developing country resistance to the new round was slowly

<sup>66</sup> Susan C. Schwab, *After Doha: Why the Negotiations Are Doomed and What We Should Do About It*, 90 *For. Affairs* 104–117 (2011). See also, for a similar sentiment expressed by current USTR Ron Kirk, *World Trade Org., Remarks by U.S. Trade Representative Ron Kirk at the Opening Plenary Session at the World Trade Organization Ministerial Conference* (2011) (available at [http://www.wto.org/english/thewto\\_e/minist\\_e/min11\\_e/min11\\_statements\\_e.htm](http://www.wto.org/english/thewto_e/minist_e/min11_e/min11_statements_e.htm)).

<sup>67</sup> See Jonathan Lynn, *US accuses China of blocking talks on Doha Round*, Reuters Report (24 Jun. 2010); and Inside US Trade, *Deputy USTR: U.S. Making Little Real Headway on its Key Doha Demands* (30 Mar. 2011).

<sup>68</sup> Aileen Kwa, *Power Politics in the WTO: Updated 2 Edition* 36 (Focus Global S. 2003).

<sup>69</sup> Gilbert Winham, *International Trade and the Tokyo Round Negotiation* 174–175 (Princeton U. Press 1986).

ground down through a process of attrition (developing countries' relatively small delegations struggle to maintain a presence in green room sessions that can extend for eight hours without breaks) and cajolery. Seeing this process, China decided that when it joined the WTO it would not engage in the green room process. When it was subsequently asked to attend small-group meetings initially it refused.<sup>70</sup> However, this stance was subsequently reviewed, particularly following other developing countries asking China to attend, in order to increase the representation of the developing world in the core of the DDA negotiations.

Negotiations in the Doha round are generally held to have peaked in the period following the Hong Kong Ministerial Conference of 2005, with the Hong Kong Ministerial Declaration providing a spur to the already flagging negotiations. China played a key role in enabling that declaration to be adopted, talking round a group of disgruntled Latin American developing countries from blocking the declaration – something that Director General Pascal Lamy had been unable to do.<sup>71</sup> Following the Hong Kong Ministerial Conference a core negotiating group was formed comprising the United States, the European Union, Japan, India, Brazil and Australia, known as the G6.<sup>72</sup> When this group failed to find a compromise, the core was reduced further in 2007 to the G4 when Japan and Australia were sidelined. However, the DDA came closest to an agreement at a mini-ministerial meeting held between 21 and 29 July 2008, at which point the round collapsed. The mini-ministerial involved the G7 – the United States, European Union, Japan, Australia, India, Brazil and China. Crucially, this was the first time China had been involved in the core negotiating group. Before this, China had participated in the standard negotiating group meetings but had not in the elite small group, 'green room' sessions. It is unsurprising, then, that upon entry into a core negotiating group, China should adopt a more active role, creating perceptions of greater assertiveness. Yet, this more active stance – the product of WTO negotiation practices – did not translate into a disruptive role Bergsten and others have argued nor did it result in the collapse of the DDA. Indeed, a more detailed examination of the role played by China in the negotiations – to which we now turn – suggests that claims of a move to greater assertiveness are unfounded.

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<sup>70</sup> Authors' interviews. Note however that this claim was uncorroborated and could not be fully verified.

<sup>71</sup> Authors' interviews.

<sup>72</sup> For a history of the DDA negotiation process, see *Bridges Weekly Trade News Digest* (available at [www.ictsd.org](http://www.ictsd.org)). For the detail that follows, see particularly volume 10 issue 27, volume 11 issues 18 and 20, and volume 12 issue 27. For detail on the July 2008 Ministerial, see also South Centre, *The WTO's Mini-Ministerial of July 2008: Agriculture, NAMA, Process Issues and the Road Ahead*, Analytical Note (2008), SC/TDP/AN/MA/AG; and Paul Blustein, *The Nine-Day Misadventure of the Most Favored Nations: How the WTO's Doha Round Negotiations Went Awry in July 2008*, Brookings Institute Paper (2008) (available at [www.brookings.edu/research/articles/2008/12/05-trade-blustein](http://www.brookings.edu/research/articles/2008/12/05-trade-blustein)).



The July 2008 mini-ministerial collapsed over the issue of the Special Safeguard Mechanism (SSM) – an element of the agriculture agreement that would, if agreed, provide developing countries with the capacity to raise tariffs if they are faced with a surge in imports that threaten the livelihoods of rural producers. The principal division was between the United States (which wanted higher thresholds before the SSM could be used and lower permitted tariff increases) and India (which wanted a more generous mechanism). China was blamed for intransigence and standing with India against a deal, both by the US delegates and by the media.<sup>73</sup> However, our interviews with delegates from all of the trade missions involved as well as with senior figures in the WTO Secretariat, suggest that China had not simply supported India's position. Rather, China attempted to broker a deal between the positions of India and the United States, which were universally identified in our interviews as being the countries most responsible for the collapse. When these two would not make concessions, China made it known that it would accept any compromise that the United States and India came to, and left them to it. Yet, India and the United States failed to reach an agreement and the talks broke down in acrimony. As such, the collapse is less attributable to China and rather more attributable to India and the United States. Indeed, Kamal Nath (India's then Minister of Commerce and Industry) is reputed to have been highly pleased about India being blamed for the collapse as it would assist him in imminent domestic elections.<sup>74</sup> Meanwhile, senior WTO officials have suggested that the United States may have actually sought to engineer a collapse over the SSM to prevent the discussions moving to cotton,<sup>75</sup> an area in which the United States would find it impossible to offer the kind of concessions being demanded by Africa's cotton producers.<sup>76</sup> China's role was, by contrast, more compromising over the SSM issue.

This is not to say that China's position was not, and does not remain, an obstacle to finding agreement. Like the United States, there were other issues (such as non-agricultural market access, NAMA) that it was more concerned with and may have proven unwilling to compromise over had the negotiations not collapsed over the SSM first. The industrial countries blame the impasse on the emerging countries not offering enough (particularly in NAMA); the emerging countries blame the impasse on the industrial countries demanding too much and not offering enough (particularly in agriculture). In addition, the other, less powerful

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<sup>73</sup> US: *China, India Threaten Doha Round of WTO Talks*, Associated Press (28 Jul. 2008); WTO: *China throws up barrier to Doha agreement*, The Guardian 21 (28 Jul. 2008).

<sup>74</sup> Authors' interviews.

<sup>75</sup> Authors' interviews; see also Blustein, *The Nine-Day Misadventure*.

<sup>76</sup> See Donna Lee, *Poverty and Cotton in the DDA*, in *Trade, Poverty, Development: Getting Beyond the WTO's Doha Deadlock* (Rorden Wilkinson & James Scott eds., Routledge 2012).

countries may have been excluded from the meetings but were not silent, nor disinterested. They continued to resist the self-appointed small-group approach. As one senior delegate of a developing country told us, the creation of the G6 after the Hong Kong Ministerial meeting and subsequently the G7 ‘worked contrary to everyone’s interest. If there is one reason for the suspension [of the round] it is the G7 . . . The problem is the G7 methodology, not the particular countries’.

There is little to be gained here debating who or what is responsible for the collapse, and we do not intend to comment either way. Rather, the point is to highlight that China received blame in the media, following the lead of the US and EU, but a more dispassionate view places little responsibility for the collapse with China. Indeed, representatives of EU countries have anonymously confirmed to us that they place the blame primarily with the US, not with China. The role played by China is one that is hard to square with the discourse of threat that pervades commentary on its rise.

### 3.2 THE RECENTLY ACCEDED MEMBERS

Linked to the perception of China being overly assertive and intransigent is the issue of RAMs. In the quote above, Bergsten explicitly identifies this issue as signifying a destructive role being played by China in the round, and by extension being a threat to the trade system. However, our research sheds a different light on the matter. As noted above, the concessions extracted from China during accession were highly onerous. Furthermore, accession was formally completed at the Doha ministerial conference itself – that is, simultaneously with the launch of the DDA. The DDA was given a completion date of ‘no later than the 1<sup>st</sup> January 2005’.<sup>77</sup> Had the DDA proceeded to this timeline, China would have found itself required to implement DDA liberalization while still implementing the later stages of its accession protocols.<sup>78</sup> Reflecting this, China’s early position emphasized the importance of granting RAMs lesser commitments characterized by ‘four Ls’: that the cuts expected of them should be ‘lesser’, ‘longer’, ‘lower’, and ‘later’ than other members.<sup>79</sup> This position flowed from the unprecedented scale and scope of commitments China undertook at accession and the fact that new concessions within the DDA would bite immediately into China’s applied tariffs.

China received little support for its position on RAMs, particularly among the most significant members, and the issue became less important as the negotiations repeatedly missed deadlines. But rather than insisting on ‘abstaining’ from the

<sup>78</sup> World Trade Org., *Doha Ministerial Declaration* (20 Nov. 2001), WT/MIN(01)/DEC/1, para. 45.

<sup>79</sup> See World Trade Org., *Accession of the People’s Republic of China Decision of 10 November 2001*, WT/L/432 (23 Nov. 2001).

<sup>80</sup> Authors’ interviews with senior members of the Chinese delegation.

negotiations, China showed flexibility in its position. In effect, it dropped the 'lesser' and 'lower' from its position. This entailed accepting that China would have to implement the full extent of agreed tariff cuts, albeit with a longer implementation period.<sup>80</sup> Though some RAMs have been permitted to abstain from making reductions beyond their accession commitments in NAMA, China was excluded from this list. While the texts – that is, the documents that represent progress so far in the round and which are based on the status of the negotiations in July 2006 – are 'Chair's texts' and do not necessarily have the support of all members, China has indicated that it accepts them and is willing to proceed on that basis. As such, China's position is that it will contribute tariff cuts to the round in line with all other developing countries, from bound tariff rates that are substantially lower than other developing countries, with only a three-year extended implementation period. This cannot be characterized as 'abstention' from the round, to use Bergsten's phrase. Moreover, it is an area in which China has become *more* amenable to compromise in recent years rather than more aggressive.

These two examples – the willingness of China to make concessions on the issue of RAMs, and China's role in the July 2008 mini-ministerial – illustrate that China has played an active and broadly constructive role within the DDA while being unwilling to meet the demands made by the United States and the European Union. The early years of China's membership of the WTO were characterized by a period of learning the Organization's practices and procedures. As the PRC became involved in the small-group meetings, it inevitably became more active. There is little to suggest, however, that this represented a turn towards greater intransigence and belligerence, or that China has been uniquely unwilling to compromise among those core countries. China has, nonetheless, suffered at the hands of analysts who have been quick, as Breslin argues, to 'filter . . . actual experiences of how China acts' through the sieve of the intentions debate and project them as proof of a more assertive turn.<sup>81</sup> A similar story is found in China's engagement with the dispute settlement system, to which we now turn.

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<sup>80</sup> See WTO, *Textual Report By The Chairman, Ambassador Luzius Wasescha, On The State of Play of The NAMA Negotiations*, 21 Apr. 2011, TN/MA/W/103/Rev.3/Add.1, paras. 18–20. The RAM measures in the agricultural texts do not apply to China, as they merely reduce the extent of cuts expected in Aggregate Measure of Support (AMS), while China has no AMS binding. See WTO, *Negotiating Group on Agriculture, Report by the Chairman, H.E. Mr. David Walker, to the Trade Negotiations Committee*, 21 Apr. 2011, TN/AG/26, para. 9. China's current AMS is listed as zero – see World Trade Org., *Committee on Agriculture: Notification: China*, 24 Mar. 2010, G/AG/N/CHN/17.

<sup>81</sup> Shaun Breslin, *The Soft Notion of China's 'Soft Power'*, Asia Programme Paper, ASP PP 2011/03 (Chatham House 2011).

### 3.3 CHINA IN THE DISPUTE SETTLEMENT MECHANISM

The capacity of members to enforce WTO rules through the dispute settlement mechanism (DSM) is a celebrated feature of the multilateral trading system. Unlike most other international organizations, failure to comply with agreed rules holds the threat of significant sanction. This was a major incentive toward China's accession both for the rich countries, as they saw China as employing a range of measures that conflicted with core elements of the WTO, and also for China itself, which was facing an increasing number of discriminatory actions placed against its exports.

China's trading partners refrained from initiating dispute settlement cases against China for the first few years of its membership. Over this time, China engaged in a number of disputes as a third party, as a means of 'learning by watching' how the DSM functions.<sup>82</sup> The first case citing China as a respondent was initiated in 2004 by the United States (Dispute DS309), but this was terminated before being taken to the Panel for arbitration when the two reached a mutually agreed solution during the consultation phase. This set the tone for China's early involvement in the DSM. Between 2001 and 2008, China was the respondent in thirteen disputes, of which six were terminated by mutually agreed solution. Of the remaining, five went to arbitration by the DS Panel and the Appellate Body and China has purportedly conformed with their rulings,<sup>83</sup> while two disputes are still in the consultation phase. This pattern of behaviour has led to China's initial engagement with the DSM being characterized as somewhat reluctant, seeking to settle disputes without recourse to third-party arbitration.<sup>84</sup>

As with other areas of China's trade diplomacy noted above, a turn towards a more assertive or aggressive stance has been identified in China's involvement in dispute settlement from around 2008. Suggestion has been made that China will follow the path of Japanese 'aggressive legalism'<sup>85</sup> and rigorously pursue favourable settlements in trade disputes – a strategy which Ichirō points out relies on robustly supporting the dispute settlement mechanism and *not* engaging in system challenging behaviour.<sup>86</sup> In 2009, China was involved in half of the fourteen

<sup>84</sup> Marc Busch, quoted in *The Economist*, *When partners attack: China will test the WTO's dispute-settlement system*, 11 Feb. 2010 (available at <http://www.economist.com/node/15502811>).

<sup>85</sup> China is listed by the WTO as having given notification that it has implemented the panel's recommendations in these cases. It is beyond the scope of this article to assess whether this is truly the case. However, since China's implementation has not been challenged by the complainants, the prima facie evidence suggests compliance.

<sup>86</sup> Julia Ya Qin, *China, India, and the Law of the World Trade Organization*, 3 *Asian J. Comp. L.* 215–237 (2008).

<sup>87</sup> Junji Nakagawa, *No More Negotiated Deals?: Settlement of Trade and Investment Disputes in East Asia*, 10 *J. Intl. Econ. L.* 837–867 (2007).

<sup>88</sup> Araki Ichiro, *Global Governance, Japan and the World Trade Organization*, in *Global Governance and Japan: The Institutional Architecture*, 179–193 (Glenn D. Hook & Hugo Dobson, eds., Routledge 2007).

disputes initiated that year, four as a respondent and three as the complainant. While this clearly demonstrates a higher degree of DSM participation than before and a high degree of dispute settlement involvement, it is not out of line with other large trading nations. In the same year, for instance, the European Union was respondent in four and complainant in two disputes – only one fewer than China. And perhaps more importantly, when defending a case in which the panel has found against China, it has complied with the rulings relatively quickly.<sup>87</sup> This is not always something that the EU and US can claim.

China's recent engagement with the disputes appears to have entered a 'tit-for-tat' phase in which China launches a dispute as a response to the initiation of a complaint or other trade measure made against them. For example, on 9 November 2011, the US launched an anti-dumping examination of China's solar panels, which was closely followed on 25 November by China announcing that it was initiating its own investigation into US support for renewable energy. Likewise, on 12 March 2012 in response to action by the US, EU and Japan to challenge China's rare-earth export restrictions, on 8 May China imposed import duties on stainless steel tubes from the EU and Japan. This tit-for-tat use of the DSM has drawn sharp criticism from some quarters. For instance, Stephen Kho, the principal lawyer at the US Trade Representative's Office on China enforcement, considers this to be 'really troubling . . . They have no problem saying, "If you're going to hit us, we'll hit you back"'.<sup>88</sup>

However, as with other areas examined above, what may appear to be a shift towards a more assertive, aggressive diplomacy is often a negative reaction to something that is less about China per se and more about the process of learning and adjustment that any new member must go through. A shift away from negotiated solution towards taking the complaint to the panel for a judicial ruling is certainly identifiable within China's behaviour, but this is a result of China's acceptance over time that such legal arbitration is a normal part of trade diplomacy and not a sign of elevated conflict. This, as Marcia Don Harpaz argues, may be seen to have been a significant psychological step for China, signalling a willingness to place faith in Western legal norms and institutions and accept for almost the first time international third-part adjudication.<sup>89</sup> It is also a natural expectation that only following the initial period of 'learning the ropes' would China be in a

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<sup>87</sup> Wenhua Ji & Cui Huang, *China's Experience in Dealing with WTO Dispute Settlement: A Chinese Perspective*, 45 *J. World Trade* 31 (2011).

<sup>88</sup> Quoted in *Businessweek*, *China Floods the WTO With Tit-for-Tat*, 7 Jun. 2012 (available at [www.businessweek.com/articles/2012-06-07/china-floods-the-wto-with-tit-for-tat](http://www.businessweek.com/articles/2012-06-07/china-floods-the-wto-with-tit-for-tat)).

<sup>89</sup> Harpaz, *Sense and Sensibilities*.

position to engage more fully in the DSM. In this sense, as Ji and Huang note, China has ‘followed a pattern typical of an average big WTO Member’.<sup>90</sup>

China’s involvement with the DSM has without question undergone changes, and a turn towards a more confident role is certainly discernible around 2008. However, this is more readily interpreted as a process of institutional learning as China found its feet in the organization and became more confident with the WTO’s procedures. As Harpaz suggests it also clearly demonstrates a form of socialization that has seen China adapt to its emergence into the Western-created international system. There is little to suggest that China’s participation in the DSM, as with the other areas examined above, is any more of a threat than that of any of the established powers.

#### 4 CONCLUSION

This article has examined the burgeoning literature constructing the ‘China Threat Theory’ – that China’s rise represents a threat to economic and geopolitical stability. This idea has come to dominate the debate about China’s international relations. Within the trade arena, this argument has focused on the perceived threat of China to the stability of the trade system, whether it will seek to support or to reform the WTO, the willingness of China to contribute to further evolution within that system (primarily through supporting the DDA) and whether the West can (in the paternalistic language frequently used towards China) ‘encourage China to become a responsible stakeholder in the international system’.<sup>91</sup>

Using an account of China’s first ten years as a member of the WTO and focusing on the purported turn in 2008 towards a more aggressive stance, we have argued that there is scant evidence that China has played the disruptive, blocking role that has been ascribed to it. Rather, China’s actions have been generally constructive, though tendentially (and at times wilfully) misrepresented as overly ‘assertive’ and ‘disruptive’. While in some regards, there is a shift perceptible in 2008, the rush to interpret this as a moment in which China’s ‘real’ intentions are revealed has served to severely cloud the debate and to draw attention away from other explanations.

China’s actions must be understood within the context of, first, the accession process and, second, the learning and socialization processes that any new member of an international organization must go through. China, like any new member,

<sup>90</sup> Ji & Huang, *China’s Experience*, p. 30.

<sup>91</sup> Robert Zoellick, *Whither China: From Membership to Responsibility?* Remarks to National Committee on U.S.-China Relations, 21 Sep., 2005 (available at <http://2001-2009.state.gov/s/d/former/zoellick/rem/53682.htm>). Note how this clearly portrays China as not yet a ‘responsible stakeholder’.

had to learn the WTO's formal and informal practices and procedures, many of which are unwritten due to the 'club-like' atmosphere of the WTO's predecessor, the GATT. As it proceeded along this path and became a more confident member, and crucially also as it became integrated properly into the WTO's small-group decision-making procedures, China inevitably began to appear to be more assertive. Similarly, within the DSM as China slowly threw off its initial reluctance to take disputes all the way to the panel stage, the perception was created that it was becoming more aggressive in its use of disputes. However, in many regards this merely reflects an emergence out of significant quietude to become a normal member of the WTO. Nothing in the empirical record suggests that China has done anything more assertive, more threatening to the institution or the foundations on which it lies, than any other member. Rather, it has consistently demonstrated a stubborn commitment to the preservation of the status quo.