



Working Paper Series No.035

Shanghai Free Trade Pilot Zone, The Model for Future China?

Jiaxiang HU

Koguan Law School, Shanghai Jiao Tong University

jxhu@sjtu.edu.cn

ASLI Visiting Fellow
(4 February to 2 April 2014)

May 2014

The **ASLI Working Paper Series** is published electronically by the Asia Law Institute, whose Secretariat is based at the Faculty of Law, National University of Singapore.

© Copyright is held by the author or authors of each Working Paper. ASLI Working Papers cannot be republished, reprinted, or reproduced in any format without the permission of the paper's author or authors.

Note: The views expressed in each paper are those of the author or authors of the paper. They do not necessarily represent or reflect the views of the Asia Law Institute or of the National University of Singapore.

Citations of this electronic publication should be made in the following manner: Author, "Title," ASLI Working Paper, No. #, Date, www.law.nus.sg/asli/pub/wps.htm. For instance, Chan, Bala, "A Legal History of Asia," ASLI Working Paper, No. 101, December 2010, www.law.nus.sg/asli/pub/wps.htm.

Asia Law Institute

c/o Faculty of Law,

National University of Singapore

Eu Tong Sen Building

469G Bukit Timah Road,

Singapore 259776

Tel: (65) 6516 7499

Fax: (65) 6779 0979

Website: <http://law.nus.edu.sg/asli>

Email: asli@nus.edu.sg

The Asian Law Institute (ASLI) was established in March 2003 by a group of leading law schools in Asia. Its goal is to facilitate academic exchanges as well as research and teaching collaboration among colleagues from the thirteen founding institutions. The establishment of ASLI stems from the recognition that the diversity of legal traditions in Asia creates an imperative for Asian legal scholars to foster greater engagement with each other through collaborative research and teaching. The acronym "ASLI", which means "indigenous" in the Malay and Indonesian languages, represents the commitment of the founding institutions to establish a truly home-grown law institute in Asia. The ASLI membership has grown beyond the founding members and includes 35 new member institutions.

SHANGHAI FREE TRADE PILOT ZONE, THE MODEL FOR FUTURE CHINA?

JIAXIANG HU*

Abstract: Unlike all previous Special Economic Zones (SEZs) which have, in one form or another, received some incentives from central government, the Shanghai Free Trade Pilot Zone (SFTPZ) has not been offered any preferential treatment. Instead, it has been encouraged to experiment with new innovative measures in administration. During the course of two to three years of piloting reforms, the SFTPZ will expedite the functional transformation of government through limiting administrative power, and it will also expand the opening up of service sectors by releasing limitations on market access. In addition, it will promote the reform of administrative regulations on foreign investment, develop the multinational corporation headquarter economy with more sophisticated facilities, and experiment with new forms of trade. The experience thus gained will offer new ideas and approaches to be used across the nation in the next round of economic reforms.

I. SPECIAL ECONOMIC ZONES AND THEIR VARIOUS INTERPRETATIONS IN CHINA

Since 1978, China has used special economic zones as pilot areas to attract foreign direct investment. On 26 August 1980, at its 15th plenary session, the Standing Committee of the Fifth People's Congress approved the four coastal cities of Shenzhen, Zhuhai, Shantou, Xiamen as special economic zones which would enjoy more preferential laws and economic policies as free ports. In April 1988, the Seventh National People's Congress decided that Hainan Island, previously part of Guangdong Province, would be the youngest province which would enjoy similar treatment to the four special economic zones within the whole province. These five special economic zones were the pioneers in the early years of Chinese economic reform. Together, they accounted for only 0.44% of the country's geographical area, but contributed towards 4.04% of the national GDP at that time.¹ After three decades of development, Shenzhen has now become one of the largest cities in China.

With greater inflow of foreign direct investment, some investors transferred backward facilities from other countries to China, which restricted the development of the Chinese economy. In order to import more advanced technologies and encourage more self-innovation amongst domestic enterprises, the Chinese government delineated Zhong Guan Cun of Haidian District, Beijing, as the first high and new technology development pilot zone in May 1988. Zhong Guan Cun is located in the neighborhood of top Chinese universities like Beida, Tsinghua and many institutes of the Chinese Academy of Sciences, imitating the United States' Silicon Valley in attracting scientific and technical professionals to develop their businesses. Many companies, such as *Lenovo*, have developed from small workshops in Zhong Guan Cun into IT giants today.

Encouraged by the success of Zhong Guan Cun, the Chinese government approved 26 national high and new technology development zones across the country in 1991 and another

* Professor and Director of Asian Law Center, Koguan Law School, Shanghai Jiao Tong University, ASLI Research Fellow (February-March, 2014) jxhu@sjtu.edu.cn. The author is grateful to the Asia Law Institute (ASLI) and its Director, Professor Andrew Harding, for their generous support to the research. Any errors or omissions in this paper are the responsibility of the author.

¹ Statistic Source: The Statistic Reports of Shenzhen, Zhuhai, Shantou, Xiamen and Hainan in 2009.

26 in the following year. As of the date of this paper, the total number of such zones has reached 105. Some of them are set up in the neighborhood of universities and colleges, while others have developed in a completely new area. Most enterprises registered in these zones pertain to fields such as information, biotechnology, and electronics, areas which represent the highest level of science and technology development in the Chinese industry.²

Unlike special economic zones which are based on processing and production enterprises with foreign investment, or new and high technology development pilot zones promoting the adoption of new technologies amongst enterprises, Shanghai Pudong New Area and Tianjin Binhai New Area have been chosen to carry out more comprehensive administrative and economic reforms which correspond to national strategies. The former was set up in 1990 and the latter in 2005. The reform in these two areas includes, *inter alia*, the merger of government departments to raise the efficiency of the administration, the simplification of approval procedures for the registration of multinational corporation headquarters, and the further opening up of service sectors with the objective of establishing various exchange markets for production elements. These policies have helped to rebuild Shanghai and Tianjin into the financial and shipping centers of China.

Bonded areas are sometimes called “tariff-free zones” or “tax-protected zones”, which function as centers of logistics for trade in goods, processing for imports and exports, and international transit trade for goods. Many developing countries tend to set up their export-oriented enterprises in bonded areas which offer more preferential treatment. The raw materials for processing are kept duty-free, provided that the end-products are destined for exports. In 1979, before the first four special economic zones were set up, China delineated Shekou, a small part of Shenzhen, as the bonded area for the trial. Most foreign investment of that time flowed into this small plot of land and most of the products produced there were exported overseas. The success of Shekou strengthened the determination of the Chinese government to set up special economic zones.

Since the first complete bonded area, the Shanghai Wai Gao Qiao Bonded Area, was set up in 1990, 26 other bonded areas have been established in China. Most of them are built either near the sea ports or at bordering areas with convenient transportation. Some of them have developed into bonded logistic parks, bonded port areas and comprehensive bonded areas.

Besides the various special economic zones aforementioned, the Chinese government has also set up dozens of export processing zones. Most of them are located in areas where either natural resources are comparatively high, or where transportation is more convenient. The enterprises within these economic pilot zones (EPZs) are closely connected with food processing or other labor-intensive production. They have contributed significantly to the national exports of goods.

II. SHANGHAI FREE TRADE PILOT ZONE AND ITS NEGATIVE LIST

On 28 September 28 2013, the Chinese government announced to the public that the

² Since the Enterprise Income Tax Law came into force in 2008, all foreign investors have been required to pay the same level of enterprise income tax as their Chinese counterparts, except those who invest in the new technology development pilot zones, who pay tax of 15%, 10% lower than the normal level. See the *Enterprise Income Tax Law of China*, Art 28, para 2.

Shanghai Free Trade Pilot Zone (SFTPZ) was officially in operation.³ The SFTPZ is built upon the four former customs supervision zones including Shanghai Waigaoqiao Bonded Zone, Waigaoqiao Bonded Logistics Zone, Yangshan Bonded Port and Shanghai Pudong Airport Comprehensive Bonded Area, totaling up to an area of about 28 square kilometers. This is a new type of Special Economic Zone (SEZ). Unlike all the previous SEZs which have, more or less, received some incentive policies from the central government, the SFTPZ was not offered any preferential treatment. Instead, it was encouraged to experiment with new innovative measures in administration. It has chosen to regulate investment in the same way as before its establishment, with the addition of a ‘negative list’, thus providing the same market access to both domestic and foreign investors unless they are in ‘listed’ sectors.

Generally, the SFTPZ seeks to fulfill the following objectives: during the course of two to three years of piloting reforms, it will expedite the functional transformation of government through limiting its administrative power; it will expand the opening up of service sectors by releasing limitations on market access; it will promote the reform of administrative regulation on foreign investment; it will develop the multinational corporation headquarter economy with more sophisticated facilities and it will experiment with new forms of trade. Specifically, the SFTPZ will explore ways to increase the convertibility of the Renminbi (RMB) under the current regulations governing capital account items, it will advance the opening-up of financial services, and it will improve the supervision efficiency of the Customs Office. Meanwhile, it will create a framework to support the investment and innovation activities to cultivate an internationalized business environment.

Based on these goals, the SFTPZ will pilot a free trade zone according to the standards practiced in many other countries. In particular, the SFTPZ will offer convenient administrative approval procedures for investment and trade, full convertibility of currencies, effective and efficient supervision for the circulation of goods, and an investor-friendly regulatory environment. As such, the experience gained from the SFTPZ will serve the national purpose of contributing new ideas and approaches to the next stage of the opening up of China’s economy, and will further strengthen national economic and political reform.⁴

From an international law perspective, the SFTPZ has no independent legal status. This is different from a free trade area or a customs union, which is normally formed by two or more countries or separate customs territories, and which imposes lower (or zero) tariffs on constituent members. The international rules on free trade areas and customs unions can be derived from Article XXIV of the General Agreement on Tariffs and Trade (GATT), which provides that the provisions of the GATT shall not prevent the formation of a customs union or of a free-trade area or the adoption of an interim agreement necessary for the formation of a customs union or of a free-trade area provided that:

“(a) with respect to a customs union, or an interim agreement leading to a formation of a customs union, the duties and other regulations of commerce imposed at the institution of any such union or interim agreement in respect of trade with contracting parties not parties to such union or agreement shall not on the whole be higher or more restrictive than the general incidence of the duties and regulations of commerce applicable in the constituent territories prior to the formation of such union or the adoption of such interim

³ Its official title is “The China (Shanghai) Pilot Free Trade Zone”. The general purposes of the SFTPZ are to implement a national strategy aimed at expediting the functional transformation of government, to explore administrative innovation, to stimulate and facilitate trading and investment, and to accumulate experience to achieve a more open Chinese economy.

⁴ See, “The China (Shanghai) Pilot Free Trade Zone”, online: < <http://en.shftz.gov.cn/FrameworkPlan.html>>

agreement, as the case may be;

(b) with respect to a free-trade area, or an interim agreement leading to the formation of a free-trade area, the duties and other regulations of commerce maintained in each of the constituent territories and applicable at the formation of such free trade area or the adoption of such interim agreement to the trade of contracting parties not included in such area or not parties to such agreement shall not be higher or more restrictive than the corresponding duties and other regulations of commerce existing in the same constituent territories prior to the formation of the free-trade area, or interim agreement as the case may be ”.

The SFTPZ is a special economic zone delineated by the Chinese government. China has no international obligation to implement any specific regulations and policies within the SFTPZ. Neither does it have to keep its regulations compatible with any international agreements. It is China’s prerogative to decide which law should be suspended from application within the SFTPZ, and whether or when the suspension should be withdrawn. In this regard, it would not be practical for China to sign a free trade agreement with other countries, since the arrangement applies only to the SFTPZ. Neither are investors from other countries entitled to enjoy the preferential treatment derived from a free trade agreement which is only applicable in the SFTPZ.

The national legislature of China (the Standing Committee of the People’s Congress) authorized the SFTPZ to suspend the implementation of the administrative approval procedure provisions contained in its “Sino-Foreign Equity Joint Ventures Law”, “Sino-Foreign Contractual Joint Venture Law”, and “Wholly Foreign-Owned Enterprise Law” for three years. This authorization was meant to equalize the treatment of investment regardless of its source. This was a change from the prevalent practice adopted outside the SFTPZ, which approves the application of foreign investors to set up businesses in China only within the sectors listed.⁵ Both foreign investors and domestic investors in the SFTPZ are accorded the same treatment for the establishment of their businesses. Within the time period of the authorization,⁶ the SFTPZ is expected to develop a set of new measures, which will be replicated elsewhere in the country in due course. In this sense, the SFTPZ can be regarded as the model for China’s future.

One fundamental difference between the SFTPZ and the previous special economic zones is its market access for foreign investment. The SFTPZ is regulated by a ‘negative’ list in which all the industrial sectors prohibited from receiving foreign investment are listed. This is referred to as the “pre-establishment national treatment”, which means that foreign investors and their domestic counterparts are granted the same market access to establish their businesses. In this way, foreign investors will have a better understanding of which sectors are open to them.

In contrast, foreign investment in other parts of China is still regulated under the ‘positive’ list, referred to in the “Guidelines for Industries for Foreign Investment”. The current version of the Guidelines was jointly revised by the National Development and Reform Commission and the Ministry of Commerce in 2012. Only the industrial sectors listed in the Guidelines are open to foreign investment. The national treatment conferred upon foreign investment, in this

⁵ In this way, many more sectors have not been listed, which means that foreign investors are not permitted to enter therein.

⁶ The authorization came into force on October 1, 2013 and will be effective for three years.

regard, is referred to as the “post-establishment national treatment”, which means that foreign investors can enjoy the same treatment in relation to market access as their domestic counterparts only in the limited sectors listed by the host country.

The negative list is the direct consequence of the pre-establishment national treatment, which is the reverse practice of the positive list. In the case of the negative list, the host country lists all the industrial sectors which are prohibited from receiving foreign investment. More often than not, those enumerated in the negative list are limited to a small number of sectors. Conversely, in the case of the positive list, the host country tends to list a small number of industrial sectors open to foreign investment while keeping most sectors unlisted. Since the introduction of market access restrictions means heavier responsibility being placed on the regulators, there has been a lack of endogenous motivation for the regulators to increase the number of sectors on the positive list.

Based on the 20 industries presently identified by the National Bureau of Statistics,⁷ 12 industries have been listed in the Guidelines as significantly open to foreign investment. The current Guidelines exclude the following industries (including architecture and construction); finance; real estate; lodging and catering; information transit and services for software and information technology; and housekeeping and maintenance. Compared with the Guidelines, the negative list adopted by the SFTPZ has opened up two more industries to foreign investors and removed some restrictions that apply to the rest of the industries.⁸

Unlike other free trade areas, the SFTPZ is a test ground which has been requested by the central government to experiment with new administrative regulations. The Chinese government has no international obligations to keep the negative list unchanged, neither is it required to be influenced by any external factors on the selection of the sectors which are opened to foreign investment. Since one of the objectives of the SFTPZ is to increase access to foreign investment, the negative list is expected to become shorter with the suspension of restrictions. Before other areas of China adopt those new regulations, the SFTPZ is still free to modify the current regulations, or even withdraw the negative list in the event that its impact becomes difficult to control. This is unconnected with State responsibility or international obligations, as in the case of a breach of the commitments imposed by international agreements.

With the authorization of the Standing Committee of the People’s Congress, the SFTPZ promulgated the negative list shortly after it was set up. Investors can now establish companies in sectors that are not included in the negative list. Unlike the current practice outside the SFTPZ, where the administrative agencies can decide whether or not to approve an investor’s application, the registration of a company in the SFTPZ will almost always be approved automatically since the function of the administration has changed from one of granting ‘approvals’ to one of securing ‘registrations’.

Of the factors which propelled the Chinese government to select the SFTPZ as the test ground for future reform, two are particularly relevant. One comes from internal political and economic developments, while the other comes from external changes. For a long time, government officials in China have been used to the practice of approving investment without

⁷ “Public Management, Social Security and Social Institutions” (S) and “International Organizations” (T) are the two categories of industries not open to foreign investment.

⁸ The two industries completely open to foreign investors are “Lodging and Catering” and “Housekeeping and Maintenance”.

undertaking the necessary supervision afterwards. This has led to inefficient regulations and even corruption. On the other hand, some World Trade Organization (“WTO”) members are negotiating a more preferential regional trade regime under which they will set higher thresholds for trading in terms of the environment and labor standards. Obviously, China is aware of the potential challenges to which this might give rise, and even the possibility of sanctions. The SFTPZ carries the hopes of the new generation of Chinese leaders who wish, through experience in the SFTPZ, to promote new ideas and strategies for future national economic and political reforms. This is the historical mission of the SFTPZ, and it is what the word “pilot” implies.

III. THE CHALLENGES CHINA FACES IN THE POST-WTO ERA

Since China amended its Constitution in 1993,⁹ thereby changing the economic pattern from a planned economy to a socialist market economy, great changes have taken place. More and more non-public enterprises have become market participants. They receive investment from both Chinese and foreign investors. These non-public enterprises need to be treated in the same way as State-owned enterprises in terms of market access and given more autonomy in their development. A major part of law making in the recent years has been associated with the maintenance of market order and the provision of protection for market participants. After thirty years, an appropriate Chinese legal system has finally been established.

On the other hand, various departments of the government have become accustomed to exercising their power under the current administrative approval procedures. Due to the lack of efficient supervision, some officials have even abused their powers.¹⁰ Thus, many young Chinese regard working for the government as their first career choice after graduating from university. To combat the abuse of power by government officials, the central government has implemented several reforms, including a major attempt to merge and reduce administrative departments and agencies, initiated by Premier Zhu Rongji in 1998. However, these efforts have achieved little success. The number of civil servants in all levels of government has not decreased as desired. The government has accumulated greater power in manipulating the market with the proliferation of departments and agencies, and this has reduced the efficiency of administration and increased the national budget. With the strengthened dominant position of State-owned enterprises, the non-public enterprises are finding it increasingly difficult to compete against them. All these developments have led to the people’s dissatisfaction with the government and have thus jeopardized the foundations of the ruling party.

The objective of administrative reform in the SFTPZ is to simplify the administrative approval procedure by reducing the administrative departments involved and restricting administrative power. One major step is to change the administrative approval procedure, *i.e.* to replace the original practice of approval by the government with the current practice of registration by the relevant company. This indicates that administrative power has been reduced significantly and the threshold for setting up business in the SFTPZ has been lowered greatly. With the reduction of the contents of the negative list, the sectors open to foreign investment in the SFTPZ will continue to grow.

In addition to these internal factors, pressure for administrative reforms also comes from

⁹ The amendment was passed at the Eighth National People’s Congress.

¹⁰ Although the government administrative approval has been regulated by the *Administrative Permission Law* since 2004, the various administrative departments are still enjoying much power in issuing the permit. See Articles 12, 14, 15 and 16.

outside China. After the transitional period, China has passed one deadline and will meet another in a few years. These two deadlines are connected with the extra restrictions imposed upon China as a WTO Member. Paragraph 1 of Article 16 of the Accession Protocol of China (“Accession Protocol”) provides that: “In cases where products of Chinese origin are being imported into the territory of any WTO Member in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of like or directly competitive products, the WTO Member so affected may request consultations with China with a view to seeking a mutually satisfactory solution, including whether the affected WTO Member should pursue application of a measure under the Agreement on Safeguards.”

If consultations do not lead to an agreement between China and the WTO Member concerned within 60 days of the receipt of a request for consultations, the WTO Member affected shall be free, in respect of such products, to withdraw concessions or otherwise to limit imports only to the extent necessary to prevent or remedy such market disruption. These are the so-called “Special Safeguards” available to other WTO Members to keep out products from China. What distinguishes these safeguards from those provided in Article XIX of the GATT and the Agreement on Safeguard Measures is the consequence of the imports.

In the case of the “Special Safeguard Measures”, the consequence is “market disruption”, whereas under normal circumstances, it is “serious injury”. Market disruption can be interpreted in a broad sense, which includes a decline in the national income, a change in consumers’ taste, mismanagement of domestic businesses etc. The consequence of “serious injury” is normally assessed against objective criteria. In the event that there are no similar products produced in the importing country, it is difficult to identify “serious injury” in similar industries. Therefore, it is comparatively easier for the importing Member to find an excuse to restrict imports from China with the “special safeguard measures”. According to paragraph 9 of Article 16 of the Accession Protocol, application of the special safeguard measures shall be terminated 12 years after the date of China’s accession to the WTO.

Another deadline is provided in Article 15 of the Accession Protocol. This is concerned with whether other WTO Members should treat China as a market economy or a non-market economy (in a practical rather than a technical legal sense). The text of the GATT of 1947 was silent on this issue, with the result that the GATT system was presumably based on the market mechanism. With the addition of new entrants, some of which were based on a centrally planned economy, the GATT contracting parties later adopted Article VI, which provides that “it is recognized that, in the case of imports from a country which has a complete or substantially complete monopoly of its trade and where all domestic prices are fixed by the State, special difficulties may exist in determining price comparability for the purposes of paragraph 1, and in such cases importing contracting parties may find it necessary to take into account the possibility that a strict comparison with domestic prices in such a country may not always be appropriate.”¹¹

No further guidance from the GATT contracting parties has been given on the application of the above provision. Article 2.7 of the Anti-Dumping Agreement acknowledges the validity of this supplementary provision.¹² WTO Members have generally taken advantage of it to

¹¹ See The GATT Base Instruments and Selected Documents (BISD), Volume IV, at 64. This provision dates from the 1954-55 Review Session of the GATT and has its origins of consideration of issues relating to the Working Party on the Accession of Poland.

¹² Article 2.7 of the AD Agreement provides that “this Article is without prejudice to the second Supplementary Provision to

reject cost and price information provided by those countries considered to be non-market economies. Such a practice has been consolidated by Article 17.6(i) of the Anti-Dumping Agreement, which provides that “in its assessment of the facts of the matter, the panel shall determine whether the authorities' establishment of the facts was proper and whether their evaluation of those facts was unbiased and objective. If the establishment of the facts was proper and the evaluation was unbiased and objective, even though the panel might have reached a different conclusion, the evaluation shall not be overturned.”

Since most WTO Members did not recognize China as a market economy before China acceded to the WTO, they may, in the calculation of price and cost of imports from China, “use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy conditions prevail in the industry producing the like product with regard to manufacture, production and sale of that product.”¹³ The importing Member may select the price and cost of a third country as the comparable factors to decide whether dumping exists. In any event, the provisions of subparagraph (a)(ii) will expire 15 years after the date of accession.¹⁴

The special safeguard measures clause and China's non-market economy status have made China a ‘second-class’ Member in the WTO, as its exports are more likely to attract penalties by the importing Member country. In fact, among all the eleven complaints brought by China to the WTO Dispute Settlement Body so far, ten of them relate to these two issues.¹⁵ With these two deadlines coming to an end, China may look forward to better treatment of its exports. This is China's expectation in the post-WTO era.

After more than three decades of opening up to the outside world, China has achieved magnificent progress in its economic development. China's gross domestic production and foreign trade volume have been ranked second in the world after the United States. The Gross National Income per capita has risen from \$220 in 1980 to \$5,680 in 2012, raising China's status from a low-income country to an upper-middle-income country.¹⁶ The accession to the WTO has contributed much to this progress. It is only natural that China expects to achieve more from the multilateral trade system when the additional restrictions are released in the coming years.

However, this may not become a reality for China, since the United States and some Asian-Pacific countries are negotiating a regional trade regime under the Trans-Pacific Partnership Agreement (TPP). This arises from the dissatisfaction of the United States with the multilateral trade system under the auspices of the WTO, and its worries about the rising position of China in the Asian-Pacific area. Meanwhile, the United States is negotiating with the European Union for entry into a Transatlantic Trade and Investment Partnership (TTIP) to strengthen the bilateral relations with its traditional allies.

The proliferation of regional agreements is a double-edged sword. On the one hand, more preferential regional cooperation will lay the foundations for future global integration. On the other hand, the agreements will lead to the fragmentation of the multilateral trade system and make subsequent negotiations more difficult due to potential conflicts in terms of the groups'

paragraph 1 of Article VI in Annex I to GATT1994”.

¹³ Article 15(a)(ii) of the Accession Protocol of China.

¹⁴ Article 15(d) of the Accession Protocol of China.

¹⁵ The relevant cases include DS252, DS368, DS379, DS397, DS399, DS405, DS422, DS437, DS449, and DS452.

¹⁶ See “The World Bank”, online: <<http://data.worldbank.org/indicator/NY.GNP.PCAP.CD>>.

interests. This will eventually undermine Members' trust in the WTO rules, especially when the Doha Round Negotiations are deadlocked.¹⁷

One of the significant features in these regional cooperation negotiations is the high threshold for accession, including the non-reservation requirement with respect to labor standards and environmental protection. The issues of labor standards and environmental protection have long been debated within the multilateral structure.¹⁸ During the Uruguay Round Negotiations, developed countries tried to address these issues through trade regulation, but encountered strong resistance from developing countries. As a compromise, some of these issues have been addressed in various agreements, although the key issues remain undecided. The regional agreements will therefore fill the lacuna.

These ongoing regional agreements have introduced another dilemma for China. On the one hand, it is obviously too early for China to join agreements such as the Trans-Pacific Partnership Agreement (TPP), since most of its domestic industries and enterprises cannot meet the environment-protection and energy-saving requirements. On the other hand, the United States and the European Union are the two most important markets for China's exports. In the 1980s, one of the motivations for China to resume its GATT contracting party status was to normalize its trade relations with the western world under the most-favored-nation clause.¹⁹ When China began to rely on its exports for economic development, it realized the importance of trading opportunities with those developed countries. The western world, however, seemed reluctant to give these opportunities to China unconditionally. They conditioned most-favored-nation status on the improvement of human rights in China and other political requests. This became more relevant after the Tian An Men Square Incident in 1989.

In order to overcome this embarrassment, the Chinese government quickened its steps for negotiations, first with the GATT contracting parties, then with the WTO Members. After 16 years of tough negotiations, China became the 142nd Member of the WTO in 2001. However, the formation of regional regimes under TPP and the Transatlantic Trade and Investment Partnership (TTIP), and the isolation which may result, is likely to slow down China's progress in its globalization strategy and reduce the significance of China as a WTO Member. The situation China is currently encountering is quite similar to that before China's accession to the WTO. The setting-up of the SFTPZ is part of the national strategy for the Chinese government to streamline its administration and further the opening of its markets. All these efforts are warm-up exercises for the next stage of China's integration into the world economy, whether globally or regionally.

¹⁷ The recently concluded Bali Ministerial Conference shed some light on the Doha Round. The Ministerial Declaration adopted on 7 December 2013 contains an ambitious package of decisions, which includes the issues of trade facilitation, agriculture, cotton and the least-developed countries.

¹⁸ Jiayang HU, "WTO and Its Dispute Settlement Mechanism: From a Developing Country Perspective", Chapter Three, Zhejiang University Press, 2005.

¹⁹ When the GATT was used to replace the still-born International Trade Organization, China was one of the original signatories. Although the Nationalist Party decided to withdraw from the GATT in the early 1950s after it retreated to Taiwan, the Beijing government never accepted this decision. Therefore, China insisted on the resumption of its original status in the GATT. Unfortunately, China's efforts failed before the GATT was replaced by the WTO in 1995.