

CHINA WITHIN A LIBERAL TRADING ORDER



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ABSTRACT

With a diagnostic research purpose and a retroductive mode of reasoning, the thesis undertakes a single case study of what the implications are of China's rise for the World Trade Organization (WTO). In doing so, the thesis draws on the discipline of international political economy with particular attention to comparative capitalism and the discipline of international relations. By integrating these two disciplines, the thesis develops an approach that on one hand directs attention to divergences between China's domestic political economy and the WTO and, on the other hand, highlights dynamics of how states interact in and with the international system. On the basis of the assumption that states' preferences are based upon their domestic structures and that states attempt to externalize these structures onto the international system, the thesis analyses the extent to which China's domestic structures – insofar as they pertain to trade policy – are compatible with those domestic structures that have been externalized onto the WTO. Moreover, the thesis analyses how such a conflict between domestic structures plays out in the context of the WTO. In doing so, the thesis focuses on three areas. Firstly, the thesis investigates divergences in the trade regimes of China and the “established powers” as it is argued that the latter have been successful in externalizing their preferences – as derived from their domestic structures – onto the WTO. Secondly, the thesis analyses how such divergences play out in the context of the WTO's mechanism for arbitrating trade disputes. Thirdly, the thesis analyses China in the context of trade negotiations. Ultimately, the thesis concludes that China poses a “*within-system challenge*” to the WTO whereby China seeks to preserve its fundamental domestic structures that breed conflict with the established powers and, in so doing, opposes the WTO's most liberal ambitions while refraining from attempting to overturn or fundamentally disrupt the WTO.

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LIST OF ABBREVIATIONS

BIC:	Brazil, India, China
BICS:	Brazil, India, China, South Africa
BRIC:	Brazil, Russia, India, China
BRICS:	Brazil, Russia, India, China, South Africa
CME:	Coordinated market economy
DDA:	Doha Development Agenda
DSB:	Dispute Settlement Body
DSM:	Dispute Settlement Mechanism
DSU:	Dispute Settlement Understanding
EGA:	Environmental Goods Agreement
EU:	European Union
FDI:	Foreign Direct Investment
G7:	Group of Seven (Canada, France, Germany, Italy, the UK and the US)
GATS:	General Agreement on Trade in Services
GATT:	General Agreement on Tariffs and Trade
GPA:	Agreement on Government Procurement
IPR:	Intellectual property rights
ITA:	Information Technology Agreement
LME:	Liberal market economy
MES:	Market-economy status
MFN:	Most favoured nation
MLP:	The National Medium and Long-Term Plan for the Development of Science and Technology
NME:	Non-market economy
NTM:	Non-tariff measure
SCM:	Agreement on Subsidies and Countervailing Measures
SME:	State-permeated Market Economy
SOE:	State-owned enterprise
TFA:	Trade Facilitation Agreement
TPRM:	Trade Policy Review Mechanism
TRIMS:	Agreement on Trade-Related Investment Measures
TRIPS:	Agreement on Trade-Related Aspects of Intellectual Property Rights
UK:	United Kingdom
US:	United States of America
WTO:	World Trade Organization

1. INTRODUCTION

China's rise is unprecedented and is one of the most fundamental changes to contemporary global political economy. From economic insignificance in the middle of the 20th century, China has transformed into an economic powerhouse as the world's second largest economy and the world's largest exporter (World Bank, n.d.-a, n.d.-b). As China's share of world GDP and world trade has increased, the corresponding shares of the "established powers" has decreased, thereby fostering a structural change to the international system. The "established powers" is typically conceptualized in the literature as an umbrella term encompassing the United States (US), Canada, France, Germany, Italy and the United Kingdom (UK) with reference to these countries' membership of the Group of Seven (G7). The G7 was established in the 1970's as an informal organization for the world's seven major economic powers and was tasked with dealing and coordinating international economic matters. The G7 was replaced in 2008 by the more inclusive G20 comprised of the world's 19 major economic powers and the European Union (EU), whereby China – along with a number of other rising powers – gained membership of the world's most exclusive great powers club (Parížek & Stephen, 2017). As such, the replacement of the G7 with the G20 reflected the profound structural change in the international system brought about by the ascend of rising powers.

China's rise, and the resulting structural change to the international system, has occurred in an already highly institutionalized international order established on top of the ruins of World War II and in the image of the victorious powers and under the leadership of the US (Ikenberry, 2008; Kahler, 2013, 2016; Parížek & Stephen, 2017). Examples of such a high degree of institutionalization in the area of global economic governance includes the International Monetary Fund, the World Bank and the World Trade Organization (WTO). The structural change of the international system has sparked intense debate among both scholars and policy makers on what implications the rising powers (and particularly China) hold for the international order and for the international institutions that preside over it. The thesis situates itself in this debate but wishes to study only a subset of the overall issue. Specifically, the thesis undertakes an extensive diagnostic analysis focused on China as the rising power of interest and the WTO as the institution of interest. As such, the thesis seeks to answer the following research question:

What are the implications of China's rise for the World Trade Organization?

As will become evident in the literature review, scholars writing on this issue are divided over whether the outlook for the international order and its associated international institutions is benign or whether the structural change causes a heightened risk of conflict as the established powers attempt to hold on to the reins of power while rising powers try to rip them out of their hands and thereby disrupt international institutions. In only focusing on China and the WTO, the thesis is able to undertake a careful and extensive examination on a substantial body of empirical evidence in an attempt to position itself between these two views. The thesis adopts an approach in which it is assumed that if the preferences of rising powers are aligned with the normative foundation and policy output of established international institutions, rising powers will not have incentives to challenge the established international order. In the context at hand, this implies that if China's trade policy preferences do not diverge substantially from the trade policy preferences embedded in the WTO, China will have no reason to try to overturn the WTO. As will become evident in the literature review, this approach differs from those scholars who argue that demonstrating that preferences diverge is not necessary as power transitions inevitably breed conflict.

It follows that thesis will have to establish whether China's preferences diverge significantly from the preferences embedded in the WTO. In doing so, the thesis assumes that countries' international policy preferences – which in the case at hand concerns trade policy preferences – are dependent on domestic structures as countries try to externalize domestic structures onto the international system. The thesis draws on the concept of “compatibility” in this regard. Compatibility is defined by the Oxford Dictionary of English as: “A state in which two things are able to exist or occur together without problems or conflict.” (Stevenson, 2010, p. 354) and is associated with “like-mindedness” (Ibid). Thus, the thesis goes beyond merely analysing whether China legally complies with WTO agreements as an indicator of interest alignments since compatibility is conceptually broader than compliance and includes issues such as the fundamental principles and ideational foundation of the WTO. In order to answer the overall research question of this paper, the paper is therefore guided by the following sub question:

- a) *To what extent is China's economic model compatible with the WTO?*

The scholars who conclude that preferences diverge disagree over the extent to which such an interest conflict disrupts and challenges the WTO. To signal part of the thesis' conclusions in advance, the thesis finds that China's domestic structures insofar as they pertain to trade policy diverges from those that have been embedded in the WTO. As a consequence, the thesis must also investigate how this conflict plays out, i.e. whether China acts as a disruptive challenger or as a system-maintainer. This issue is analysed by investigating empirical evidence on China's engagement with the WTO and the thesis is, therefore, also guided by the following sub question:

b) How does China engage with the WTO?

It is important to note that the two sub questions are not answered separately. Rather, the two questions serve as guidance in answering the overall research question. The thesis has chosen three distinct areas in which analysis is believed to bring answers to both of these questions – although to varying extents – and in so doing, to develop a cohesive argument that relates to the overall research question. Preceding the analysis of these three areas is a chapter on the thesis' methodology (chapter 2), a chapter that consists of an integrated literature review and theoretical framework (chapter 3) and a background that provides the descriptive foundation necessary to proceed (chapter 4). Chapter 5 sheds light on the issue of compatibility by analysing the trade regime of China with the trade regimes of the G7 as it is argued that the preferences of the G7 are embedded into the WTO. Chapter 6 analyses China in the context of the WTO's Dispute Settlement Mechanism. In so doing, the chapter sheds light on both China's engagement with one of the WTO's most important mechanisms while also investigating compatibility further in analysing the nature of the disputes that involve China. Chapter 7 analyses China in the context of trade negotiations in an attempt to comprehend both how China positions herself in regards to such negotiations and how China engages in trade negotiations. Finally, the paper is concluded in chapter 8.

2. METHODOLOGY

The objective of this chapter is to provide an understanding of the methodology applied. Firstly, an account will be given of the thesis's mode of reasoning, retroduction. Secondly, the thesis is described as a single case study and the reasoning behind the selection of the case and the purpose of the research are explained in this context. Thirdly, an account will be given of what data and sources are used in the thesis and a number of considerations are provided in this regard. Finally, an important limitation to the topic at hand is given. The issue of how to integrate theories – which may be considered to be of some methodological importance – is addressed in the interim conclusion of the literature review and theoretical framework (see section 3.3.) as a preceding understanding of the respective theories was deemed necessary for such a discussion.

2.1. Mode of Reasoning: Retroduction

The mode of reasoning employed in this thesis is known as “retroduction”. Also referred to as “abduction”, retroduction combines elements of both the inductive and deductive modes of reasoning and, in so doing, seeks to overcome shortcomings of both approaches: “Retroduction makes possible a research purpose that is characterized by the linking of evidence (induction) and social theory (deduction) in a continually evolving, dynamic process.” (Sæther, 1998, p. 246). Induction is a mode of reasoning in which the researcher starts with empirical evidence and observations and on this basis develops general theories (bottom-up). In contrast, deduction implies a mode of reasoning in which the researcher starts with theory and tests it against empirical evidence to see if it can be falsified (top-down) (Moses & Knutsen, 2012, pp. 22–23). Retroduction signifies an approach in which the researcher dynamically and continuously goes from empirical evidence to theory (induction) and from theory to observations (deduction) in order to mitigate the risk of falling into the pitfalls of either approach and to, thereby, strengthen the overall argument. Through this process, retroduction is suited to identify deep structures and underlying mechanisms that help conceptualize the empirical patterns observed in a single case study (Sæther, 1998, p. 246). As retroduction is a dynamic, continuously process, it is irrelevant whether the researcher starts with an inductive or deductive approach. For the same reason, it is important to note that the thesis is a presentation of the results of this process rather than the process itself. Hence, the reader is not guided through the retroductive process as it has chronologically occurred.

2.2. Single Case Study, Selection of Case and Purpose of Research

Yin defines a case study as an “(...) empirical method that investigates a contemporary phenomenon (the “case”) in depth and within its real-world context, especially when the boundaries between phenomenon and context are not clearly evident.” (Yin, 2018, p. 15). One important way in which qualitative and quantitative studies differ is in their selection of cases and their perception of substantially important cases. In quantitative research, cases are selected without consideration for the value of the dependent variable as random selection is of paramount importance. In contrast, qualitative research typically starts with those cases where the outcome of interest occurs. Quantitative researchers tend to regard all cases as equal whereas qualitative researchers see some cases as being of particular interest and of substantial importance (Mahoney & Goerts, 2006). Hence, single case studies are particularly relevant within qualitative research. This resonates with Sayer (1992, pp. 241–251) who differentiates between extensive research and intensive research. The former is related to quantitative analysis and seeks to identify patterns and similarities and create generalizations. The intensive research method is associated with qualitative research – and particularly case studies – in which the purpose is to gain a deeper understanding of underlying structures. While general propositions beyond the empirical evidence of a single case study is inherently difficult, single case studies are able to make important contributions to such attempts as part of a broader research agenda (Lijphart, 1971).

The analysis of the implications of China’s rise for the WTO is a single case, qualitative study that can be considered as part of a research agenda which concerns contestation of international institutions. China is chosen as the country of interest due the country’s remarkable rise which may carry implications of systemic importance for the international system. The WTO is chosen as the international institution of interest due to its high degree of liberal content and authority (Stephen & Zürn, 2014, pp. 27–28). Neither of these premises are accepted at face value – rather, their validity is evaluated – but they constitute the underlying reasons for why the China-WTO nexus was considered a case of “substantial importance” and particular analytical value. It is on this basis that the merits of a single case study are found and the reason for why the qualitative/intensive approach as well as the retroductive method of reasoning were deemed the most suitable. The thesis does not disregard the value of quantitative research and does, in fact, build upon much quantitative research and data. However, quantitative research and data are used in order to substantiate

qualitative arguments. It follows that the thesis is not driven by deep methodological motivations to test or build theory but rather an interest in the topic itself due to its political importance and, as such, the thesis does not produce a significant theoretical contribution but information relevant for policy-makers and scholars within the field.

Ougaard (2018) has identified eleven different research purposes on the basis of literature within international political economy and international relations which are also the two disciplines used in this thesis. As seen above, the purpose of this thesis has neither been to develop theory (induction) nor has it been to test existing theories (deduction). Rather, the purpose of this thesis falls somewhere between two research purposes identified by Ougaard, namely “diagnosis” and “prognosis”. Diagnostic research seeks to answer the question of what characterizes a specific situation or condition. The present thesis is congruent with this research purpose as it seeks to characterize the implications of China’s rise for the WTO or, put differently, to diagnose the situation in the WTO insofar as it relates to China’s rise. The thesis also has some elements of prognosis as prognoses naturally build on diagnoses. While the analysis is indeed devoted to a diagnostic research purpose, the conclusion of the thesis evaluates whether some prospects for the future of the WTO can be predicted on the basis of the identified diagnosis. This is not an atypical approach to determining prognoses in academic literature (Ougaard, 2018).

2.3. Sources and Data

2.3.1. Collection of Sources and Data

The library search system of Copenhagen Business School, Libsearch (www.libsearch.cbs.dk), has been used as the primary tool in finding and retrieving scholarly literature. The search system is an aggregated search tool that searches across multiple databases at once and gives access to books, journal articles, research papers and reviews. While most of this literature was accessed through the online database, some was accessed in printed versions from the library of Copenhagen Business School. The large majority of literature that can be retrieved through Libsearch is peer-reviewed and from acknowledged publishers and journals and, as such, the use of this database served as an initial insurance of a high credibility of the literature on which this thesis is based. As a

database that is tailored to the needs of students and staff of Copenhagen Business School, Libsearch contains an overweight of business literature. However, the present author encountered no issues in finding relevant literature on the topic at hand in spite of the more inter-disciplinary focus of this thesis. Notwithstanding, while the database is extensive, it does have its limitations and the use of a different database – or perhaps multiple databases at once – might have taken this thesis in a different direction. Google was used as the preferred search engine when looking for non-scholarly literature such as primary sources from public authorities.

In the initial stages of the thesis, literature was found on the basis of simple but systematic searches using few key words. “China” in combination with “WTO” constituted the simplest albeit most important key words in finding research that helped delimit and clarify the topic at hand. Descriptive literature exclusively on the WTO was read in order to gain an understanding of the WTO while literature on China was only identified as being relevant insofar as it concerned China in context of the WTO or trade policy more broadly. Throughout the research, much attention was devoted to reviewing which scholars and papers were referenced in the papers found through searches in Libsearch whereby the body of relevant literature expanded. Similarly, through this effort, the present author was able to identify the most influential and credible authors within a given field on the basis of which authors were cited the most often. In order to avoid tapping into scholarly “silos” in which a “community” of scholars merely echoed each other, this exercise was repeated multiple times using a multitude of different articles as possible entries to different “silos”. As the thesis developed, more specific information became necessary and the combination of keywords became more extensive.

2.3.2. Description of Sources and Data

The thesis is based upon both primary and secondary sources as well as both qualitative and quantitative data which, in combination, seek to ensure the credibility and validity of this thesis. The primary sources used in the thesis constitute a range of different documents by national and international authorities such as legal documents; strategies; reviews and evaluations; descriptive backgrounds; and reports. Documents by the WTO make up the main part of these primary sources but a limited number of documents by Chinese, EU and US authorities have also been used. Documents by EU and US authorities have been used

in instances where the EU and US are included as part of a benchmark against which China is compared and in the illustration of trade frictions between China and other WTO members. The secondary sources used in this thesis primarily constitute peer-reviewed scientific literature and to a lesser extent literature by think tanks. No news articles have been used. The scientific literature has been retrieved from acknowledged, peer-reviewed journals in order to ensure their credibility, but books also constitute an important share of the scientific literature used. A single journal does not dominate the use of academic articles, but the thesis draws on a wide range of journals (more than 40) devoted to issues ranging from international law, international negotiations, international organizations, developmental issues, economics and politics. In using such a multitude of journals, the thesis draws on insights from multiple academic disciplines in an attempt to derive nuanced, cohesive conclusions.

The quantitative data used in this thesis is of both primary and secondary nature. Quantitative data is predominately retrieved from international organizations, specifically from the WTO, the World Bank, the World Intellectual Property Organization, the World Economic Forum and the OECD. Some of this data can be considered secondary as it is collected by these international institutions from national authorities. However, some of it is of primary nature as it is data compiled by the institutions through self-conducted surveys in which respondents are asked to provide a numerical score for something (as seen in data by the World Economic Forum) or is the result of an extensive analysis in which quantitative data is derived from qualitative sources (as seen in data by the OECD where restrictiveness is quantified on the basis of laws and regulations). Some of the quantitative data has been used in its original, quantitative form while some quantitative data had to be inverted or calculated on a scale different from the one in which it was initially presented in order to be able to use it in combination and comparison with other quantitative data.

In addition to using primary and secondary quantitative data that could be accessed in an already quantitative form, the present author has devoted much effort to quantifying occurrences. In most cases, this exercise was one of developing categorical variables and simply counting occurrences within each of the categorical variables for multiple entries. For example, in the analysis of dispute settlement (see chapter 6 and Appendix 4), hundreds of dispute settlement cases were looked up in the WTO's database and occurrences within

each of the pre-identified categorical variables were counted. This exercise was repeated several times as different relevant combinations of quantitative variables were identified (e.g. according to agreements (Table 15 and 16) and according to WTO members (Table 14)). When deemed relevant, visual representations of quantitative data are presented within the thesis but the reader is expected – upon guidance – to refer to the appendixes.

2.3.3. Credibility of Sources and Data

Throughout the research and in choosing what sources and data to use, the present author has kept in mind that the topic at hand is implicitly one of evaluating the extent to which China's trade policy is in a conflictual relationship with the WTO. It will become clear in the literature review and theoretical framework that some scholars have suggested that this conflict concerns one between a Western variety of capitalism and a state-led variety of capitalism pursued by China. For this reason, the present author has strived to achieve some balance in the use of scholarly literature from Western-based and Chinese-based research institutions in order to mitigate the risk of unintended, but inherent bias. Notwithstanding, such a balance is not achieved to the extent envisioned upon the onset of the research for this thesis. A key reason for this is that some scholars publish research written in their native tongues. As the present thesis is written in English and the author does not master Chinese, this naturally led to an overweight of Anglo-American literature.

Since the thesis is state-centred and addresses the extent to which China is in a conflictual relationship with the WTO, the risk of bias is likely to be even more pronounced in qualitative, primary sources from national authorities. Therefore, the thesis takes a cautionary approach to the use of such sources and regards them as “signalling behaviour”, i.e. the strategic communication of preferences that may be exaggerated or downplayed as part of a bargaining tactic (Stephen & Zürn, 2014). The thesis takes a less cautionary approach to quantitative and qualitative data from international institutions. As international institutions, their secretariats are expected to serve their collective memberships and should, therefore, be deprived of national interests. However, it is worth noting that some scholars have argued that the disproportionate representation of employees from Western countries in a number of international institutions – which includes the WTO (VanGrasstek, 2013, p. 536) – has caused these institutions to be biased (see Momani, 2005).

2.4. Limitations

Trade policy has traditionally been reserved as a topic of interest for scholars and policy-makers but it has in recent years moved to the frontpages of newspapers across the world and to the forefront of intellectual debate. The Trump administration's "America First Policy" has played a significant role in this development as a key component of the policy has been to address unbalanced trade relationships and, in so doing, to bring jobs back to the US and ensure better terms for American exports and American businesses operating abroad (Scherrer & Abernathy, 2017). One of the most significant articulations of this policy has been a trade war waged between the US and China which is still ongoing at the time of writing. While the underlying reasons for the trade war are many and depend on the theoretical approach one takes, the overarching reason stated by the US administration is China's discriminatory treatment of US businesses and the trade distorting effects of the Chinese state's involvement in the Chinese economy (see Office of the United States Trade Representative, 2019). The trade war has created a number of disruptive spillover effects to the WTO. Thus, the issue may at face value seem to be of importance in a thesis that seeks to answer what implications China's rise hold for the WTO, but it is not explicitly addressed. The ongoing nature of the trade war as well as its recency implies that limited scholarly literature exists on the topic and that the empirical basis is still insufficient to warrant an extensive analysis.

3. LITERATURE REVIEW AND THEORETICAL FRAMEWORK

The theoretical framework of this thesis relies on a combination of theories of international relations and theories of international political economy. The international relations literature on the subject of this thesis has derived conclusions on the basis of the systemic properties at the international level. In contrast, the literature within international political economy “(...) projects the domestic political economic arrangements of China’s emergent capitalism onto how the country might act within the international political economy.” (McNally, 2012, p. 743). By integrating these two approaches, the thesis presents a theoretical framework that on one hand emphasizes China’s institutional arrangements and interest alignments between China’s domestic political economy and the international system and on the other hand includes systemic dynamics at the international level. This integrated literature review and theoretical framework will proceed in three main steps: Firstly, the thesis will outline the two main theories of international relations: realism and liberalism. Secondly, the thesis will examine literature within international political economy with particular attention to comparative capitalist approaches of conceptualizing China. Finally, the thesis seeks to identify overlapping arguments and tendencies across the two disciplines of international relations and international political economy.

3.1. Theories of International Relations

Realism and liberalism are two of the major theoretical traditions within international relations and an age-old debate still persists between the two as to how to understand interactions between states and the role of international institutions. Disagreements among scholars concerning the implications of China’s rise for global governance arrangements – including the WTO – often derive from whether they lean towards realism or liberalism. Therefore, it speaks to reason to start this chapter with an account of these two theoretical traditions. Firstly, an account will be given of realism. Secondly, the thesis will turn to liberalism. Thirdly, the focus will be on the realist and liberal perspectives on the role of hegemony in facilitating international cooperation. Finally, the thesis will turn to how these theories relate to the specific case of China and the WTO.

3.1.1. Realism

The realist tradition may very well be considered an umbrella term for a plurality of theories, but they are unified by four basic ideas and assumptions: (1) a pessimistic view of human nature; (2) international politics are inherently conflictual; (3) states' primary concerns are national security and state survival; and (4) scepticism towards international cooperation (Jackson & Sørensen, 2013, p. 66). Classical realism – which is commonly associated with the seminal works of Hobbes (1998 [1651]), Machiavelli (1987 [1532]) and Morgenthau (2005 [1948]) – argues that the conflictual nature of politics derives from human nature. Morgenthau argues that individuals' primary concerns are security, survival and the pursuit of self-interest. Individuals are by nature political animals pursuing power in order to secure a political space free from intervention of others which will allow them to satisfy these concerns. The ultimate version of such a political space is the sovereign state (Jackson & Sørensen, 2013, pp. 72–75). The pursuit for power inevitably causes conflict which, in turn, creates the conditions for “power politics” which is at the core of the classical realist conception of international relations (Ibid). International politics, therefore, is an arena of conflicting state interests as states competitively pursue power with the end of defending national interests: “International politics, like all politics is a struggle for power. Whatever the ultimate aims of international politics, power is always the immediate aim.” (Morgenthau, 2005/1948, p. 29).

Neorealism has been pioneered by Kenneth Waltz and emphasizes the structure of the international system rather than human nature (Slaughter & Hale, 2011). While the issue of ensuring order and security is largely resolved *within* the national territory of sovereign states by virtue of the state having the territorial monopoly to the legitimate use of force (see Weber, 1968 [1922]), the international arena suffers from anarchy due to the absence of an overarching authority to which states are subjected (Baylis, Smith, & Owens, 2017, pp. 106–110). In such a system, power is the primary interest of states as only by having power can states achieve security and survival (Slaughter & Hale, 2011). Hence, the international arena is perceived as a competition for power and security between rational states, i.e. a “self-help system”. It follows that the distribution of power – and changes in the distribution of power – between states becomes the explanatory factor of international relations and how states act (Jackson & Sørensen, 2013, pp. 79–82; Slaughter & Hale, 2011). Moreover, as the structure of the international system and the relative distribution of

power are the explanatory variables for state relations within the neorealist approach, states are largely perceived as “black boxes” implying that no attention is given to domestic politics (Jackson & Sørensen, 2013, pp. 79–80).

The concept of “balance of power” is fundamental to Waltz’ theory. According to Waltz “[b]alance-of-power politics prevail wherever two, and only two, requirements are met: that the order be anarchic and that it be populated by units wishing to survive” (1979, p. 121). Believing that these two conditions are met in the international system, Waltz argues that a balance of power prevails in the international system. A balance of power prevails because states seek to minimize threats to their own security and survival by balancing the (threatening) power of other states. Hence, states deem excessive power (hegemony) unfavourable as it provokes hostile alliances and therefore a threat to survival and security (Jackson & Sørensen, 2013, pp. 82–86). Waltz’ neorealist theory has been termed “defensive realism” which contrasts to “offensive neorealism” associated with John Mearsheimer (2001). Mearsheimer argues that states try to maximize power relative to others (pursue hegemony) in order to eliminate any threat to the state: “Great powers, I argue, are always searching for opportunities to gain power over their rivals, with hegemony as their final goal.” (Mearsheimer, 2001, p. 29). Hence, the pursuit of power is perceived as a zero-sum game characterized by relative gains. It follows that Mearsheimer perceives practically all states as revisionist states seeking to alter the distribution of power with the exception of hegemons in those rare cases where a state has succeeded in achieving such a status (Snyder, 2002).

Realism’s emphasis on states’ competitive pursuit of power and self-interests in an anarchical system as well as the perception of other states posing a threat to own security and survival implies an inherent scepticism towards international cooperation and international institutions. Realists regard international institutions as mirroring the prevailing distribution of power which means that “[t]he most powerful states in the system create and shape institutions so that they can maintain their share of world power, or even increase it. In this view, institutions are essentially arenas for acting out power relationships.” (Mearsheimer, 1994, p. 13). International institutions, therefore, generally serve the interests of the most powerful states. It follows that international institutions have limited, if any, autonomous power and that international law and international agreements

have no intrinsic value beyond states' willingness to observe them (Jackson & Sørensen, 2013, pp. 66–67). Hence, states will at any point sacrifice their international obligations if they conflict with self-interests.

3.1.2. *Liberalism*

The literature on liberalism is more diverse and less cohesive than that on realism. Liberalism as a theory within international relations should not be confused with liberalism as an economic approach that emphasizes capitalism, free trade and political non-interference. Classical liberalism builds on the works by Hugo Grotius (1583-1645) and Immanuel Kant (1724-1804). Grotius has been called the “father of international law” and highlighted the possibilities of international law constraining the actions of states, thereby replacing the use of force as the governing principle of international relations (Diez, Bode, & Da Costa, 2011, pp. 130–135). Writing more than a century later, Kant argues that states should establish a federation of sovereign free states to pursue common interests and ensure lasting peace: “Each nation, for the sake of its own security, can and ought to demand of the others that they should enter along with it into a constitution, similar to a civil one, within which the rights of each could be secured. This would mean establishing a *federation of peoples*.” (Kant, 2003 [1795], p. 102). In contrast to realism, liberalism argues that domestic characteristics matter for the way that states act in international relations (Slaughter & Hale, 2011). The attention to domestic characteristics is seen most evidently in Kant’s famous hypothesis that democracies are less prone to go to war against each other than other political system (Kant, 2003 [1795]).

Though liberals acknowledge that individuals are self-interested, they believe that individuals also have congruent interests and therefore can engage in collaboration to further such interests – on a domestic as well as an international level – to the benefit of everyone (Jackson & Sørensen, 2013, pp. 100–101). Neoliberalism, however, breaks with the idealistic normativity of classical liberalism and accepts the realist assumption of the international system being anarchical in nature and characterized by states as self-interested actors pursuing security and survival (Diez et al., 2011, pp. 130–135; Slaughter & Hale, 2011). Nevertheless, neoliberalism is far more optimistic concerning the opportunities for international cooperation in such an anarchical structure, which derives from its emphasis on interdependence. In contrast to realism that argues that states pursue relative gains,

neoliberalism argues that interdependence facilitates the creation of common interests between states which, in turn, renders the pursuit of *absolute* gains through international cooperation possible (Ibid). The liberal notion of interdependence challenges the understanding fundamental to realism of states being autonomous actors.

Robert Keohane and Joseph Nye presented in their cooperative seminal work from 1977 the concept of “complex interdependence” and analysed how international politics are transformed by this new type of interdependence (Keohane & Nye, 1977). Complex interdependence has three distinct characteristics: Firstly, complex interdependence implies that interdependence in the post-war international system is different from earlier kinds of interdependence due to emergence of a multitude of cross-border formal and informal relationships between a plurality of state and non-state actors. Secondly, under complex interdependence, there is an absence of hierarchy among issues. States used to be preoccupied by the “high politics” of security and survival, but under complex interdependence, “low politics” of economics and welfare gain considerable ground. Thirdly, as the issue area broadens, the importance of military force diminishes as it is largely irrelevant for the majority of these issues. As a result, power resources become specific to the issue area (Keohane & Nye, 1977, pp. 24–28). Complex interdependence, therefore, implies increased cooperation between states but also that the importance of military force is not entirely dismissed, but rather is issue dependent.

Keohane builds on the concept of complex interdependence in his later works focused on international institutions and develops what has become a highly influential theory coined “institutional liberalism”. Keohane argues that even though complex interdependence makes international cooperation a rational strategy for states to pursue, this does not necessarily translate into cooperation under the conditions of anarchy (Diez et al., 2011, pp. 130–135). International institutions play a key role in this regard as institutions help overcome the difficulties associated with cooperation in an anarchic international system: “In order to cooperate in world politics on more than a sporadic basis, human beings have to use institutions” (Keohane, 1988, p. 386). As a consequence, “[w]hen states can jointly benefit from cooperation (...) we expect governments to attempt to construct such institutions” (Keohane & Martin, 1995, p. 42). Institutions help overcome the uncertainty that undermines cooperation by disseminating information about state behaviour, which

ensures predictability in international relations and mitigates states' fear of one another (Jackson & Sørensen, 2013, pp. 110–113). Moreover, information dissemination decreases information costs and helps overcome collective action problems associated with international cooperation. Similarly, monitoring mechanisms of state compliance is a defining feature of most international institutions which increases the importance of honouring international commitments (Ibid). International institutions also decrease transaction costs associated with reaching international agreement by establishing a forum for negotiations (Keohane & Martin, 1995, p. 42). Thus, rather than merely reflecting the prevailing balance of power, institutions have intrinsic value.

3.1.3. Hegemonic Stability

Scholars within both the neorealist and neoliberal tradition agree that the existence of a hegemon can be an enabling factor for international cooperation though neorealists put greater emphasis on hegemony as a prerequisite for international cooperation (for neorealist accounts see Gilpin, 1981; Kindleberger, 1981; Krasner, 1976; and for a liberal account see Keohane, 1984). The scholars believe this to be the case as the hegemon will be able to provide leadership in the establishment of international institutions and enforce rules in an otherwise anarchic international system, thereby providing order, stability and global public goods. International institutions therefore reflect the interests of the hegemon. Neorealism and neoliberalism, however, disagree on the implications of a redistribution of power causing the decline of the hegemon. Gilpin, a neorealist, argues that as a redistribution of power takes place, the costs to the hegemon of maintaining the international system increase relative to the hegemon's ability to pay while the costs to rising powers of changing the international system decrease relative to the benefits of doing so (Gilpin, 1981). As rising powers start to challenge the status quo, hegemonic conflict arises which ultimately undermines the established international system and international cooperation until a new international system is established under the leadership of the prevailing hegemon which reflects the interests of that state (Ibid). In contrast, Keohane argues that international institutions can persist beyond hegemonic decline by virtue of having assumed a power independent of the hegemon, because states have a vested interest in maintaining them and by virtue of enabling continued cooperation (Keohane, 1984).

3.1.4. The Case of China and the WTO

Scholars writing within the realist tradition tend to view the rise of China and other emerging economies as a destabilizing factor for global governance arrangements and international cooperation in general. From the realist perspective, the rise of emerging economies causes a change in the balance of power and erodes the hegemonic position of the US whereby international relations once again descend into anarchy, distrust and conflict. In contemporary works, Mearsheimer has applied his theory of offensive realism to the case of China's rise and argued that international institutions and international cooperation will be disrupted as the US and China compete over the leadership of international institutions (Mearsheimer, 2006, 2010). Similarly, from the perspective of Gilpin (1981), hegemonic conflict will – provided that China's ascend continues – take place between China and the US which will undermine international institutions established under the leadership of the US and a new international system will be established reflecting the interests of the prevailing hegemon.

Liberal scholars generally criticize realist accounts for neglecting how increased interdependence has facilitated China's integration into the international order which renders it unlikely that China will attempt to overthrow it. Moreover, institutional liberals tend to highlight how international institutions can continue facilitating cooperation even in the face of hegemonic transition. Ikenberry (2008, 2011, 2015), a neoliberal, has advanced the argument that the liberal foundation of the international order – associated with democracy and capitalism – established under US leadership has created an international order that is open and rules-based. As a consequence, the international order allows rising powers to advance their interests *within* it while also creating incentives to do so by offering the economic returns associated with an open-market system which are reinforced by interdependence: "Rising powers are finding incentives and opportunities to engage and integrate into this order, doing so to advance their own interests." (Ikenberry, 2011, p. 61). Ikenberry argues that state power is largely based on economic weight in the international system and that China has to embrace the globalized capitalist system and the institutions that facilitate/regulate this system – particularly the WTO – in order to reap the economic benefits of capitalism and thereby augment its power base: "The road to global power, in effect, runs through the Western order and its multilateral economic institutions." (Ikenberry, 2008, p. 32). Thus, China is not interested in contesting the liberal foundations

of international institutions, albeit China will seek to gain more authority and leadership within the existing international order (Ikenberry, 2011, pp. 57–58).

3.2. Theories of International Political Economy: Varieties of Capitalism

The thesis now turns away from international relations' focus on interactions between countries and how these relate to international cooperation/institutions and towards the interdisciplinary approach of international political economy that allows us to study the interactions between China's domestic political economy and the international system. While the literature on international relations spoke about the "international order", it neglects the political characteristics of the current international order and on what grounds China might oppose it. This section seeks to address this issue and thereby delves into China's model of capitalism and how such a model relates to global economic governance. In so doing, the thesis breaks with the neorealists' disregard for domestic factors as they understand states as "black boxes" and the thesis, in contrast, accepts the premise that domestic characteristics are explanatory factors for how states act in international relations. Firstly, scholarly literature on the existence of a distinctive Chinese model of capitalism is examined before proceeding to a more elaborate account of the theories on varieties of capitalism as presented by Hall & Soskice (2001) and Nölke et al. (2015).

3.2.1. The Emergence of a Beijing Consensus and a Chinese Model of Capitalism

The term "**Beijing Consensus**" was first introduced in 2004 by Joshua Ramo in an attempt to depict China's model of economic development as an opposing alternative to the "Washington Consensus". The Washington Consensus refers to the neoliberal, market-oriented model of economic development prescribed to Latin American countries in the 1980s by the International Monetary Fund and the World Bank (Gore, 2000), but it relates to the neoliberal foundation of the broader international order established under the leadership of the US which comprehends the WTO. The Washington Consensus includes prescriptions such as liberalization of trade and investment; privatization of state-enterprises; deregulation to ease market entry barriers; and legal security of property rights (Ibid). In its original form, Ramo (2004, pp. 11–12) describes the Beijing Consensus as a developmental model grounded in three theorems: 1) innovation-based development, 2) economic success measured not by per capita GDP but by sustainability and level of equitability and 3) self-determination in pursuing development and development of

asymmetric capabilities to balance the US. The Beijing Consensus is juxtaposed to the Washington Consensus, thereby fostering conflict between proponents of the two different models: “Inherently, this model sets China and its followers off against the development ideas and power needs of the status quo.” (Ramo, 2004, p. 5).

Ramo’s account of a “Beijing Consensus” sparked intense debate about whether China did indeed offer an alternative model of development. On the most general level, scholars have termed China’s economic model the “**China model**” (*zhongguo moshi*) and this is also the term that has gained the most prominence in Chinese scholarly literature (Breslin, 2011, p. 1325; S. Kennedy, 2010, pp. 473–474). While noting the difficulties of identifying a distinct and coherent “China model”, Breslin (2011) argues that the China model is characterized by a state-led experimental and non-ideological pursuit of economic growth and long-term political priorities while maintaining the stability of the one-party political system in which the Communist Party of China controls the commanding heights of the economy. Moreover, the “China model” is characterized by the strategic use of foreign trade and investment while resisting foreign competition in the domestic market. Accounts of the China model tend to emphasize China’s high levels of growth achieved after the partial economic liberalization pursued under the leadership of Deng Xiaoping from 1979 and onwards without a parallel process of democratization and political liberalization (Breslin, 2011). As argued by Zhao: “The China model (...) is often in a shorthand described as a combination of economic freedom and political oppression.” (Zhao, 2010, p. 422). This approach to development has led to a combination of market and state which is the most defining feature of all accounts of the China model.

Bremmer (2010) terms China’s economic model “**state capitalism**” which describes an economy in which markets are regarded as a tool to serve national interests rather than the opportunities of the individual. While not outright eliminating the role of market forces, the market is closely managed by the state through state-owned, state-sponsored and private yet state-loyal corporations and wealth funds. Bremmer stipulates that state-capitalism and free-market capitalism are in a competitive relationship that causes friction in international politics. McNally (2012, 2019) coins China’s version of state capitalism “**Sino-capitalism**” and juxtaposes it to an “Anglo-American capitalism” that has been embodied in international institutions. Sino-capitalism is described by three characteristics: 1)

interpersonal relationships that cause a proliferation of informal business networks; 2) a state-led, state-coordinated or state-guided approach to capitalism; and 3) absorption of a host of international arrangements and Anglo-American institutions and values, thereby creating a “market-liberal form of state capitalism” (McNally, 2012, p. 750). McNally, like Bremmer, perceives China’s model of capitalism as a challenger to the model of capitalism adopted by established powers and embedded in the international order but presents a more nuanced picture of China’s model of capitalism: “[Sino-capitalism] incorporates various liberal tenets and the creative use of market forces, while encompassing vibrant, highly networked, and globally integrated entrepreneurial firms often with hybrid or purely private ownership.” (2012, p. 766).

Some scholars perceive the economic model pursued by China as being one shared by other emerging economies. Scholars have emphasized Brazil, Russia, India, China and South Africa (BRICS) in this regard (or variations thereof such as BRIC, BICS and BIC). Nölke et al. (2015) describe Brazil, India and China as “**state-permeated market economies**”. While the authors see their model as one articulation of state capitalism, they argue that it differs from more classical conceptions of state capitalism such as that presented by Bremmer (2010) by not regarding the state as all powerful and centralized but rather dependent on competition-driven coalitions with business actors (Nölke et al., 2015). Nölke et al. (2015) identify a conflictual relationship between the BIC’s international policy preferences as derived from their domestic economies and existing global governance arrangements reflecting the more liberal preferences of established powers. McNally (2013) has also contributed to this strand of literature in arguing that the BRIC countries embody “**refurbished state capitalism**”. Refurbished capitalism is characterized by: 1) An active and interventionist industrial policy, including strategic trade and investment policies; 2) Fostering of national champions; 3) The prominence of sovereign wealth funds in internationalizing domestic capital; and 4) A harnessing of domestic financial systems to support industrial policy and the building of national champions such as via state-controlled banking systems.

McNally (2013) contends that refurbished state capitalism presents an “**in-system challenge**” to an international order based on the principles of market capitalism as it seeks to take advantage of the neo-liberal global economic system by deeply integrating with it

while keeping state control. McNally's intermediary argument is echoed by Stephen (2014) who argues that the BRIC countries pose a **"within-system challenge"** to global governance institutions whereby they contest the institutions' most liberal content while at the same time becoming increasingly dependent on them as they pursue economic growth through integration into the institutional frameworks of global governance and transnational circuits of global capitalism. This, in turn, causes "(...) a deepening of transnational integration but an erosion of global governance's most liberal principles." (Stephen, 2014, p. 914). Similarly, Kahler (2013, 2016) accepts the argument that the BICs embody a different variety of capitalism/liberalism than the established powers which is likely to cause frictions in the international system but argue that the BICs as beneficiaries of a global governance order organized according to liberal principles are unlikely to overturn that order. Ultimately, the thesis finds overall support for this argument and particularly the argument as articulated by Stephen (2014). However, the thesis does so on the basis of an analysis conducted specifically on the China-WTO nexus rather than the authors' broader focus on rising powers and global governance arrangements. Moreover, the authors' analyses seem somewhat superficial in their attempt to analyse such a broad topic. The present thesis seeks to go deeper into the empirical evidence by focusing on only a subset of this broader research agenda.

Some scholars are far more optimistic as to the compatibility between China's economic model and institutions of global economic governance. Steinfeld (2010) – like McNally (2013), Stephen (2014) and Kahler (2013, 2016) – argues that China seeks to achieve modernization by integrating itself into the Western economic order but he develops the argument further by contending that China, in so doing, has submitted its economic model for revision at the hands of the neoliberal institutions of global economic governance. This is reinforced by Chinese companies' integration into global value chains which necessitates compliance with neoliberal rules. Similarly, Karabell (2009) argues that the Chinese and American economies have become integrated to such an extent that any rivalry between the two countries in the sphere of the political economy would undermine either country's position. From the perspective of these scholars, China's economic model is converging towards the neoliberal rules promoted by established powers. Relatedly, Kennedy (2010) argues that the juxtaposition between a "Beijing Consensus" and a "Washington Consensus" is artificial as China has largely embraced the prescriptions of the Washington

Consensus as evidenced by, inter alia, liberalization of trade and investments, easing of barriers to market entry, strengthening of property rights and some privatization of state-owned enterprises (SOEs), albeit perhaps not to the extent hoped by the proponents of the Washington Consensus. Hence, Kennedy concludes that accounts emphasizing the contrast between China's economic model and the Washington Consensus are overstated.

The accounts provided above on China's economic model and capitalism display three overall fault lines among the scholars: 1) The extent to which China's economic model is distinctive from other models of economic development, 2) What characterizes the Chinese model and 3) What the implications are for the international system. Some scholars argue that China's economic model merits an independent conceptualization (McNally, 2012, 2019; Ramo, 2004). Others argue that it resembles a statist developmental model pursued by a group of emerging economies (Breslin, 2011; McNally, 2013; Nölke, 2012; Nölke et al., 2015; Stephen, 2014; Zhao, 2010). Others again argue that it converges towards neoliberal, Anglo-American market capitalism (Karabell, 2009; S. Kennedy, 2010; Steinfeld, 2010). As apparent from above, accounts situated within the first two perspectives use a variety of labels to describe China's economic model. However, these accounts are all articulations of state capitalism as they describe varieties of a hybrid economic model that combines elements of capitalism and state control. Interestingly, the "Beijing Consensus" has for many become an umbrella term although Ramo's original account differs substantially from those emphasizing the state capitalist characteristics of the China model.

Finally, the accounts take different approaches as to what the implications are for the international system. While some of the accounts regard China's strategy in regards to the international system as an integrated part of China's economic model, other accounts take a two stepped approach in which they first conceptualise China's economic model and, on this basis, analyse interest alignments with the international system. The present thesis takes the latter approach. The disagreements within both of these approaches do, however, mirror each other. One camp regards China's economic model as an outright challenger to the international system and sees it as in an inherently conflictual relationship to the international system (Nölke et al., 2015; Ramo, 2004). Others acknowledge that China's economic model in some regards puts China in opposition to the liberal content of the international system but argue that China has integrated with the international system in

pursuit of economic growth to such an extent that China is unlikely to try to overturn that order (Kahler, 2013, 2016; McNally, 2013; Stephen, 2014). Finally, few scholars see little difference between the variety of capitalism adopted by China and that embodied in the international system, which causes them to disregard the notion of China as a challenger (Karabell, 2009; S. Kennedy, 2010; Steinfeld, 2010).

3.2.2. *Varieties of Capitalism*

Hall & Soskice's (2001) seminal theory on varieties of capitalism has had a profound impact on contributions within international and comparative political economy. The theory provides a conceptual framework to comprehend institutional variations between the political economies of developed nations by conceptualizing two ideal types of varieties of capitalism, namely coordinated market economies (CMEs) and liberal market economies (LMEs). Several authors have sought to correct for the shortcoming of the theory only dealing with institutional variations among developed economies. While Feldmann (2006) complemented the theory with an ideal type encompassing transitioning economies and Boyer (2005) with an ideal type encompassing state-led economies, Nölke et al. (2015) add to the LME and CME lenses a third lens through which one can understand the variety of capitalism embodied by Brazil, India and China, namely a "state-permeated market economy" (SME) ideal type. Hall & Soskice find that the US and the UK are the most congruent with the LME ideal type and that Germany is the most congruent with the CME ideal type while Nölke et al. (2015, p. 542) find that China complies with the SME ideal type the most.¹

The combination of Hall & Soskice's LME ideal type and Nölke et al.'s SME ideal type as applied to China creates a theoretical basis for an analysis of the extent to which China's economic model is compatible with the WTO. Hence, the exercise for this thesis partly becomes one of analysing conflicts between the LME ideal type as embodied in the WTO and the SME ideal type as embodied by China. Since it is argued that the WTO has embodied the principles of the LME ideal type and not the CME ideal type, the latter variety of capitalism is disregarded in this thesis. This operationalization of the framework is in line

¹Hall & Soskice point out that the concept is not static. In this sense, it is possible that the countries no longer have the same congruence with their respective ideal types as when the article was published.

with Nölke et al.'s (2015) state-centred approach to analyse the implications of the rise of the BICs for established global economic institutions by combining the comparative capitalist approach with the discipline of international political economy: "In simple terms, the main objective of this article is to assess the potential for a 'State-Capitalist Consensus' (instead of a 'Beijing Consensus') replacing the '(Post-)Washington Consensus' (...)" (Nölke et al., 2015, p. 541).

To this end, the authors adopt Waltz's second-image approach (see Waltz, 1959) whereby a state's international policy preferences are regarded as dependent on domestic structures. Hence, Nölke et al. (2015) seek to evaluate whether a common variety of capitalism exists among the BICs and analyse whether interest alignments exist between this variety of capitalism and the established liberal order and, if not, how such a variety of capitalism may challenge the international systems as the BICs externalize their structures on global governance structures. The concept of institutional complementarity is important in this regard. For Hall & Soskice (2001), the concept implies that institutions of the political economy, even institutions located in different spheres of the political economy, tend to be designed in such a way as to increase the efficiency of each other whereby they become interdependent. Nölke et al. (2015, pp. 43–44) extrapolate this argument to the international level as they argue that states pursue external strategies that are aimed at preventing global institutions from disrupting domestic complementarities. An account of the two ideal types is given in the following.

Firms operating in LMEs coordinate their activities by use of hierarchies and competitive market arrangements. The exchange of goods and services is determined by market forces and carried out by use of formal contracting and arm's length relations. Markets based on arm's length relations and competition as well as legal systems enabling formal contracting can be regarded as the primary institutions facilitating coordination between firms in an LME. In contrast, capitalism in the SME ideal type relies on close relations between state and business actors coordinated by reciprocal mechanisms of loyalty and trust between members of state-business coalitions that may be competition-driven. Thus, the state plays a significant role in the coordinating mechanism of SMEs which differs significantly from the predominance of market forces in the coordination mechanism of LMEs. The authors identify five institutional spheres along which the ideal types differ. The spheres include

corporate governance; corporate finance; labour relations; innovation; and domestic and international integration (Nölke et al., 2015). Each of these are described in the following except for the sphere of “labour relations” which was not found to be of relevance for this paper.

Corporate governance concerns the ability for corporate control. Large businesses in SMEs are predominately dominated by national capital and are controlled by well-connected families or the state (Nölke et al., 2015). This contrasts to the predominance of minority shareholdings and transnational financial investments in LMEs facilitated through an open market and on the basis of firms’ valuation in public equity markets which creates incentives for short-term investments (Hall & Soskice, 2001).

Corporate finance denotes the means by which companies raise funds for investments. In contrast to companies operating in LMEs, companies in SMEs are far less exposed to the volatility of global capital markets and profit expectations of international investors. Investments may be raised through internal savings, but loans and investments on preferable terms from state-owned banks are just as common and so are other types of preferential support by the state such as tax reductions. As the state controls capital markets, the inflow of foreign capital and investments are not only controlled but also restricted. Companies in LMEs raise funds through the global financial market where investors’ primary concern is the return on their investment. Thus, LMEs are highly integrated into the global financial markets which makes them exposed to the volatility of the global economy (Nölke et al., 2015).

The transfer of *innovation* in SMEs is achieved through technological catch-up by reverse engineering, which is enabled and supported by a weak patent rights system and weak enforcement of IPR. Indigenous innovation is the result of selected sectors being designated by the state for technological upgrading and as the result of public research (Nölke et al., 2015). In contrast, transfer of innovation in LMEs takes place by the licensing or sale of innovations, i.e. through the market, which is facilitated by a strong system of patenting (Hall & Soskice, 2001).

Lastly, the sphere of *domestic markets and international integration* of SMEs is a novel addition to the literature on comparative capitalism. The large domestic markets of SMEs imply that internal public and private demand is considerable, which, in turn, creates a stable environment for the growth of domestic industries and relative independence from external economic pressures as well as a degree of immunity from fluctuations on global markets. As a consequence, SMEs are under less pressure to bend to the demands of foreign enterprises and as such SMEs protect their internal markets from outside competition and instead pursue a strategy of selective and phased integration into the global economy. This also applies to international negotiations between governments where SMEs leverage the size and attractiveness of their economies to resist demands by foreign actors. It follows from the preceding that LMEs are far more integrated into the global economy than SMEs and less restrictive towards foreign competition (Nölke et al., 2015).

3.3. Integrating Theories and Implications for the Analysis

By integrating the disciplines of international relations and international political economy, the thesis seeks to derive a theoretical synthesis that one hand helps understand interest alignments between China's domestic political economy and the international system and on the other hand explains how states interact in and with the international system. However, with the attention to interest alignments between China's domestic political economy and the international system, the thesis rejects the neorealist assumption that domestic characteristics hold no explanatory importance in understanding how states interact in and with the international system. As such, the thesis assumes that China will not have incentives to disrupt the WTO provided that China's preferences as derived from China's domestic structures are aligned with WTO. However, realism is not outright dismissed in favour of liberalism. Rather, the thesis identifies with the following statement by neoliberalist Joseph Nye: "The approaches to the changes occurring in world politics today is not to discredit the traditional wisdom of realism and its concern for the military balance of power, but to realize its limitations and to supplement it with insights from the liberal approach." (1990, p. 177). Indeed, many of the differences between the traditional conceptions of liberalism and realism seem to be bridged with the development of neoliberalism and neorealism as the former accepts many of the latter's assumptions about the international system. As such, the thesis favours neither liberalism or realism but argues

that both are likely to hold explanatory importance – in other words, their applicability to the issue at hand remains an open-ended question.

The scholars who conclude that China's state-led variety of capitalism is in a conflictual relationship with a liberal variety of capitalism disagree over what the implications are for the international system as China rises and a redistribution of power takes place. This disagreement stems from whether the authors take a liberal or a realist approach to understand international relations. One group of the scholars superimpose the conflict between varieties of capitalism onto the international system as they assume that states try to externalize their domestic structures on global governance arrangements and they therefore conclude that the rising powers who favour a state-led variety of capitalism and the established powers who favour a liberal variety of capitalism will compete over determining what variety of capitalism should be embedded in international institutions. This leads these authors to conclude that China will contest and disrupt the international institutions that are established in the liberal image which includes the WTO. These authors do indeed seem to combine theories on comparative capitalism with realism as they identify a conflict between varieties of capitalism by use of the former and conceptualizes how this conflict plays out by use of the latter. The other group of scholars argue that while a conflict between varieties of capitalism does exist, increased interdependence facilitates China's integration into the liberal international system while the system offers China economic returns which renders it unlikely that China will overturn that order. As such, international institutions can persist beyond a redistribution of power and even as China challenges the hegemony of the US. These accounts understand how the conflict plays out in the international system through the prism of neoliberalism and institutional liberalism.

This being said, another group of scholars argues that China has converged towards neoliberal, Anglo-American market capitalism and therefore argues that a conflict does not exist between the variety of capitalism adopted by China and the variety of capitalism adopted by the "established powers" and embodied by the international system. It follows that analysing what the implications are of China's rise for the WTO becomes a two-legged exercise: Firstly, the thesis must analyse whether a conflict exists between the variety of capitalism adopted by China and the variety of capitalism adopted by the established powers and embedded in the WTO in those areas in which varieties of capitalism relate to the work

of the WTO. Secondly, if the thesis finds support for the existence of a conflict, the thesis must analyse how this conflict plays out in the context of the WTO. Research question A on compatibility relates to the first question and draws on the comparative capitalist literature to analyse interest alignments (or compatibility) between China's variety of capitalism – insofar as it pertains to work of the WTO – and the variety of capitalism embedded in the WTO. Chapter 5 is devoted to this issue. Research question B on engagement relates to the second question and analyses how this conflict plays out by looking at China's engagement in the Dispute Settlement Mechanism (chapter 6) and trade negotiations (chapter 7) although these chapter will also shed further light on the question of compatibility.

4. BACKGROUND

The present chapter of the thesis seeks to provide a background on which the remainder of the thesis stands. In so doing, this chapter first gives a brief introduction to the WTO followed by an account of China's accession to the WTO.

4.1. An Introduction to the WTO

As an inter-governmental institution with no less than 164 members representing 98% of world trade (World Trade Organization, 2019c), the WTO is indeed an institution that deserves significant interest. A comprehensive description of the WTO is far out of the scope of this thesis and the present author acknowledges that some of the accounts given below may be considered simplistic. This being said, nuances will be provided and the issues elaborated when dealt with in other parts of this thesis. The following section seeks to provide a basic understanding of the WTO and to do so it proceeds as follows: 1) An account of the predecessor of the WTO; 2) An account of the WTO in terms of its three core pillars; 3) The Doha Development Agenda; 4) The decision-making procedures of the WTO; and finally 5) The core principles of the WTO.

4.1.1. The General Agreement on Tariffs and Trade (1947-1995)

The multilateral trading system emerged from the ruins of World War II under the leadership of the victorious US and UK. Already in 1934, the two countries had settled on a shared view of the rationale and structure of an international organization that would be tasked with multilateral trade liberalization and it was on this basis that the Havana Charter for an International Trade Organization was negotiated from 1945 to 1948. In parallel to the negotiations of the Havana Charter, the General Agreement on Tariffs and Trade (GATT) was negotiated and entered into force on 1 January 1948 with 23 contracting parties and seeking to regulate and liberalize trade in goods (VanGrasstek, 2013, p. 40). The efforts to establish the International Trade Organization would eventually be abandoned as the US Congress refused to approve the Charter and the international community was therefore left with only an agreement (GATT) and no institution to regulate trade in goods until the establishment of the WTO in 1995 (VanGrasstek, 2013, pp. 43–45). While tariff reductions were the primary concern of the early years after the conclusion of GATT, multilateral trade negotiations have since then expanded considerably in both scope and membership. Indeed,

the Uruguay Round (1986-1994) covered both non-tariff measures, trade in services, intellectual property rights, dispute settlement, agricultural subsidies as well as the creation of the WTO with 123 countries participating.

4.1.2. The WTO

In addition to establishing the WTO, the Uruguay Round led to the conclusion of a great number of new agreements which today make up the legal framework of the WTO. These agreements follow a simple structure with six main components: an overarching agreement establishing the WTO (the Agreement Establishing the WTO), trade in goods (with GATT setting the general principles), trade in services (with the General Agreement on Trade in Service or “GATS” setting the general principles), intellectual property rights (IPR) (with the Agreement on Trade-Related Aspects of Intellectual Property Rights or “TRIPS” setting the general principles), reviews of WTO members’ trade policies (the Trade Policy Review Mechanism or “TPRM”) and dispute settlement (regulated by the “Dispute Settlement Understanding” or DSU). A number of more specific agreements regulating trade in goods exist subject to GATT such as the Agreement on Trade-Related Investment Measures (TRIMS) (World Trade Organization, 2015c, pp. 15–24). As stated in TRIMS Art. 1, TRIMS only regulates investment measures insofar as they affect trade in goods (such as local content requirements) and it therefore does not regulate more traditional investments such as foreign direct investments (FDI) or portfolio investments (Qin, 2003, p. 499; World Trade Organization, 2015c, p. 51).

It follows from the abovementioned framework that the WTO can be divided into three main pillars, namely the agreements regulating trade and IPR (of which GATT, GATS and TRIPS are the three most important agreements), the Dispute Settlement Mechanism (DSM) and the TPRM. The TPRM seeks to increase transparency and to improve compliance with WTO agreements by subjecting all members to periodic review of their national trade policies. The WTO Secretariat and the member under review each prepare a report on the trade policies and practices of the member which are discussed in sessions of the Trade Policy Review Body in which all WTO members are represented. In this sense, the TPRM can be considered a “peer review” (VanGrasstek, 2013, pp. 279–292; World Trade Organization, 2015c, p. 53). The frequency of the reviews depends on the individual WTO member’s share of world trade with the four largest members being subject to review every

second year (at the time of writing the US, the EU, Japan and China), the following sixteen members every four years and the remaining members every six years (World Trade Organization, 2015c, p. 53, 2019a).

Like the TPRM, dispute settlement seeks to ensure compliance with WTO agreements. However, rather than monitoring a WTO member's trade policies and practices as is the case with the TPRM, dispute settlement allows – through an institutionalized process – a WTO member (the complainant) to bring a case against another WTO member (the respondent) concerning the latter's alleged violation of WTO agreements and commitments. As such, the settlement of trade disputes is largely a judicialized process regulated by the DSU, albeit the first stage of dispute settlement is consultation between the countries in dispute aiming at settling differences. If consultations fail, the dispute proceeds to a panel which presents its findings concerning the alleged violation in a panel report. Either party of the case can appeal the panel report to the WTO's appellate body which can uphold, reverse or modify the findings of the panel. Once the report of the panel and/or the appellate body is approved by the Dispute Settlement Body (DSB) – which is made up of all members of the WTO – the report becomes a ruling and if a violation is found, the losing party must bring the concerned trade measure into compliance (World Trade Organization, 2015c, pp. 55–61).²

4.1.3. The Doha Development Agenda

Progress in WTO negotiations has been slow since the conclusion of the Uruguay Round. The Uruguay Round was succeeded by the “Doha Development Agenda” (DDA) which was initiated in 2001. The DDA sought to address many of the concerns of developing countries which were believed to have been neglected in the Uruguay Round. Agriculture – and particularly a reduction in agricultural subsidies and tariffs – was one of the most contentious items on the DDA and of great priority to developing countries. The DDA also included the so-called “Singapore issues” which had been advanced by developed countries and were first tabled at the Singapore ministerial in 1996. The Singapore issues are investment, government procurement, competition policy and trade facilitation

² Reports of the panel and the appellate body can only be rejected by consensus and as all WTO members are members of the DSB, reports are de facto always approved.

(VanGrasstek, 2013, pp. 401–405). The DDA was original set to be concluded by 1 January 2005 but the deadline was missed and in July 2006, negotiations were suspended (World Trade Organization, 2015c, p. 77). Negotiations subsequently resumed – and failed – on numerous occasions until the collective membership of the WTO refrained from reaffirming the DDA at the 10th ministerial conference in Nairobi in 2015 whereby the DDA was officially abandoned. The ministerial conference in Nairobi opened the door to the inclusion of new issues as well as permitted members to pursue negotiations that could be narrower in both scope and membership (i.e. plurilateral negotiations) (Wilkinson, Hannah, & Scott, 2016).

The DDA did, however, have some deliverables. Ahead of the 9th ministerial conference in Bali in 2013, WTO members decided to abandon the negotiating principle of “single undertaking” in order to enable an early harvest. The principle of single undertaking had been introduced with the Uruguay Round and implies that “nothing is agreed until everything is agreed” which means that a negotiation package is indivisible and that no single item can be negotiated separately. The principle enables cross-subject trade-offs and prevents WTO members from taking an *à la carte* approach where they only accept certain agreements (VanGrasstek, 2013, pp. 48–51, 308–310; World Trade Organization, 2015c, p. 17). This approach had helped deliver the almost overwhelming package of the Uruguay Round but contributed to the impasse in the negotiations of the DDA. By breaking with the principle of single undertaking, an early harvest became a possibility and at the 9th ministerial conference in 2013 in Bali, WTO members successfully concluded the Trade Facilitation Agreement (TFA). The TFA seeks to address issues of red-tape and bureaucracy in customs procedures and is the only multilateral agreement concluded under the auspices of the WTO (Eliason, 2015).

4.1.4. Decision-Making Procedures

Ministerial conferences are the highest decision-making authority in the WTO as they gather ministers from all members of the WTO for multilateral trade negotiations every second year. The everyday work of the WTO is carried out by the General Council in which all members are represented (usually on the level of ambassadors). The Trade Policy Review Body and the DSB are in fact the same as the General Council but the three are differentiated by having different terms of reference. Following the structure of the WTO agreements, the

Uruguay Round established the Council for Trade in Goods, the Council for Trade in Services and the Council for Trade-Related Aspects of Intellectual Property Rights. The three councils – which refer to the General Council – deal with each of their designated variety of trade and associated WTO agreement (GATT, GATS and TRIPS, respectively) and all members of the WTO are represented in all of the three councils. In addition, a number of more specific committees exist (World Trade Organization, 2015c, pp. 101–103).

The WTO differentiates itself from other international organizations such as the World Bank and the International Monetary Fund in three important ways. Firstly, decisions are not delegated to an executive board or board of directors but are rather – at least in principle – taken by the entirety of WTO membership. Secondly, the WTO has not adopted a system of voting rights weighted according to a quantitative measurement such as GDP but has adopted a system of “one country, one vote” although consensus dominates the decision-making procedure and voting remains restricted to certain issue areas (Parizek & Stephen, 2017). The negotiation principle of “single undertaking” has been of paramount importance in securing consensus among the collective membership of the WTO. Thirdly, the WTO does not have a powerful administrative or bureaucratic body but is rather a member-driven organization whose principal purpose is to provide a forum for negotiating multilateral trade agreements and mechanisms for settling disagreements arising from those agreements (World Trade Organization, 2015c, pp. 101–103). In this sense, the WTO may seem like an institution free of the power dynamics that typically characterize international politics. However, negotiations in the WTO have traditionally been dominated by the “Quad countries” (i.e. the established powers of the US, the EU, Japan and Canada) exerting their influence on the remaining members after having reached consensus among themselves through closed and opaque negotiations (Drahoš, 2003; Kapoor, 2006; Steinberg, 2002). The Quad group can be considered the WTO’s way of gathering the G7 countries as France, Germany, Italy and the UK are represented in the WTO by the EU by virtue of trade policy belonging to the exclusive competence of the EU. Brazil, India and China have, however, begun to increasingly exert their power and have gained a seat at the tables of the core negotiation groups (Narlikar, 2010; Zangl, Heußner, Kruck, & Lanzendörfer, 2016).

4.1.5. Core Principles

While the subject matter of the WTO Agreements differs, a number of overarching principles permeate all of them. At the most general level, trade liberalization is at the core of the WTO and is the very principle that the WTO is established to pursue. The reasoning behind trade liberalizing builds on a vast pool of empirical and theoretical proof dating all the way back to Adam Smith's theory of absolute advantage from 1776 (see Smith, 1976 [1776]) and David Ricardo's theory of comparative advantage from 1817 (see Ricardo, 1912 [1817]) both of which present theoretical proof that countries gain from trade and from reducing barriers to trade through lower prices for consumers, increased competition and improved efficiency. In this sense, "free trade" implies both the reduction of barriers to trade as well as the primacy of market forces. In a statement published a few years after the establishment of the WTO, the WTO Secretariat described the WTO as a "rules-based system" that gives "(...) primacy to markets and not governments in determining economic outcomes." (World Trade Organization, 1998) and has in a later publication stated that "(...) liberal trade policies – policies that allow the unrestricted flow of goods and services – sharpen competition, motivate innovation and breed success" (World Trade Organization, 2015c, p. 13). It is clear from both of these quotes that non-intervention is embedded in the ideational foundation of the WTO.

A core principle of the WTO is non-discrimination. The principle is articulated through two more specific principles which can be found explicitly throughout WTO Agreements, namely the principle of national treatment and the principle of most favoured nation (MFN). The MFN principle concerns non-discrimination between foreign states, which implies that the most favourable treatment extended to a country's trading partner (e.g. in terms of tariff rates) must be extended to all other members of the WTO (World Trade Organization, 2015c, pp. 10–11). Thus, WTO membership ensures that a country is granted the "best" treatment available by other WTO members and a country's MFN-tariff rates are generally considerably lower than the tariff rates applied to non-members. Hence, the MFN principle is one of the main advantages of WTO membership and has been one of the main driving forces for developing countries to join the WTO (Subramanian & Wei, 2007). While the MFN principle concerns non-discrimination between foreign actors, the principle of national treatment concerns non-discrimination between domestic and foreign actors, i.e. foreign and domestic goods must be treated equally once the foreign good has entered the

domestic market (World Trade Organization, n.d.-d). The same principle applies to services and intellectual property (World Trade Organization, 2015c, p. 11).

Finally, reciprocity is a fundamental principle that underpins WTO negotiations. The principle of reciprocity seeks to eliminate free-riding on the benefits provided by the MFN rule and to create incentives for trade liberalization by allowing countries to receive “payment” for trade liberalization in the form of better access to foreign markets. In this sense, reciprocity allows countries to capitalize on trade liberalization of their own markets by enabling gains that are greater than those arising out of unilateral trade liberalization (Hoekman, 2002).

4.2. China’s Accession to the WTO

China’s accession to the WTO on 11 December 2001 marks a watershed for the multilateral trading system as well as for China’s role within the international community. While the first part of this section provides a historical outline of China’s road to accession, the second part focuses on China’s accession protocol and its implications for China’s membership of the WTO.

4.2.1. China’s Road to Accession

The Republic of China was one of the original founding members of GATT (Guohua & Jin, 2001). However, the Chinese Communist Revolution resulted in the Communist Party of China under the leadership of Mao Zedong assuming control of the Chinese mainland and proclaiming the establishment of the People’s Republic of China on 1 October 1949 (Rhodes & Jackson, 1999). As the government of the Republic of China – which had negotiated China’s membership of GATT – could no longer perform its duties under GATT by virtue of no longer controlling the Chinese mainland and having fled to Taiwan, the government withdrew its membership of GATT with effect from 5 May 1950 (Guohua & Jin, 2001; Qingjiang, 2002). Relations between China and the multilateral trading system were not initiated again until 1981 when China became an observer of the GATT textile committee (Qingjiang, 2002). The Chinese Ministry of Foreign Trade submitted in 1982 a report to the Chinese state council recommending that China should become a member of GATT (Ibid). The report was approved and China gradually began its integration into the multilateral trading system: In 1984 China became a member of the Multi-Fibre Agreement;

in 1984 China was granted observer status to GATT; in 1986 China formally applied for full membership of GATT; and in 1987 the Working Party on China's Status as Contracting Party was established to process China's application (Ibid; Rhodes & Jackson, 1999).

In parallel to China's accession negotiations, GATT members were negotiating in the Uruguay Round a substantial reform of the multilateral trading system which would expand the system's coverage far beyond just trade in goods and establish the WTO. This made China's accession negotiations inherently more complicated as China would no longer just accede to GATT and negotiate market access on trade in goods, but also had to accede to a number of new agreements such as TRIPS and GATS (Qingjiang, 2002). As a consequence, China's accession process was not finalized before the conclusion of the Uruguay Round that led to the establishment of the WTO under the auspices of which the accession negotiations continued. While the Working Party provided a multilateral forum for accession negotiations, negotiations were also carried out bilaterally between China and 37 members of the WTO among which the negotiations with the Quad countries dominated (Guohua & Jin, 2001). Negotiations between China and the US were concluded on 15 November 1999 (Ibid) which paved the way for the conclusion of other bilateral agreements as well as the multilateral negotiations. On 13 September 2001, all 37 bilateral negotiations had been finalized and on 17 September 2001 the Working Party finalized a draft protocol on China's accession which included the 37 bilateral agreements as well as laid down the terms of China's accession to the WTO. On 10 November 2001, the members of the WTO approved the Protocol on the Accession of the People's Republic of China, which was ratified the following day by China's National People's Congress Standing Committee. 30 days later, on 11 December 2001, China joined the WTO subject to the conditions spelled out in the accession agreement (Qingjiang, 2002).

The negotiations of China's accession to first GATT and subsequently the WTO took an unprecedented 15 years. The negotiations were characterized by a vocal debate on the compatibility of the communist China and the liberal WTO. The debate of the 1990's surrounding the negotiations of China's accession to the WTO echoes current discussions on China's membership and indeed the topic of this thesis. Commenting on the negotiations between China and WTO on Chinese membership, Rhodes & Jackson wrote in 1999: "The potential membership of the People's Republic of China in the World Trade Organization

is generally considered to be one of the most important challenges to both China and the WTO in the near future. [...]. Many people feel that the WTO will not be ‘complete’ without China’s membership, but many of those persons and many others worry that China’s membership will not fit well with the rules and policies of the WTO and that this membership would risk conceptual, legal and policy problems.” (Rhodes & Jackson, 1999, p. 497). The authors were, however, wrong in writing that China’s membership of the WTO would be considered a challenge to China and the WTO in the *near future*. Today, twenty years later, the challenge is more relevant than ever and the discussion does indeed still revolve around whether China’s membership fits with the rules and policies of the WTO – which is the topic of this thesis.

4.2.2. China’s Accession Protocol

The bilateral and multilateral negotiations on China’s accession to GATT/WTO sought to address, inter alia, concerns regarding the implications of allowing a centrally planned economy as big as China membership of an organization that is based on the principles of LMEs. Concerns were addressed by including in the Protocol on the Accession of the People’s Republic of China (hereinafter referred to as “the China Protocol”) as well as in the Report of the Working Party on the Accession of China (hereinafter “the Working Party Report”) a number of WTO-minus provisions and WTO-plus provisions (Qin, 2003). While WTO-minus provisions authorize other WTO members to depart from WTO agreements in their treatment of China, WTO-plus provisions are obligations that China, unlike other WTO members, must abide by. These provisions are of particular interest for this thesis as they give insight into the specific concerns that existed in regards to the nature of China’s economy. Moreover, discussions of the China Protocol – and specifically its recognition of China’s non-market economy (NME) status which permits discriminatory treatment of China – have resurfaced in recent years. These discussions are directly related to the issue of China’s compatibility with the WTO and will be considered in section 6.3.1.

The WTO-minus provisions consist of the transitional product-specific safeguard mechanism; the special safeguard mechanism on textiles and clothing; and the methodology for price comparability in determining subsidies and dumping.³

- Section 16 of the China Protocol establishes a **transitional product-specific safeguard mechanism** which effectively lowers the threshold for the employment of safeguard measures when applied against import of Chinese origin (Charnovitz & Hoekman, 2013). Moreover, the mechanism limits China's ability to retaliate and extends the allowed period for the employment of safeguard measures when employed against China (Gao, 2007).⁴
- Similar to the mechanism mentioned above, the **special safeguard mechanism on textiles and clothing** lowered the threshold for the employment of safeguard measures specifically targeting Chinese exports of textiles and clothing. China was entirely deprived of the opportunity to retaliate (Gao, 2007).⁵
- A special methodology for **price comparability in determining subsidies and dumping** is established by Section 15 of the China Protocol which is the section recognizing China as an NME within the WTO. Since prices in NMEs are not entirely determined by market forces, importing WTO Members would be entitled to determine the existence of dumping/subsidies as well as calculate anti-dumping/countervailing duties on the basis of a so-called "surrogate price" rather than the domestic Chinese price of the product (Zang, 2009). Thus, in order to establish whether a Chinese product was being dumped/subsidized and if so by how

³ Anti-dumping actions are measures (typically import duties) that seek to restore the market price of a product that is being exported by a company below the price charged in its home market (i.e. "dumping"). Anti-dumping is regulated by the Anti-Dumping Agreement which concerns under what circumstances anti-dumping actions are permissible. Only anti-dumping measures and not dumping is regulated in the WTO. In contrast, both the use of subsidies (i.e. a financial contribution by a public body) as well as the use of offsetting duties (i.e. "countervailing measures/duties") are regulated by the Agreement on Subsidies and Countervailing Measures (SCM Agreement). Safeguards are measures that restrict imports of a product that is injuring or threatening to injure a domestic industry but neither due to dumping nor subsidies. The conditions under which safeguards are permissible are regulated by The Agreement on Safeguards (World Trade Organization, n.d.-h).

⁴ The mechanism expired in 2012 (Gao, 2007)

⁵ The mechanism expired in 2008 (Gao, 2007)

much, the “normal price” of the Chinese product in question would be determined on the basis of the price of the product in a market-economy third country (Suse, 2018).⁶

The WTO-plus provisions that were found to be relevant for this thesis are those on national treatment, investment measures, market reform and transitional review.

- GATT applies the principle of **national treatment** to goods, GATS applies it to services and TRIPS applies it to IPR although the scope of the principle differs depending on the specific agreement. However, China committed to extend the national treatment principle to foreign individuals, enterprises and foreign-funded enterprises with respect to their investment, trading and business activities in China (Gao, 2007; Qin, 2003; Zhang, 2018a).
- China’s obligations in regards to **investment measures** go far beyond those of the vague provisions in TRIMS. China committed to refrain from making foreign investments conditioned on performance requirements of any kind (including technology transfers) and committed to not restrict foreign investment in order to protect competing domestic industries (Qin, 2003).
- China made a number of unprecedented commitments to **market reform**. China committed to allow prices for traded goods and services to be determined by market forces, not to influence the commercial decisions of SOEs and to progressively liberalize the foreign trade regime (Qin, 2003).
- The China Protocol also established a **transitional review mechanism** which sought to monitor and scrutinize China’s progress in pursuing market reform as well as compliance with WTO obligations and commitments. The transitional review would be carried out annually for the first eight years of China’s membership (Qin, 2003; Zhang, 2018a).

The China Protocol is widely considered to be particularly extensive and the China-specific commitments are by many scholars deemed unprecedented (Pan, 2015; Qin, 2003; Wu, 2011). The WTO-plus and WTO-minus provisions clearly try to address concerns over the compatibility of China’s NME characteristics and the market economy principles of the

⁶ The expiration of the methodology is highly contested and is addressed in section 6.3.1.

WTO. The WTO-plus provisions on market reform represent a fundamental obligation of the Chinese government to pursue transition towards a market economy, thereby addressing the more fundamental concerns on China's membership of the WTO. As argued by Qin: "[...] this obligation is by far the most significant of all WTO obligations that China has undertaken, as its fulfilment will ultimately ensure the *compatibility* [emphasis added] between the Chinese economic regime and the WTO system." (2003, p. 505). The WTO-minus provision on the methodology for price comparability clearly tries to address issues that are likely to arise in the absence of such a compatibility while the transitional review mechanism serves the purpose of monitoring China's transition towards a market-economy.

While the aforementioned provisions seek to address concerns related the nature of the economic system of China, the WTO-minus provisions on safeguard mechanisms should be understood in the context of the sheer size of the Chinese economy. The size of the Chinese economy and vast pool of low-cost labour giving China a comparative advantage in labour intensive products caused concern among WTO Members that their markets would be flooded by Chinese exports and especially textiles upon China's accession to the WTO to the detriment of their domestic producers (Gao, 2007; Qin, 2003). The two safeguard mechanisms reflect these concerns by effectively making it easier to apply safeguard mechanisms against a surge in the import of Chinese products (Charnovitz & Hoekman, 2013). The WTO-plus provisions on national treatment and investment measures seek to force China to undertake liberalization in areas which are not required by other WTO members (Qin, 2003).

5. CHINA'S TRADE REGIME

In conducting and establishing positions in international negotiations, countries seek to minimize compliance costs and to extend their competitive/comparative advantages (Fioretos, 2001; Kahler, 1995). This follows from the approach by Hall & Soskice (Hall & Soskice, 2001) and Nölke et al. (2015) by whom it is argued that states' stance towards international initiatives is influenced by judgements about whether those initiatives may disrupt domestic institutional complementarities. Similarly, this is articulated by Waltz' (1959) second-image approach in which a state's international policy preferences are regarded as dependent on domestic structures. Since states differ in their domestic structures, they differ in their preferences towards international institutions and initiatives (Katzenstein, 1977). Understanding international negotiations and politics through the perspective in which domestic characteristics matter for international negotiations and how states act in the international system implies that differences in economic profiles cause divergence among states in regards to preferences over multilateral trade rules. Similarly, a particular form of economic structure reveals preference for that structure which countries will seek to preserve when engaging in trade negotiations.

In line with the integrated theoretical framework (see section 3.3.) and the reflections above, the present chapter seeks to analyse divergence between China's domestic structures and the WTO as it is argued that China will not have incentives to disrupt the WTO if China's preferences (as derived from China's domestic structures) are aligned with those embedded in the WTO. The relevant domestic structures in the present thesis are those that pertain to trade policy and the overall work of the WTO. While the present chapter analyses divergence across trade regimes, chapter 6 and chapter 7 analyse how such a divergence actually plays out by looking at China in the context of the DSM and China in trade negotiations. In analysing alignment between China's trade preferences and the preferences embedded in the WTO, the thesis compares China to the established powers of the G7. The domestic structures of the G7 countries are used as a proxy for the preferences that are embedded into the WTO as it is argued that these countries are the ones that have been successful in externalizing their preferences onto the WTO and that these countries traditionally have constituted the leadership of the WTO.

Nölke et al. (2015) assume that the global economic governance institutions embody the principles of LMEs of which the UK and the US are the archetypes. Similarly, scholars have emphasized how the WTO – as an institution established under hegemony of the US – embodies market economy, Anglo-American capitalist principles (Pan, 2015, p. 749; Qin, 2003, p. 504; Zhang, 2018a, p. 239). Such accounts suggest that China should be compared to the US and the UK to analyse the issue of compatibility with the WTO. Accounts emphasizing the role of the traditional Quad countries in imposing their will on the remaining membership of the WTO during the multilateral trade negotiations that resulted in the present WTO legal framework would argue that the benchmark consist of Canada, the EU, Japan and the US (Drahos, 2003; Kapoor, 2006; Sell, 1999; Steinberg, 2002). Stephen & Parížek compare the BICS to the G7 as the authors, in line with existing literature, “(...) associate the countries of the G7 with the ‘established’ powers.” (2018, p. 17). The reader is reminded that the Quad group is the WTO’s way of gathering the G7 countries since France, Germany, Italy and the UK are represented in the WTO by the EU. As such, the second and third approach are congruent. As the US and the UK belong to the G7 as well as the Quad group, the present author takes a precautionary approach and adopts the most extensive approach in making a comparative analysis.⁷

Having determined what countries China should be compared to in order to analyse the issue of compatibility with the WTO, the next issue is to determine across which indicators or the issue should be analysed to grasp compatibility with the entirety of the WTO. The structure of WTO agreements provides a useful framework. The WTO regulates trade in goods (GATT), trade in services (GATS) and IPR (TRIPS). Subject to these three overarching agreements are a number of more specific agreements regulating aspects of each of these three varieties of trade. To fully comprehend compatibility with the WTO, this section of the thesis will, therefore, proceed in these three main sections.

⁷ As trade policy is the exclusive competence of the EU (Cini & Borragán, 2013) most of the quantitative indicators analysed in the following are the same for France, Germany, Italy and the UK. The EU countries are, however, reported individually as they differ in regards to a few indicators.

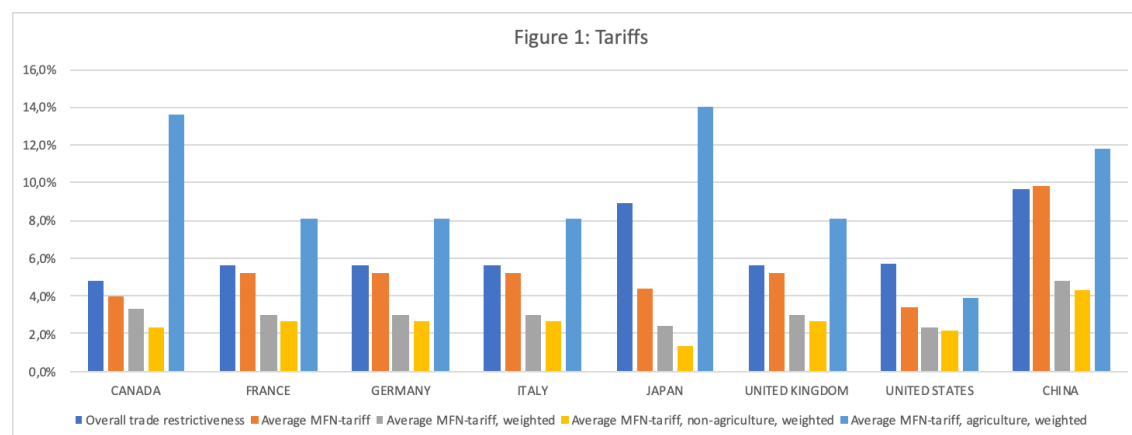
5.1. Trade in Goods

Traded goods can face restrictions both at the border as well as behind the border. Tariffs constitute the most significant at-the-border restriction as the payment of tariffs is a prerequisite for goods to be released into a given market, whereas non-tariff measures (NTMs) constitute the most significant behind-the-border restriction (OECD, 2009). NTMs are a diverse group of restrictions that are defined as “(...) policy measures other than ordinary customs tariffs that can potentially have an economic effect on international trade in goods, changing quantities traded, or prices or both.” (UNCTAD, 2015). A number of agreements exist subject to GATT regulating various NTMs such as the Agreement on Technical Barriers to Trade and the Agreement on Sanitary and Phytosanitary Measures (for an extensive account see Staiger, 2012). To fully grasp the extent to which China is compatible with the WTO in the area of trade in goods, at-the-border restrictions (tariffs) as well as behind-the-border restrictions (NTMs) must be covered. The analysis of trade in goods first looks at tariffs before proceeding to NTMs.

Tariff reductions have been achieved in the context of the WTO by having countries “bind” their tariffs, i.e. having countries set ceilings above which tariffs cannot be raised. In this sense, countries can actually set their tariffs lower than at the bound rates and lower bound rates imply less flexibility in increasing the applied MFN-tariff rates. While developing countries on average have bound 73% of their tariff lines at an average bound rate of 42%, developed countries have on average bound 99% of all tariff lines at an average bound rate of 11% (World Trade Organization, 2015c, p. 25, 2015a). The G7 countries have on average bound 99,9% of all tariff lines at an average bound rate of 5% (see Table 1, Appendix 1). China has – in spite of being classified as a developing country in the WTO (M. Kennedy, 2012, p. 571) – bound 100% of all tariff lines at an average bound tariff rate of 10% (see Table 1, Appendix 1). Thus, while China’s average bound tariff rate is higher than that of the G7, China’s average bound rate is lower than for the developed countries and the binding coverage higher. This implies that China’s commitment to liberalise tariffs are far beyond developing countries and slightly beyond those of the average developed country, albeit lower than for the G7.

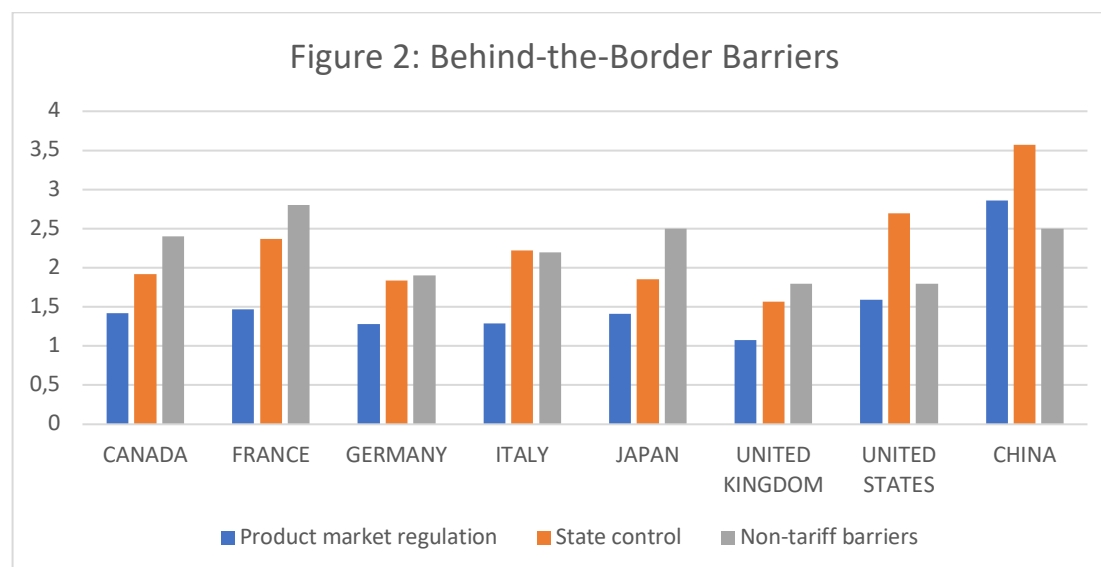
Turning away from bound tariffs and towards applied tariffs, the present thesis has analysed compatibility in regards to tariffs across five variables in the most recent year available: 1)

Overall trade restrictiveness, year 2009; 2) Average MFN-tariff, year 2018; 3) Average MFN-tariff weighted by trade volume, year 2017; 4) Average MFN tariff rate for non-agricultural products weighted by trade volume, year 2017; and 5) Average MFN-tariff for agricultural products weighted by trade volume, year 2017 (see Figure 1 and Table 2, Appendix 1). China is the most restrictive (least liberal) across all variables except for weighted average MFN-tariffs on agricultural products. With an average weighted MFN-tariff rate on agricultural products of 11.8%, China is less restrictive than Canada (13.6%) and Japan (14%) in this regard. However, the importance of this variable should not be overstated. When looking at overall trade restrictiveness as well as the weighted average MFN-tariff of all products, China is still the most restrictive country. Thus, in regards to tariffs, the economic profiles of the G7 and China do indeed diverge with China being significantly less liberal.



Behind-the-border restrictions or NTMs is a highly diverse group of measures. Therefore, in order to compare the prevalence of NTMs across the countries of concern, the present thesis uses quantitative indexes that capture the entire group of NTMs. The OECD's product market regulation index measures the extent to which policies inhibit competition in product markets in the year of 2013 (OECD, n.d.-a) or, put differently, the predominance of non-market coordination. Thus, this index can reasonably be assumed to reflect behind-the-border restrictions. Moreover, the World Economic Forum has quantified the prevalence of non-tariff barriers in the period of 2016-2017. The overall variable of product market regulation as well as the sub-variable of state control are presented in Figure 2 alongside the World Economic Forum's data on non-tariff barriers (see also corresponding Table 3, Appendix 1). The figure shows that the product market in China is far more regulated than those of the G7 countries. Moreover, China displays a far higher level of state control

defined in terms of state ownership and state involvement in business operations than the G7 countries. The difference in non-tariff barriers across the countries are less substantial and China is “only” found to be the second-most restrictive. These conclusions are congruent with the accounts of the China model that emphasize the role of non-market forces and particularly the state in coordinating economic exchanges in the Chinese economy unlike the heavier reliance on market forces and the subscription to the principle of non-intervention in the G7 countries.



5.2. Trade in Services

GATS mirrors the principles and structure of GATT but countries’ commitments in the area of trade in services are very different from the simple, numerical bound rates that make up countries’ commitments in trade in goods. While the MFN-principle applies to trade in all services, a country’s service sectors are not automatically open to competition (World Trade Organization, 2015b). Rather, access is only guaranteed insofar as a given sector is listed in the country’s schedule of commitments (i.e. a positive-list approach) and access may be subject to any limitations stipulated by the country. In other words, the principle of national treatment can be limited in any way specified in the country’s commitments (VanGrasstek, 2013, p. 326). Limitations to market access and national treatment can be specified in any of the four modes of supply defining trade in services. The four modes of supply are: 1) Cross-border supply (e.g. call centre services); 2) Consumption abroad (e.g. tourism); 3) Commercial presence (i.e. FDI); 4) Movement of natural persons where the individual travels to another country to supply the service (World Trade Organization, 2015c, p. 34).

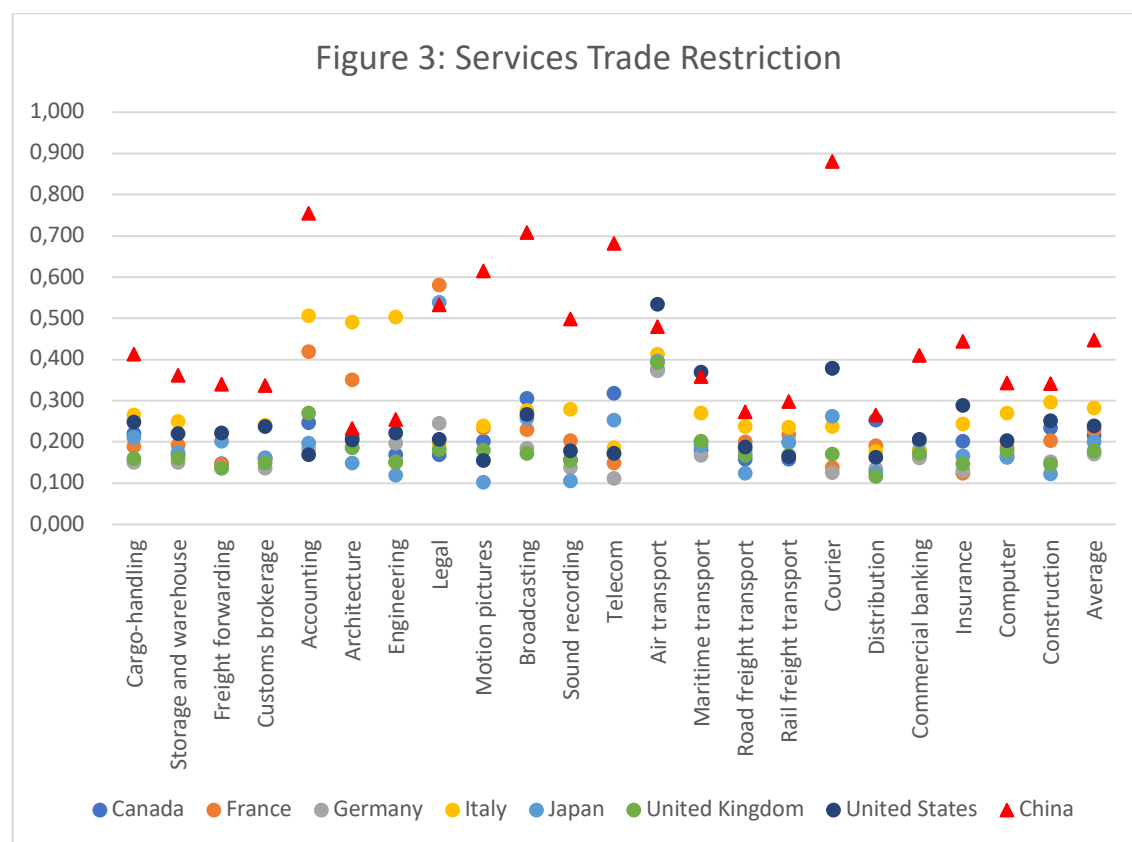
Hence, for any given service, the trade in that service may be limited in terms of market access and/or national treatment subject to each of the four modes of supply (VanGrasstek, 2013, pp. 326–327).

According to the World Bank “(...) the empirical analysis of services trade policy is still in its infancy.” (n.d.-d). Analysing countries’ restrictions to trade in services is indeed far more complicated than analysing restrictiveness to trade in goods as restrictions in the case of the former derive from a vast pool of laws and regulations while they in the case of the latter predominately derive from numerical tariff rates (VanGrasstek, 2013, p. 328). Similarly, it is difficult to make a comparative analysis of the extensiveness of countries’ commitments. However, one way of comparing the extensiveness of countries’ commitments in regards to services is to simply compare the number of service sectors in which countries have commitments. Developed countries have commitments in 110 of the 160 GATS service categories on average while developing countries have commitments in 48 sectors on average. The G7 countries have commitments in 112 sectors while China has commitments in 93 sectors (see Table 4, Appendix 2).⁸ Thus, the number of service sectors that China has committed to liberalise are far beyond the average developing country but lower than both the average developed country as well as the G7 countries.

The OECD has since 2014 undertaken the extensive exercise of quantifying trade restrictions in the area of services based on laws and regulations in force (OECD, n.d.-b). Trade in services has been broken down into 22 sectors in which restrictiveness is measured. Analysing the data for the eight countries of concern in year 2018 shows that China is the most restrictive in 17 of the 22 sectors (see Figure 3 and corresponding Table 5, Appendix 2). The difference between China and the G7 is quite substantial. With an average score of 0,282, Italy is the most restrictive country of the G7. In comparison, China has an average score of no less than 0,446. The G7 countries generally presents a “cluster” from which

⁸ In a recent report by The State Council Information Office of the People’s Republic of China (2018), it is stated that China has committed 100 sectors. Similarly, Changhong & Hongmiao (2015) write that China has committed 100 sectors. Ying (2014, p. 253), like Salidjanova (2015, p. 21), writes that China has committed 93 sectors. The conclusions remain the same regardless of which number is used.

China significantly deviates. Thus, China is far more restrictive (less liberal) in regards to trade in services than the G7 with the latter presenting a coherent, more liberal group.



The restrictions to trade in services are broken up into five categories: 1) Restrictions to foreign entry (related to mode 3); 2) Restrictions to movement of people (related to mode 4); 3) Other discriminatory measures; 4) Barriers to competition; and 5) Regulatory transparency. Comparing China to the G7 in terms of the average prevalence of each type of restriction across all sectors (see Figure 4 and corresponding Table 6, Appendix 2), it is clear that restrictions to foreign entry is the most common way that the eight countries restrict trade in services. However, it is also clear that it is in this indicator and within “barriers to competition” that China diverges from the G7 the most. The difference between China and the average for the G7 within restrictions to foreign entry is 211% and 133% within barriers to competition (see Table 6, Appendix 2). The predominance of the use of restrictions to foreign investment and barriers to competition as a tool to restrict trade in service (rather than restrictions to movement of people and regulatory transparency) strengthens the argument that China strategically shields domestic actors from competition as also highlighted in the accounts of China’s economic model (see section 3.2.). As such, we would expect this divergence to translate into international trade negotiations and, as a

result, that the preference heterogeneity will be particularly acute in regards to negotiations on foreign entry.



5.3. Intellectual Property Rights

Unlike in GATT and GATS, WTO members do not undertake country specific commitments/concessions subject to the TRIPS agreement and IPR. Rather, TRIPS sets minimum levels of protection that governments must extend to the intellectual property of other WTO members (World Trade Organization, 2015c, pp. 24, 39). While Chinese laws extend the minimum terms of protection for the different types of IPR required by TRIPS (Trade Policy Review Body, 2018, p. 97), the issue of enforcement of IPR in China has been contentious ever since China's accession to the WTO. In fact, 55 out of 343 paragraphs in the Working Party Report on China's WTO accession concern China's commitments under TRIPS (Thomas, 2007, p. 100). At China's latest TPR in 2018, the WTO Secretariat concluded on the issue of the IPR that "[e]nforcement of IPRs continues to be a major challenge for China." (Trade Policy Review Body, 2018, p. 106), albeit the secretariat acknowledged that China has continued to strengthen IPR enforcement (Ibid).

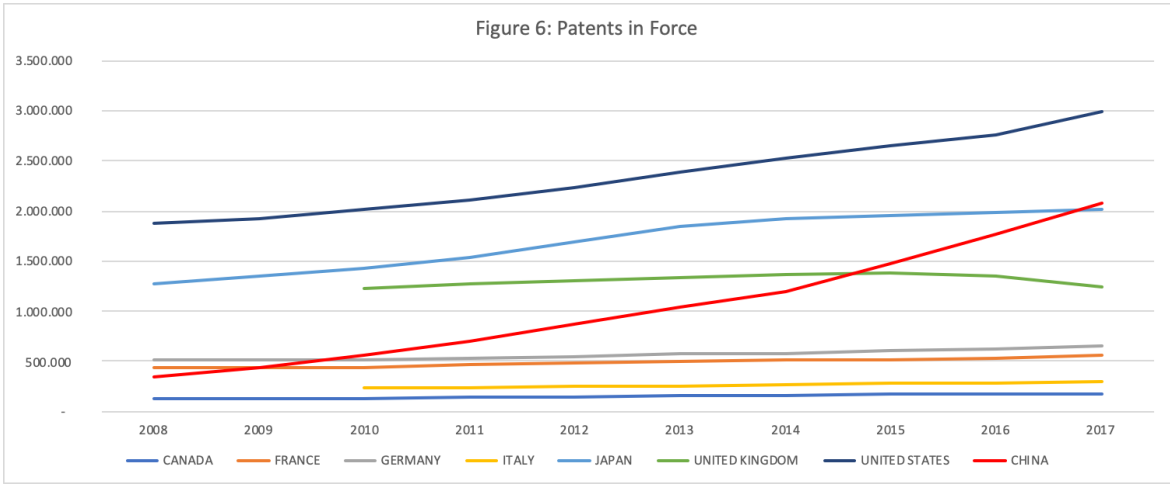
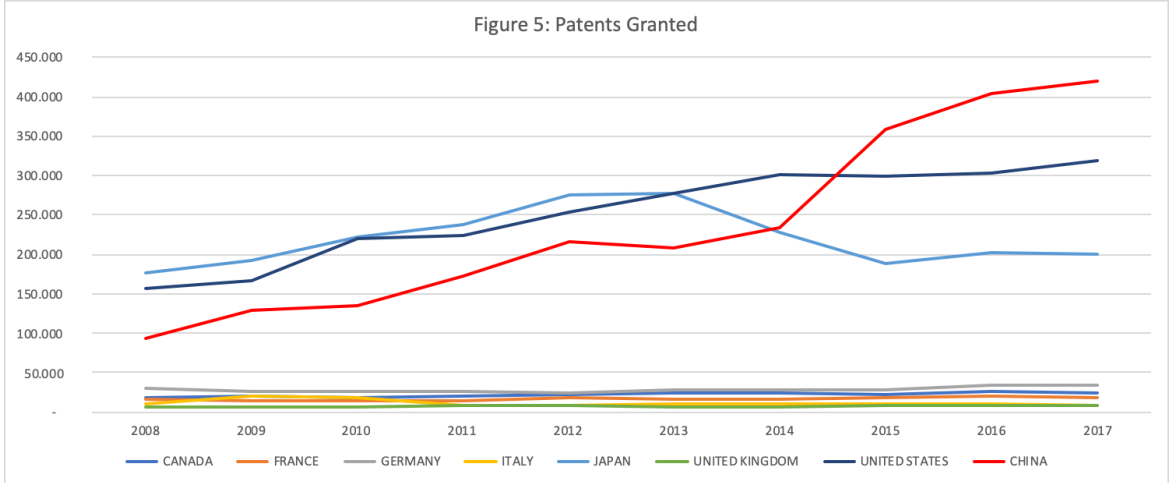
"The National Medium and Long-Term Plan for the Development of Science and Technology" (MLP) was presented by the Chinese Ministry of Science and Technology in 2006 (Yue, 2018, pp. 289–290) and has been the backbone of Chinese innovation policy since then – now supplemented by the "Made in China 2025". The overall aim of the strategy was to build China into an innovative state by 2020. The MLP involved significant state sponsorship of "indigenous innovation" of domestic firms, particularly SOEs (Yue,

2018, p. 290) and defined indigenous innovation as “enhancing original innovation through co-innovation and re-innovation based on assimilation of imported technologies.” (quoted in McGregor, 2010, p. 4). Similarly, the MLP emphasized the importance of “(...) strengthening the absorptive capacity of domestic enterprises through international cooperation.” (Yue, 2018, p. 291). In 2010, the MLP was operationalized further as seven “strategic emerging industries” were identified as being crucial for China to develop capabilities in for China to be able to compete with developed countries in the area of technology and innovation (S. Kennedy, 2010). It is clear that indigenous innovation does not imply a self-reliant approach to innovation, but is rather a state-led approach premised upon the transfer, development and absorption of technologies of foreign companies through “modes of cooperation”. In this regard, China leverages the attractiveness to foreign companies of China’s market by virtue of its sheer size whereby market access becomes conditioned on technological transfer.

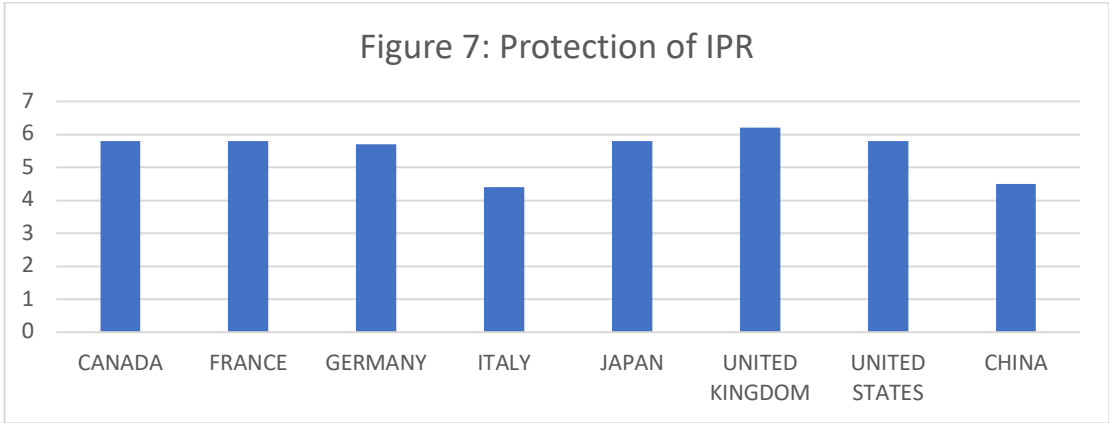
Technological transfer is facilitated through a multitude of tools and incentives. For example, companies gain a significant tax incentive provided that at least 60% of research and development expenditures are carried out in China and that a Chinese company holds the IPR or an exclusive license (European Commission, 2018, p. 9). Similarly, while China’s research and development expenditure as a percentage of GDP has increased considerably (World Bank, n.d.-c), the receipt of public research funds is often premised on a Chinese actor – or even the Chinese government – acquiring the IPRs derived from the research (European Commission, 2018, p. 9; OECD, 2008, p. 108). In parallel, domestic products have priority over foreign products in public procurement and if the product cannot be acquired domestically, priority is given to those foreign companies that are willing to transfer the technology to a Chinese company (Liu & Liu, 2009, pp. 153–154; OECD, 2008, p. 108). Requirements to the transfer of technology may also be stipulated in regulations concerning FDI. Such tools and incentives are particularly prevalent in sectors designated by the state as being of strategic interest.

The number of patents granted in China has been steadily increasing. Comparing China to the G7 shows that China surpassed Japan in number of granted patents in 2014 and surpassed the US in 2015 (see Figure 5 and corresponding Table 7, Appendix 3). Nevertheless, China only surpassed Japan in number of patents in force in 2017 and is yet

to surpass the US (see Figure 6 and corresponding Table 8, Appendix 3) although the margin has significantly decreased. At face value, the trend indicates an increased importance of intellectual property in China but it says little about the extent to which IPRs are actually enforced or the quality of the IPRs. Patents granted in China belong to residents to a far greater extent in China than what is the case in the US (see Table 9, Appendix 3). High-profile government initiatives such as at the MLP and Made in China 2025 seek to upgrade key domestic industries to enable them to compete with developed countries in areas of technology and innovation (S. Kennedy, 2015). Hence, the high marginal growth in the number of patents in force and patents granted as well as the considerable share of resident patents are likely to reflect the results of China’s state-led approach innovation policy where China seeks to strengthen the capabilities of domestic industries while forcefully acquiring foreign intellectual property.



The World Economic Forum’s index on intellectual property protection for year 2016-2017 shows that China ranks lower than all of the G7 countries except for Italy (see Figure 7 and corresponding Table 10, Appendix 3) although the difference is somewhat limited. The limited difference between China and the G7 is surprising when taking China’s practice of forced technology transfer into account. Moreover, it contrasts with the dismal accounts of the enforcement of IPRs in China given by both the theoretical framework as well as the WTO Secretariat, the EU and the US (see European Commission, 2018; Trade Policy Review Body, 2018, p. 106; United States Trade Representative, 2019). The explanation for why China’s weak protection of IPR does not translate into the statistics by the World Economic Forum may be that the data is compiled by asking people the following question: “In your country, to what extent is intellectual property protected?” (see World Economic Forum, 2017). Having measured the protection of IPR in China on the basis of the opinions of Chinese residents, the data may reflect that Chinese IPR holders experience that their intellectual properties are in fact protected while the same is not the case for foreign IPR holders. This would be congruent with China’s innovation policy as described above in terms of China strategically moving domestic industries to the forefront of the technological frontier while violating the IPRs of foreigners in an attempt to acquire their technologies.



It is clear from the preceding that China’s strategic goal of moving up the value chain – from a manufactural hub to a technological leader – is premised on the transfer of foreign technologies and innovations. This practice is partly enabled by the weak enforcement of IPRs and is part of a bargain whereby foreign companies gain access to the attractive Chinese market in return for the transfer of their technologies. The development and acquisition of IPR is highly state-led in nature as it is effectively the Chinese state designating certain sectors for technological upgrading and providing the regulatory

framework for technology transfers. In this sense, national development takes primacy. This approach to innovation and IPR contrasts to the market and contractual-led approach of developed countries and should inevitably cause frictions between developed countries trying to protect their IPR and China attempting to acquire it through forced technology transfers. TRIPS is generally regarded as having been a successful attempt of developed countries (led by the US, EU and Japan) to protect their IPR by addressing the weak protection of IPR in developing countries by setting international standards based on a market-economy approach to the transfer of innovation (see Hein & Moon, 2013; Sell, 1999, 2000, 2003). Thus, China's innovation policy seems to conflict with the principles enshrined in TRIPS and the preferences of the G7.

5.4. Interim Conclusion

A synchronic comparative analysis has been undertaken in the preceding between China and the G7 to comprehend China's compatibility with the WTO conceptualized in terms of trade in goods, trade in services and IPR. The analysis found that China's commitments in regards to trade in goods (bound tariffs and tariff coverage) and trade in services (committed sectors) far exceed those of other countries classified as developing in the WTO which implies that China has committed to operating in the more liberal end of the spectrum. However, when looking at implemented policies and restrictions to trade in goods and services, the divergence between China and the G7 widens as China is found to be considerably more restrictive (less liberal) than the G7. Generally, the G7 had somewhat similar scores in the quantitative indexes that were used in the analysis of trade in goods and trade in services which implies that the G7 countries have similar, more liberal trade regimes from which China diverges. In the case of IPR, China was found to pursue a state-led approach to innovation based on the transfer of foreign technologies and enabled by the weak enforcement of IPR which differs fundamentally from the contractual and market-led approach of the G7.

It was found that the playing field is tilted in favour of China's domestic companies to the detriment of foreign companies and that the Chinese state plays a paramount role in this regard by creating a regulatory framework favouring Chinese actors and state interests as well as by not being shy of state intervention – whereby national development takes primacy. With the WTO as a liberal project aiming to reduce barriers to trade and as a

project built on the principles of market forces, non-intervention and non-discrimination (see section 4.1.5.), China's trade regime conflicts with the core principles of the WTO. The difference in the trade policies of China and the G7 naturally causes divergence among the states in regards to their preferences over multilateral trading rules. This thesis takes an approach where states are assumed to try to minimize compliance costs and externalize their domestic structures when engaging in international negotiations. Therefore, China can – as a country that has been found to be comparatively more restrictive towards trade and more reliant on non-market forces as a coordinating mechanism – be assumed to oppose liberalisation efforts in the WTO that would disrupt China's fundamental coordinating mechanism in which the state is crucial.

A few critical reflections are warranted. In performing a synchronic rather than a diachronic analysis, the analysis only provides a snapshot image of China's compatibility and therefore does not capture the development in China's trade policies. It is generally acknowledged that China has undertaken a gradual liberalisation of its trade regime thereby improving compatibility. Finally, it is worth noting that while the thesis does not dedicate explicit attention to the issue of FDI and SOEs as neither are regulated by individual WTO agreements, both issues were found to be among the explanatory factors for why China's trade regime is considerably more restrictive than that of the G7.

6. DISPUTE SETTLEMENT

The DSM is often heralded as the crown jewel of the WTO and its importance has been accentuated by the absence of results from the WTO's rule-making function in the DDA. The DSM is considered unique for its relative absence of power dynamics and its rules-based nature which is often highlighted by the fact that the US has lost roughly as many cases as it has won: By 2015, the US had won the core issues of 58% of all cases brought by it while the US had lost the core issues of 59% of all cases brought against it (see Table 11, Appendix 4). Thus, the US is not in a privileged position which is unlike most other mechanisms established in the area of international law and politics. Moreover, contrary to many international institutions, the DSM has a well-functioning sanctioning mechanism that effectively discourages noncompliance: It follows from Art. 22 of the DSU that if a country fails to bring a measure found to be inconsistent with WTO agreements into compliance, the prevailing member – upon authorization by the DSB – may suspend concessions or other obligations to that member (e.g. disregard the MFN-principle and raise tariffs on imports from that member).

The purpose of the present chapter is dual: On one hand, the chapter seeks to shed further light on the issue of compatibility by identifying key features of the disputes in which China has been involved. On the other hand, the chapter analyses how China engages with the DSM in order to determine whether China is a constructive or a destructive member of the WTO. To both of these ends, the present author has developed quantitative data on China's participation in the DSM based on qualitative information from the WTO's database of disputes (see World Trade Organization, n.d.-c). The disputes included cover the period of 11 December 2001 (China's date of accession) to 31 December 2018 and are included provided that they are recorded in the WTO's database. This implies that they are included irrespective of which stage they have reached in the dispute settlement process. The analysis will proceed in four parts: Firstly, the analysis will look at China's participation in the DSM over time. Secondly, the paper will look at disputes by WTO members. Thirdly, the disputes filed against China will be discerned into agreements cited in which particular attention is devoted to the China Protocol. Finally, the chapter offers an interim conclusion.

6.1. Over Time

China's participation as a principal party (i.e. as either respondent or complainant) in dispute settlement was limited during China's first five years of membership (see Table 12, Appendix 4). Until 2006, China had only filed a single case which was against the US in 2002 (DS252) and had only been a respondent to one case which was brought by the US in 2004 (DS309).⁹ After 2006, China's participation as a principal party became more frequent. The low amount of cases filed against China in the beginning reflects a policy of restraint on the part of other WTO members during China's initial years of membership and indicates some patience towards China bringing its regulations into compliance with the legal framework of the WTO. Moreover, the annual transitional review established in the China Protocol for the first eight years of China's membership (see section 4.2.2.) provided a forum in which to address compliance issues before bringing them to the DSB. The end of transitional periods of certain accession commitments (see section 4.2.2.) as well as the increase in China's share of world trade and growing trade surpluses with the US and the EU during these years (World Trade Organization, 2005) are likely to have contributed to the end of restraint.

China's lack of engagement as a complaining party during the first years of membership signifies a limited capacity in regards to international litigation. Until accession to the WTO, China had largely resisted submitting disputes to international arbitration and China, therefore, had limited experience with judicial resolution of international conflicts (M. Kennedy, 2012, p. 574; Manjiao, 2012, pp. 37–38). Accession to the WTO has for most members been characterized by a learning curve in terms of building capacity within dispute settlement: "(...) high start up costs make initial use of the system difficult, but these costs decrease with experience. Once a country has made initial investment it can reap the benefits of lower costs in subsequent cases (...)." (Davis & Bermeo, 2009, p. 1047). Looking at China's participation in the DSM as a third party (see Table 13, Appendix 4) indicates that China has made this investment by being active as a third party from the very early years of membership. A WTO member may become a third party to a dispute provided that it has a

⁹ Dispute cases filed in the WTO are given an identifying code consisting of "DS" (dispute settlement) and a number that is given on a chronological basis. Thus, DS309 is the 309th case filed in the WTO. All cases can be found in the WTO's dispute settlement gateway (see World Trade Organization, n.d.-c)

“substantial interest in a matter before a panel” (DSU, Art. 10.2.) which gives the member access to the panel proceedings and the opportunity “(...) to be heard by the panel and make written submissions to the panel.” (DSU, Art. 10.2). Hence, China’s active participation as a third party in the early years shows an attempt to gain experience with the DSM before engaging actively as a principal party.

China’s participation in the DSM as a principal party has increased significantly since 2006 and China has become one of the most frequently targeted countries as well as one of the most frequent complainants (World Trade Organization, n.d.-b). As China has become one of the largest trading partners in the world (World Trade Organization, 2019b), it is perhaps not surprising that China increasingly figures as a party to trade disputes. Nevertheless, it was not given that China necessarily would accept the jurisdiction of the WTO over matters pertaining to China’s domestic regulatory framework which was indeed a fear articulated prior to China’s accession on the basis of its track record within international litigation (Manjiao, 2012, p. 37). China’s active participation is indicative of not only an acceptance of recourse to the DSM but also that China – as a respondent – proactively takes advantage of the international judicial mechanism that is the DSM to advance own trade interests. In so doing, China has reinforced the legitimacy of the DSM and has become increasingly invested in the maintenance of this institutional mechanism.

6.2. By WTO Members

The first case filed against China (DS252) and the first case filed by China (DS309) were cases of disputes between China and the US. This is a scenario that have repeated itself. In fact, looking at disputes involving China across WTO members (Table 14, Appendix 4) shows that China has exclusively targeted the US (15 disputes) and the EU (5 disputes). Looking at China as the respondent shows a slightly more diverse picture. China has been targeted by seven different WTO members but these disputes are dominated by the US (23 disputes) and to a lesser extent the EU (9 disputes). When delving further into the cases filed against China it becomes clear that some of the cases filed by developing countries have been instances of them acting as followers of the US. In *China – Certain Measures Granting Refunds, Reductions or Exemptions from Taxes and Other Payments* (DS358/359) the US submitted a dispute on 19 December 2007 while Mexico submitted an identical dispute on 7 February 2008. In *China – Grants, Loans and Other Incentives* (DS387/388/390) the US

and Mexico submitted identical disputes on 19 December 2008 while Guatemala filed an identical dispute on 19 January 2009. In *China – Measures Related to the Exportation of Various Raw Materials* (DS394/395/398) the US and the EU submitted identical disputes on 23 June 2009 while Mexico filed an identical dispute on 21 August 2009. Hence, trade disputes between the US and China – when the US is the complaining party – are not only played out between the US and China, but between the US and its followers, on the hand, and China on the other.

Coalitions between complainants do indeed seem to be a key feature of disputes in which China is the respondent party and coalitions between the Quad countries have dominated in this regard. In DS339/340/342 as well as in DS372/373/378 the EU, Canada and the US filed identical disputes against China. In DS431/432/433 it was the EU, the US and Japan filing similar disputes. In DS454/460 it was the EU and Japan and in DS508/509 as well as DS542/549 it was the EU and the US filing similar disputes. The reader is once again reminded that the Quad group is the WTO's way of gathering the G7 countries. As such, this signifies that the established powers and particularly the EU and the US have allied to address joint concerns over China's compliance with WTO agreements. However, the coalitions formed between the established powers in filing disputes against China are still remarkable. The high concentration of disputes between China and the established powers and particularly the US lends support to those authors emphasizing systemic frictions and hegemonic conflict (see chapter 3). However, a crucial caveat to offer in this regard is that such frictions and conflicts are submitted to resolution at the hands of an international judicial mechanism that is considered rules-based, equitable and absent of power dynamics.

6.3. By Agreement and Topic

When filing disputes in the WTO, the complaining party has to cite the WTO agreements that the concerned measure is believed to be inconsistent with (VanGrasstek, 2013, p. 238). Thus, looking at what agreements are cited in the cases in which China is the respondent is an indicator of the areas where China's trade policy causes the most frictions with the legal framework of the WTO. Table 15, Appendix 4 lists the agreements cited and the number of times each agreement is cited for the 43 disputes in which China has been a respondent. Moreover, the table compares these figures to the quotations of agreements in all disputes involving the remaining membership of the WTO (i.e. excluding China as a principal party)

in order to capture the extent to which China's trade frictions differ from those of other WTO members. Table 16, Appendix 4 takes the same approach but for cases in which China is the complainant. One might argue that cases in which China is the complaining party say little about how China's trade policy causes frictions with the WTO as such cases concerns other WTO member's trade policy measures. However, other WTO members' measures may shed light on China's trade frictions insofar as they are measures targeted China and adopted in response to Chinese policies (e.g. anti-dumping measures).

GATT is the agreement that has been cited the most in cases where China is the respondent (33 out of 43 disputes or 76.7%) which means that trade in goods is the area in which China's trade policy causes the most frictions with other WTO members (see Table 15, Appendix 4). The predominance of trade frictions in trade in goods is perhaps not surprising as GATT has been cited in 92.2% of all disputes involving the remaining membership of the WTO in the period concerned, which is likely to reflect the importance of trade in goods as well as countries' extensive commitments under GATT. As such, relative to the average WTO member, a *lower* share of the disputes in which China is the respondent actually concerns trade in goods. The greatest divergence between China and the remaining membership is found in citations of GATS and TRIPS. While GATS is cited in 14% of the cases involving China as the respondent party, the corresponding figure for the remaining membership is only 3.3%. Similarly, TRIPS is cited in 9.3% of cases involving China and only in 4.5% of cases involving the remaining membership. This indicates that China's trade policy causes trade frictions considerably more often in the area of trade in services and IPR relative to other WTO members.

The Agreement on Subsidies and Countervailing Measures (SCM Agreement) is cited in 16 out of the 43 disputes involving China as the respondent. It is thereby not only the WTO agreement that is cited second-most (disregarding the China Protocol) but it is also heavily overrepresented compared to the remaining membership (37.2% of disputes involving China as the respondent and 21.6% of disputes involving the remaining membership). The SCM Agreement regulates the use of subsidies as well as countervailing measures (duties offsetting the effect of subsidies).¹⁰ However, in the case of China, the SCM Agreement has

¹⁰ See footnote 3 a description of trade remedies

primarily been invoked by other WTO members to address issues of subsidies in China rather than countervailing measures (13 out of 16 quotations of the SCM Agreement concerned subsidies rather than countervailing measures).¹¹ These disputes have concerned financial incentives discriminating between domestic and foreign companies such as favourable loans by state-owned banks, tax incentives and monetary grants and refunds by public bodies. Chinese SOEs have played a particularly important role in these disputes by virtue of their role as recipients of preferential support. China's use of subsidies is congruent with China's state-led approach to capitalism as it reflects the role of preferential state support in the Chinese economy. The overrepresentation of disputes on China's use of subsidies is, therefore, testament to the conflict between China's state capitalism and the liberal variety of capitalism embedded in the WTO.

6.3.1. The China Protocol and China's Non-Market Economy Status

The agreement cited the second-most in disputes involving China as the respondent is the China Protocol (26 out of 43 disputes or 60.5%). The importance of the China Protocol is considerably more striking than GATT as the China Protocol is specific to China's membership of the WTO. The China Protocol includes a number of WTO-minus and WTO-plus provisions that effectively deprives China of certain rights under WTO agreements and extends China's obligations on the basis of China's NME status (see section 4.2.2.). The frequency of the citations of the China Protocol is testament to the implications that the protocol has had for China's membership of the WTO as it widens the legal framework that China must comply with and, in turn, the legal framework that can be invoked to support claims of China's non-compliance. It was argued previously in this thesis that the China Protocol included provisions committing China to transition towards a market economy to thereby improve compatibility and provisions that could be invoked to balance potential effects of a lack of compatibility (see section 4.2.2.). Thus, the frequency of the quotations of the China Protocol in disputes involving China as the respondent reflects that China has not fully transitioned to a market economy which would ensure full compatibility with the WTO and that WTO members actively have taken advantage of the provisions in the China Protocol to address issues of non-compliance and lack of compatibility.

¹¹ See DS339/340/342/358/359/387/388/390/419/450/451/489/519

The China Protocol also sheds light on key tendencies within cases involving China as a complaining party (see Table 16, Appendix 4). Looking at cases with China as the complainant shows that all three agreements on trade remedies – i.e. the SCM Agreement, the Anti-Dumping Agreement and the Agreement on Safeguards – are frequently cited in disputes involving China as a principal party (see Table 16, Appendix 4).¹² Section 16 of the China Protocol established a transitional product-specific safeguard mechanism that softened the conditions under which member states could apply safeguard measures against China. Section 15 of the protocol recognized China as an NME and, on this basis, authorized member states to determine the existence of Chinese dumping/subsidies and calculate the size of anti-dumping/countervailing measures on the basis of a “surrogate price” in a market-economy third country (see section 4.2.2.). Due to the trade distorting effects of the Chinese state’s intervention in the economy, such a methodology causes other members to find a higher normal value and thereby makes it easier to reach a positive determination of dumping/subsidies and arrive at higher values for anti-dumping/countervailing measures than if the methodology was based on prices in China (Gao, 2007, p. 55; M. Kennedy, 2012, p. 567).

All three agreements on trade remedies are overrepresented in disputes involving China as the complainant compared to the remaining membership, particularly the Anti-Dumping Agreement (see Table 16, Appendix 4). The 18 citations of the three agreements relate to 15 different disputes out of 20 and thus the great majority of China’s complaints have concerned trade remedies (World Trade Organization, n.d.-c). China has in these cases challenged other member’s discriminatory treatment (i.e. trade remedies) of imports that are specifically of Chinese origin and many of these cases have – directly and indirectly – related to Section 15 and Section 16 of the China Protocol.¹³ The implications of this are three-fold: Firstly, it implies that China is a frequent practitioner of subsidies and dumping and that other WTO members have used trade remedies to balance out the trade distorting effects of this practice. This seems to confirm the role of non-market forces in determining prices in China and that this practice is at the centre of the conflict between China’s state capitalism and the liberal variety of capitalism embedded in the WTO. Secondly, it implies

¹² See footnote 3 for a description of the three agreements

¹³ See disputes DS368/379/397/399/405/437/515/516

that WTO members have justified the use of trade remedies towards China by invoking Section 15 and 16 of the China Protocol, i.e. China's NME status. As such, the use of trade remedies is seen as a way of balancing out the trade distorting effects of China's state-led approach to capitalism. Thirdly, it signifies that China's recourse to the DSM is dominated by cases in which China disputes the legality of trade remedies applied specifically against China.

While the transitional product-specific safeguard mechanism (Section 16) expired in 2012, the expiration of Section 15 is highly contested. Section 15(d) reads: "In any event, the provisions of subparagraph (a)(ii) shall expire 15 years after the date of accession." (World Trade Organization, 2001). Subparagraph (a)(ii) concerns the methodology that allows WTO members to base anti-dumping measures on a surrogate price due to China's NME status. On this basis, China has argued that the country should have automatically gained market-economy status (MES) on 11 December 2016 (i.e. 15 years after the date of accession) whereby WTO members would no longer be able to base their anti-dumping measures on a surrogate price (Zhou, 2017). Other countries – particularly the US and the EU – argue that market economy conditions do not prevail in China to an extent that justifies granting China MES (Zhang, 2018b). In response, China filed disputes against the EU and the US on 12 December 2016 concerning their price comparison methodologies in anti-dumping proceedings, i.e. the very day after the 15-year deadline.¹⁴ Implicitly in the US and EU refusal to grant China MES lies the argument that China has failed to live up to its WTO-plus commitments in the China Protocol such as those on market reform and liberalisation to an extent that warrants an expiration of China's WTO-minus commitments. At the time of writing, the panel is yet to deliver its report.

The NME status and the associated methodology is seen as a necessary measure by the EU and US to address the trade distorting effects of the pervasive role of the Chinese state in the Chinese economy. As written in a statement by the EU: "The EU's ability to level the playing field for its own industrial products and imports from China depends on its ability to offset low prices of 'dumped' Chinese imports; the antidumping instruments the Union deploys to this end depends on China's MES." (Barone, 2015). The case serves to highlight

¹⁴ See DS515/516

the trade frictions arising between China's state-led variety of capitalism and the more liberal variety of capitalism pursued by the established powers. Indeed, the dispute pertains to whether China is sufficiently compatible with the liberal principles of the WTO to be granted equal membership. The China Protocol – and particularly the NME status – has served as a tool for other countries to address such issues of incompatibility by enabling other WTO members to discriminate against imports from China. It is once again important to note that the conflict has been submitted as a dispute in the WTO which strengthens the argument that China proactively takes advantage of the rules-based judicial mechanism that is DSM to advance its trade interests and that trade conflicts between China and the established powers pertaining to a relative lack of Chinese compatibility plays out within this mechanism.

6.4. Compliance with Rulings

A key question to ask when trying to understand how China engages with the DSM must be to what extent China complies with adverse WTO rulings. The party facing an adverse ruling by the panel and/or the appellate body must bring the concerned measure into compliance with the relevant WTO agreements. Where there is disagreement as to whether the losing member has implemented the recommendations and rulings of the panel and/or the appellate body, the prevailing party may initiate compliance proceedings against that member. If the losing party simply refuses to bring the concerned measure into compliance within a reasonable period of time, the prevailing member may seek authorization from the DSB to suspend concessions or other obligations to that member. Such authorization is granted on the basis of “negative consensus” which implies that the membership of the WTO/DSB must be unanimous in rejecting the request, including the responding party. As such, requests for authorization are always granted (World Trade Organization, n.d.-g).

It follows from the above – and as suggested by Reich (2017) – that compliance proceedings and the suspension of concessions are a clear indicator of the extent to which a WTO member comply with adverse rulings by the DSB. Of the 43 disputes that had China as a respondent, 15 were settled/terminated, 7 are still in process at the time of writing and for 2 of the cases the period of reasonable time to implement the findings of the panel/appellate body has not yet expired (see Table 17, Appendix 4). The remaining 19 disputes all resulted in findings that required some action on the part of China and all 19 disputes could,

therefore, potentially be cases of non-compliance. 16 of these cases resulted in China implementing the findings of the panel or appellate body without the prevailing WTO member initiating compliance proceedings. In two cases (DS414 and DS427), the US initiated compliance proceedings that resulted in findings of Chinese non-compliance with the original panel/appellate body ruling after which China brought the measures into compliance. In one case (DS483 filed by Canada), compliance proceedings are in process at the time of writing. Thus, China's track-record in terms of complying with DSB rulings is imperfect, but it is worth noting that China brought its measures into compliance after the two findings of non-compliance and that no WTO member has ever requested authorization to suspend concessions against China.

Comparing China to the remaining membership of the WTO shows that China is far from the biggest sinner. The US, followed by the EU, make up the largest shares of compliance/retaliation proceedings and for both countries – and particularly for the US – these shares are disproportionate to their shares of world trade as well as WTO disputes (Reich, 2017). Two compliance proceedings against the US resulted in findings of non-compliance, one proceeding is in process and authorization to retaliate against the US due to blatant non-compliance has been requested in no less than five cases and granted in six cases (World Trade Organization, n.d.-a). The disproportionate share of the US in WTO compliance proceedings is congruent with the realist argument that the most powerful states – and particularly the hegemon – only comply with international law insofar as it does not conflict with self-interests (see section 3.1.). From this perspective, it may be considered striking that China – in spite of being a state-led rising power – to a large extent has decided to comply with rulings of an international judicial mechanism whose jurisprudence builds on a liberal-economic legal framework rather than act as a challenger. Indeed, China's history of compliance confirms the conclusion that China has acted as a system-maintainer rather than a contestator in the context of the DSM.

6.5. Interim Conclusion

The present chapter of the thesis sought to shed further light on China's compatibility with the WTO and how China engages with the WTO. The DSM served as a fruitful avenue to address these two questions as the disputes involving China both help understand trade frictions involving China and whether China engages constructively in one of the

mechanisms that is the most fundamental to the WTO. The chapter found that China has become one of the most frequently targeted countries in the WTO but also one of the most frequent complainants. As such, trade frictions between China and the WTO legal framework have indeed been frequent. The thesis found that these disputes have been dominated by the US, the EU and a coalition of the Quad countries which confirms the conclusion of chapter 5 that the liberal-market economy of the established powers is in a conflictual relationship with China's state-led variety of capitalism in regards to trade policy and the WTO. By analysing the nature of the disputes, the thesis found that this conflictual relationship primarily concerns the role of non-market forces in determining prices in China (preferential state support, subsidies and dumping) which is a defining characteristic of China's state capitalism. Moreover, it was argued that the China Protocol – and particularly China's NME status – has provided WTO members an effective tool to address such issues and that the dispute over China's NME status is testament to aforementioned conflict.

Having found further validation for the argument that China's trade policy – as derived from state capitalism – is in a conflictual relationship with the liberal market economy of the established powers and the liberal variety of capitalism embedded in the WTO, the thesis provided further nuance to this argument. The thesis argued that China has proactively taken advantage of the rules-based judicial mechanism that is DSM to advance China's own trade interest and that China has accepted resource to the DSM in settling international trade disputes. In so doing, China has reinforced the legitimacy of the DSM and has become invested in the maintenance of this institutional mechanism. This argument is further strengthened by looking at China's track record of compliance in adverse DSB rulings which shows that China overwhelmingly complies in spite of the rulings being based on a legal framework that codifies liberal-market principles. Moreover, while a conflict between varieties of capitalism is played out between China and the established powers, the conflict is repeatedly submitted for resolution within the DSM. In conclusion, the conflict between China and the WTO is played out *within* the WTO and China seems to act as system-maintainer rather than a contesteer. This implies that while there is a conflict between China's state-capitalism and the liberal variety of capitalism embedded in the WTO, China does not attempt to overturn the WTO. This lends support for the argument that China is a *within-system challenger*.

7. CHINA IN TRADE NEGOTIATIONS

Recalling that China's trade regime is comparatively less liberal than the trade regimes of the G7 and building on the assumption that states' positions in international negotiations reflect their domestic structures (as found and stated in chapter 5), we would expect China to have promoted comparatively less liberal positions than the G7 in international trade negotiations. There is also reason to assume that China would be particularly opposed to issues that may threaten to disrupt China's domestic institutional complementarities and the country's fundamental coordinating mechanism. This chapter once again takes a dual approach in shedding light upon both China's compatibility and engagement with the WTO in an effort to understand the implications of China's rise for the WTO. The chapter considers trade negotiations carried out within the WTO as well as trade negotiations conducted outside the WTO. The latter are considered as they contribute to the conclusions on how China positions herself in regards to the trade liberalisation project that is at the core of the WTO. The chapter first considers multilateral trade negotiations before proceeding to non-multilateral trade negotiations.

7.1. Multilateral Trade Negotiations

The progress of multilateral trade negotiations has been meagre since the establishment of the WTO. The DDA is the only launched trade round in the context of the WTO and the TFA is the only multilateral agreement successfully concluded under the auspices of the WTO (see section 4.1.3.). The following section analyses China in the context of these two cases.

7.1.1. Doha Development Agenda

The DDA was launched shortly after China's accession to the WTO and is the first case of China engaging in WTO negotiations beyond those concerning China's accession. Stephen & Parizek (2018) have coded statements by the trade ministers of the G7 and the BICS delivered in the context of the DDA in the period from 1996 to 2011 and on this basis quantified the WTO members' support for trade liberalisation on a scale from 0-4. A drawback of this method is that it captures average positions that allow for carrying out a synchronic analysis and thereby fail to capture changes in positions over time as would be the case in a diachronic analysis – a weakness that also characterizes the present author's

analysis in chapter 5. Looking at overall support for trade liberalisation (see Figure 1, Appendix 5), China was the second-least supportive of trade liberalisation among the 11 major powers. However, it is worth noting that the difference is not overwhelming. The average value of the G7 is 2.8 while the value for China is 2.0. Hence, China was far from entirely opposed to further liberalisation and the countries did indeed think that they had something to gain from the liberalisation agenda.

Looking at support for liberalisation across negotiation areas shows that the limited difference in overall support for liberalisation is a result of differences across negotiation areas partly averaging out (see Figure 2, Appendix 5). The BICS are found to be more opposed to liberalisation than the G7 in the areas of industrial goods and services but less opposed to liberalisation in the area of agriculture. This is congruent with qualitative accounts of the DDA that emphasizes how developing countries were the ones pushing for reductions in agricultural tariffs and subsidies (Bertelsmann-Scott et al., 2018). Thus, while overall support for liberalisation did not diverge significantly, preferences diverged across sectoral lines. Indeed, the failure of the DDA and the general stalemate in multilateral trade negotiations are widely attributed to an increase in interest heterogeneity caused by China's accession in 2001, Russia's accession in 2012 as well as the fact that other rising powers have increasingly started to exert influence (Parízek & Stephen, 2017; Stephen, 2014, 2017). This offers an importance nuance to this thesis, namely that countries adopt offensive and defensive positions within different sectors in an attempt to protect and extend their competitive and comparative advantages in trade negotiations. As such, simply describing a country as "liberal" in regards to trade may be considered a simplification as support for liberalisation rather is issue specific. This is also congruent with the analysis in section 5.1. in which it was found that China has lower average weighted tariffs on agricultural products than several of the G7 countries.

Stephen & Parízek (2018) have also quantified support for the "Singapore issues". The Singapore issues included investment, government procurement, competition policy and trade facilitation and were advanced by developed countries as part of the DDA (see section 4.1.3.). The Singapore issues may be considered "deep liberalisation issues" as they – with the exception of trade facilitation – do not explicitly concern trade but rather regulatory instruments pertaining to the domestic realm or, put differently, governments' ability to

pursue active interventionist industrial and economic policies (Evenett, 2007; Woolcock, 2003). Figure 3, Appendix 5 shows that divergence between the G7 and the BICS in regards to support for the Singapore issues is far greater than in the area of market access for goods (industrial and agricultural) and services. China's strong opposition to the three "deep liberalisation issues" seems logical from the perspective of accounts of China's domestic political economy (see section 3.2.) as well as the interim conclusions reached in this thesis. The Singapore issues would have extended liberal-market economy principles onto areas of domestic economic regulation and, thereby, restricted the role of the state in the economy and the strategic use of regulatory tools. Thus, the Singapore issues posed a challenge to the deeply rooted coordinating mechanism of state-capitalist China and would have disrupted fundamental domestic structures.

7.1.2. Trade Facilitation Agreement

Three of the Singapore issues – investment, competition policy and government procurement – did not translate into WTO Agreements. However, the final issue, trade facilitation, became part of the WTO legal framework with the TFA in 2013 which is the only multilateral agreement concluded under the auspices of the WTO until now. The TFA regulates red-tape and bureaucracy in customs procedure in an attempt to ease the burden of these at-the-border trade barriers (see section 4.1.3.). Trade facilitation is consequently not a "deep liberalisation issue" that challenges the fundamental principles of state-capitalist economies, which is a possible explanation for why negotiations on trade facilitation succeeded while the remaining three Singapore issues failed at an early stage. As major exporter, China was supportive of the TFA with significant interest in making customs processes in its exporting destinations more efficient and cheaper (Gao, 2012, pp. 63–64). This is not to say that the negotiations of the TFA were easy. Many developing countries expressed concerns about the potential burden of implementing ambitious provisions on trade facilitation that might require them to give their customs regimes a complete overhaul (Eliason, 2015). However, the agreement serves as a very important example of how China's state capitalist variety of capitalism does not render China inherently opposed to all liberalisation efforts and that there are liberalisation issues in which China aligns with the established powers rather than developing countries.

7.2. Non-Multilateral Trade Negotiations

Non-multilateral trade negotiations have been carried out both inside (plurilateral negotiations) and outside (regional trade agreements) the WTO. This section first considers regional trade agreements before proceeding to plurilateral negotiations.

7.2.1. Regional Trade Agreements

Literature on international network governance suggests that a trade-off exists for international institutions between legitimacy in the form of representative distribution of power and effectiveness in terms of policy performance (Börzel & Panke, 2007; Cottarelli, 2005; Scharpf, 1999; Vestergaard & Wade, 2012). This is the case since a greater degree of representation is likely to cause greater interest heterogeneity which, in turn, renders consensus more difficult (Ibid). As seen in the above discussion on the DDA, interest heterogeneity contributed to the failure of the DDA as well as an overall lack of progress in multilateral trade negotiations. With the accession of China in 2001 and Russia in 2012 as well as the more assertive role assumed by other rising powers, it can be argued that the WTO has achieved a greater degree of legitimacy in terms of representation but has sacrificed its effectiveness as seen most clearly in the failure of the DDA. Dissatisfaction with an international institution – which may both be grounded in lack of representation or limited effectiveness caused by representation – is likely to lead member states to pursue membership of an alternative existing institution (regime shifting) or establish a new competing institution (competitive regime creation) which results in institutional fragmentation (Acharya, 2016; Morse & Keohane, 2014; Stephen & Parizek, 2018).

The lack of progress in multilateral trade negotiations in the WTO has given momentum to a proliferation of regional trade agreements (RTAs) (Baldwin, 2016; Stephen, 2017; World Trade Organization, n.d.-f) which are reciprocal trade agreements regulating and liberalising trade between two or more partners (World Trade Organization, n.d.-e).¹⁵ Generally, RTAs are significantly easier to negotiate than multilateral trade agreements due to the lower number of participating parties. Commitments in RTAs may be characterized

¹⁵ RTAs are sometimes also referred to as “free trade agreements” or “preferential trade agreements”.

as either WTO+ or WTO-X.¹⁶ WTO+ provisions build upon commitments already agreed to in the WTO but go beyond (e.g. a further reduction of tariffs). WTO-X provisions are commitments within issues not covered by WTO agreements such as competition policy, investment and government procurement (Horn, Mavroidis, & Sapir, 2009). Keohane defines international institutions as “persistent and connected sets of rules (formal and informal) that prescribes behavioural roles, constrain activity and shape expectations” (Keohane, 1989, p. 3). Building on this definition, RTAs can be considered international institutions and their proliferation can, therefore, be framed as a fragmentation of the multilateral trading system. Scholars disagree on the consequences of this fragmentation. While some regard RTAs as complementary to the overall trade liberalisation project and as a possible stepping stones to concluding multilateral trade agreements, others see them as undermining the multilateral trading system (Mansfield & Milner, 1999; Panagariya, 1999; VanGrasstek, 2013, pp. 552–555).

China has been active in pursuing RTAs but has predominately concluded negotiations with countries in Asia and Oceania. Noticeably, China has not concluded negotiations on an RTA with a single one of the “established powers” in spite of the EU, the US and Japan being China’s largest trading partners (World Trade Organization, n.d.-f, 2019b). In negotiating RTAs, China has opted for a narrow model in terms of coverage: “Normally, China would start with an agreement on trade in goods only and would only expand to trade in services and investment after the commitments on goods have been substantially implemented. (...) With regard to the issues which are not traditionally trade-related, such as environment protection, competition policy and labor standards, China has been reluctant to include them as part of the FTA package.” (Gao, 2011, p. 110). As such, China’s RTAs are generally characterized by WTO+ rather than WTO-X commitments. This is confirmed in a more recent study by the World Bank on the depth of RTAs from which it can be inferred that all of the RTAs signed by the G7 countries (treating Germany, France and Italy as part of the EU) tend to be significantly deeper and include a greater number of WTO-X commitments than RTAs signed by China (see Hofmann, Osnago, & Ruta, 2017).

¹⁶ WTO+ provisions are not to be confused with the WTO-plus provisions in the China Protocol although the meaning is somewhat the same.

China's engagement in RTA negotiations may at face value seem to be of limited importance for the present thesis. However, the characteristics of China's RTAs, as well as the fact that China has sought to liberalize trade beyond what is currently possible in the WTO due to stalemate, do carry important implications for this thesis. China's RTAs provide further evidence for the previously stated conclusions that China is not outright opposed to liberalisation but opposes efforts to liberalise in those areas that this thesis has coined "deep liberalisation areas". Indeed, WTO-X provisions are closely related to "deep liberalisation issues" as the former predominately include behind-the-border issues partially or entirely unrelated to trade. As such, these are issues that pertain to the domestic realm and upon liberalisation could threaten to disrupt China's domestic structure and state-capitalist coordinating mechanism (think of e.g. competition policy, innovation policies, public administration and taxation which are all issues in which some countries have undertaken WTO-X commitments in RTAs) (see Hofmann et al., 2017, p. 6 for a comprehensive list of WTO-X commitments undertaken). The difference in RTAs signed by the G7 and the RTAs signed by China can be seen as an extension of the fault lines identified in regards to the Singapore issues.

7.2.2. Plurilateral Trade Negotiations

The failure of the DDA has led countries to pursue RTAs outside the context of the WTO, but a number of plurilateral agreements are also being negotiated under the auspices of the WTO. While the WTO traditionally has served as a negotiation forum for multilateral agreements, the failure of DDA and the abandonment of the principle of single-undertaking has caused member states to allow the WTO to increasingly serve as forum for the negotiation of agreements that are both narrower in scope and membership in an attempt to drive the liberalisation forward among those who are interested (see section 4.1.3.). Some plurilateral agreements are adopted in the WTO on the basis of "code reciprocity" which implies that only the parties to the agreement receive its benefits and only they are subject to its provisions (exclusive plurilateral agreements). Other plurilateral agreements adopted in the WTO are negotiated among a "critical mass" of members under the terms of existing agreements and extend the benefits on an MFN-basis, i.e. to all WTO members (inclusive plurilateral agreements) (Bertelsmann-Scott et al., 2018).

Three plurilateral agreements have in recent years attracted much attention: The Agreement on Government Procurement (GPA), the Environmental Goods Agreement (EGA) and the Information Technology Agreement (ITA).¹⁷ The GPA is an exclusive plurilateral trade agreement first signed in 1994 which created transparency and liberalisation of government procurement markets of the contracting parties. An updated GPA entered into force in 2014 with 48 contracting WTO members (World Trade Organisation, n.d.-b). In contrast, the EGA and the ITA are inclusive plurilateral trade agreements. Negotiations of the EGA were launched in 2014 and are yet to be concluded between the 46 WTO members who are currently participating in the negotiations. The EGA seeks to eliminate tariffs on environmental-related goods and thereby improve access to products that can contribute to the achievement of environmental and climate protection goals (World Trade Organisation, n.d.-a). Negotiations of the ITA were concluded in 1996. The agreement eliminated tariffs on a number of IT products but as a host of new IT products developed, the added-value of updating the agreement increased. Negotiations of an expanded ITA (ITA-II) were initiated in 2012 and concluded in 2015 whereby 201 additional products were added to the original list of products being subject to tariff eliminations. While the ITA has 82 contracting parties, the expansion of ITA was concluded by 53 WTO members (World Trade Organisation, n.d.-c).

China is part of the negotiations on EGA and has since 2007 been negotiating accession to the GPA. China negotiated membership of the original ITA as part of China's accession negotiations to the WTO and is also part of the more limited membership of ITA-II. To understand China's engagement in these negotiations and agreements, it is worth noting that the aim of the EGA and the ITA-II is to eliminate tariffs on goods while the GPA seeks to liberalise government procurement markets. China's membership of the ITA-II and engagement in the negotiations of the EGA is congruent with the argument that China is not

¹⁷ A third category of plurilateral agreements are those that are negotiated outside the WTO but which built on existing WTO agreements. The benefits and provisions of such agreements only apply to the agreements' parties and unlike plurilateral negotiations under the auspices of the WTO, participation requires invitation from the negotiating parties. The Trade in Services Agreement – which seeks to extend the scope and commitments of GATS – is an example of such an agreement (Bertelsmann-Scott et al., 2018). As the negotiations are taking place outside the context of the WTO and China is not part of the negotiations, the Trade in Services Agreement was deemed out of the scope of this thesis.

outright opposed to liberalisation in areas which are not “deep liberalisation issues” which is the case with tariff reductions on goods. Moreover, the fact that both of these agreements are inclusive plurilateral agreements is further testament to this argument as China – as a WTO member – would benefit from the other members’ tariff eliminations regardless of whether China herself committed to tariff eliminations. This is not to neglect the importance of China’s engagement in negotiations of the ITA-II and EGA as these are “critical mass agreements” which implies that China’s membership has facilitated other member states’ interest in these agreements by significantly increasing the coverage of trade that would be subject to the agreements and, thereby, decreasing concerns of “free riding” (Hoekman, 2002).

China’s accession negotiations to the GPA are more surprising as it has previously been argued that government procurement is a “deep liberalisation issue”. The paper has found that discrimination in public procurement constitutes an important part of China’s innovation policy by contributing to the facilitation of forced technology transfers (see section 5.3.). Additionally, liberalisation of government procurement would inhibit the favourable treatment of China’s SOEs (Wang, 2009). As such, China’s state-led variety of capitalism would be disrupted by the GPA. During the negotiations on China’s accession to the WTO, China had firmly rejected acceding to the GPA, albeit China committing to join the GPA “as soon as possible” in the China Protocol. It was, however, not until 2007 that China submitted its first market access offer (Wang, 2009) and the accession negotiations have now been ongoing for twelve years (Trade Policy Review Body, 2018, p. 96). China’s latest market access offer was submitted to the members of the GPA in 2014 and while China has communicated its intention to submit a revised proposal, it still remains to be seen (Trade Policy Review Body, 2018, p. 96). In China’s TPR in 2018, the WTO Secretariat concluded that “(...) significant gaps remain between this offer and certain GPA Parties’ expectations, especially in terms of coverage of (...) *SOEs* [emphasis added]” (Trade Policy Review Body, 2018, p. 96). China’s defensive and hesitant position in regards to the negotiations on accession to the GPA is indicative of the conflicting relationship between China’s state-led variety of capitalism and liberalisation of public procurement markets. Thus, the complicated nature of the accession negotiations does seem to reflect the findings of this thesis, but a successful conclusion of the negotiations would challenge the thesis’ conclusions.

8. CONCLUSION

In undertaking a single case study, the thesis has sought to empirically answer the question of what the implications are of China's rise for the WTO. In doing so, the thesis positioned itself in a broader research agenda that concerns contestation of international institutions. This research agenda – and the profound interest in the topic shared by both scholars and policy-makers – has been ignited by the observation that the rise of a handful of countries and China in particular has facilitated a structural change of an international system that is already highly institutionalized. To the end of answering the research question and thereby contributing to this research agenda, the thesis developed a theoretical synthesis between theories on international relations and theories on international political economy with particular attention to comparative capitalism.

The thesis accepted the premise that countries' international policy preferences depend on their domestic structures as countries try to externalize these structures onto international institutions. Hence, the thesis assumed that China would not have incentives to try to overturn the WTO provided that China's trade policy preferences – as derived from China's domestic structures – were aligned with the preferences embedded into the WTO. Moreover, it implied that divergent domestic structures would cause divergent preferences in regards to multilateral trade rules. Having determined that the preferences of the “established powers” conceptualized in terms of the members of the G7 had been successful in embedding their preferences in the WTO, the thesis used the comparative capitalist approach to analyse divergences across domestic structures between China and the G7. The literature on international relations sought to contribute to the comprehension of how such divergences actually played out. It follows that the thesis had a dual purpose in trying to analyse both China's compatibility with the WTO as well as China's engagement with the WTO.

The thesis chose three distinct areas in which analysis was believed to be particularly fruitful in answering the research question. Firstly, the thesis analysed divergences in the trade regimes of China and the established powers in an attempt to understand China's compatibility with the WTO. The thesis did so in the areas of trade in goods, trade in services and IPR. Secondly, the thesis analysed how such divergences played out in WTO's mechanism for arbitrating trade disputes, i.e. the Dispute Settlement Mechanism. This

analysis shed light on whether China's engagement with one of the WTO's most fundamental mechanisms has been constructive or destructive while also identifying key features of the disputes in which China has been involved to shed further light on the issue of compatibility. Thirdly, the thesis analysed China in the context of trade negotiations in order to investigate how China positions herself in regards to the trade liberalisation issue.

In regards to the first issue, the thesis found that while China has made commitments to operate in the more liberal end of the trade policy spectrum, the trade policy regime of China is considerably more restrictive than that of the G7 which was argued to present a somewhat coherent, liberal group. China's state-led variety of capitalism and the associated reliance on non-market forces played a significant role in creating a regulatory framework favouring Chinese actors to the detriment of foreign companies which put China at odds with the market-economy principles of the G7. Having assumed that the preferences of the G7 were embedded into the WTO, the paper argued that China's state-led variety of capitalism was in a conflictual relationship with the principles embedded in the WTO.

The chapter on disputes found that this conflictual relationship is evident within the WTO as China and the established powers file disputes against each other on a highly frequent basis. Moreover, the analysis confirmed the conclusion that the conflict concerns the role of non-market forces and the interventionist role of the Chinese state and, as such, derives from a conflict between China's state-led variety of capitalism and the liberal variety of capitalism of the established powers. Importantly, the thesis argued that China – in accepting recourse to the Dispute Settlement Mechanism of the WTO, advancing the country's trade interests by use of this judicial mechanism and complying with adverse rulings – has reinforced its legitimacy and acted as a system-maintainer. Thus, while a conflict does play out, it is continuously being submitted for resolution at the hands of the WTO's own judicial mechanism.

In the analysis trade negotiations, the thesis argued that China opposes efforts to liberalise in areas that may be considered "deep liberalisation issues" which are issues that would extend market-economy principles onto areas of domestic regulation and disrupt the domestic structures that are fundamental to China's state-led variety of capitalism. However, the chapter also concluded that China remains open to undertake further

liberalisation in more traditional trade-related areas that do not hold the risk of undermining China's fundamental structures. As a consequence, the domestic structures of China and the G7 translated into their ambitions for the WTO as the established powers promoted "deep liberalisation issues" while China opposed such efforts.

In line with the diagnostic research purpose of this thesis, this ultimately leads to a core overall argument that China poses a "*within-system challenge*" to the WTO whereby China seeks to preserve its fundamental domestic structures that breed conflict with the established powers and, in so doing, opposes the WTO's most liberal ambitions while refraining from attempting to overturn or fundamentally disrupt the WTO. As such, the thesis lends support to the more intermediate argument articulated by some scholars within the field such as Kahler (2013, 2016), McNally (2013) and Stephen (2014).

This conclusion is predominately based on a synchronic comparative approach which implies that it may only reflect a snapshot image of the implications of China's rise for the WTO. Therefore, a critical question in regards to the conclusion is whether prospective implications for the WTO can be established on this basis. The present author takes a precautionary position in regards to making such conclusions but it seems unlikely that the conflict will diminish as the thesis finds that both the established powers and China try to protect and promote their diverging domestic structures. As such, the thesis does not rule out that China may become more assertive and disruptive provided that China's ascendance continues and a further restructuring of the international system takes place.

The thesis excluded from its analysis the current trade war waged between China and the US on the basis of insufficient scholarly literature and empirical basis. Notwithstanding, the thesis is likely to have implicitly shed light on the trade war's underlying dynamics. As the empirical basis of the trade war increases, it should be included in future research on the implications of China's rise for the WTO. Such research may either strengthen or weaken the conclusions of this thesis. At face value, however, the trade war and the current US administration's policy towards the WTO indicate that a challenge may not only come from China but also from the established powers. Such conclusions would challenge an argument fundamental to this thesis, namely that the preferences of the established powers are embedded in the WTO and that they, therefore, have no incentives to disrupt the institution.

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APPENDIX 1: TRADE IN GOODS

Table 1: Bound Tariffs

	Bound rate, simple average	MFN tariff rate, simple average	Bound overhang	Binding coverage
CANADA	6,5%	4,0%	2,5%	99,6%
FRANCE	5,1%	5,2%	-0,1%	100,0%
GERMANY	5,1%	5,2%	-0,1%	100,0%
ITALY	5,1%	5,2%	-0,1%	100,0%
JAPAN	4,7%	4,4%	0,3%	99,7%
UNITED KINGDOM	5,1%	5,2%	-0,1%	100,0%
UNITED STATES	3,4%	3,4%	0,0%	100,0%
CHINA	10,0%	9,8%	0,2%	100,0%
G7 AVERAGE	5,0%	4,7%	2,4%	99,9%
DEVELOPED AVE.	11,0%	-	-	99,0%
DEVELOPING AVE.	42,0%	-	-	73,0%

- Figures for the G7 retrieved from WTO et al. (2019) and developed/developing averages retrieved from (World Trade Organization, 2015c, p. 25, 2015a)

Table 2: Tariffs

	Overall trade restrictiveness	Average MFN-tariff	Average MFN- tariff, weighted	Average MFN-tariff, non-agriculture, weighted	Average MFN-tariff, agriculture, weighted
CANADA	4,8%	4,0%	3,3%	2,3%	13,6%
FRANCE	5,6%	5,2%	3,0%	2,7%	8,1%
GERMANY	5,6%	5,2%	3,0%	2,7%	8,1%
ITALY	5,6%	5,2%	3,0%	2,7%	8,1%
JAPAN	8,9%	4,4%	2,4%	1,3%	14,0%
UNITED KINGDOM	5,6%	5,2%	3,0%	2,7%	8,1%
UNITED STATES	5,7%	3,4%	2,3%	2,2%	3,9%
CHINA	9,7%	9,8%	4,8%	4,3%	11,8%

Variables and sources:

- Overall trade restrictiveness (0-100), year 2009 (World Bank, 2012)
- Average MFN-tariff (0-100), year 2018 (WTO et al., 2019)
- Average MFN-tariff, weighted (0-100), year 2017 (WTO et al., 2019)
- Average MFN-tariff, non-agriculture, weighted, year 2017 (WTO et al., 2019)
- Average MFN tariff, agriculture, weighted, year 2017 (WTO et al., 2019)

Table 3: Behind-the-Border Barriers

	Product market regulation	State control	Non-tariff barriers
CANADA	1,42	1,92	2,4
FRANCE	1,47	2,37	2,8
GERMANY	1,28	1,84	1,9
ITALY	1,29	2,22	2,2
JAPAN	1,41	1,85	2,5
UNITED KINGDOM	1,08	1,57	1,8
UNITED STATES	1,59	2,7	1,8
CHINA	2,86	3,57	2,5

- Product market regulation and state control as of 2013 from OECD (n.d.-a)
- Non-tariff barriers (1-7), year 2016-2017, from World Economic Forum (2017)
 - Data for non-tariff barriers inverted

APPENDIX 2: TRADE IN SERVICES

Table 4: Number of Committed Sectors

	Number of committed sectors
CANADA	105
FRANCE	115
GERMANY	115
ITALY	115
JAPAN	112
UNITED KINGDOM	115
UNITED STATES	110
CHINA	93
G7 AVERAGE	112
DEVELOPED AVE.	110
DEVELOPING AVE.	48

- Figures for G7 retrieved from Salidjanova (2015) and developed/developing averages retrieved from (World Trade Organization, 2015b)

Table 5: Services Trade Restriction

	Cargo-handling	Storage and warehouse	Freight forwarding	Customs brokerage	Accounting	Architecture	Engineering	Legal	Motion pictures	Broadcasting	Sound recording
Canada	0,220	0,169	0,147	0,161	0,246	0,211	0,168	0,169	0,202	0,306	0,157
France	0,189	0,192	0,146	0,158	0,419	0,350	0,150	0,580	0,235	0,230	0,203
Germany	0,150	0,151	0,136	0,137	0,183	0,185	0,197	0,245	0,155	0,185	0,137
Italy	0,264	0,249	0,218	0,241	0,505	0,490	0,502	0,194	0,239	0,277	0,279
Japan	0,210	0,173	0,201	0,160	0,196	0,148	0,118	0,538	0,103	0,258	0,103
United Kingdom	0,160	0,162	0,136	0,148	0,270	0,186	0,152	0,182	0,179	0,171	0,155
United States	0,248	0,220	0,222	0,237	0,169	0,204	0,221	0,206	0,155	0,266	0,178
China	0,412	0,361	0,340	0,336	0,754	0,233	0,254	0,532	0,615	0,707	0,498

	Telecom	Air transport	Maritime transport	Road freight transport	Rail freight transport	Courier	Distribution	Commercial banking	Insurance	Computer	Construction	Average
Canada	0,319	0,376	0,180	0,158	0,157	0,379	0,253	0,166	0,202	0,168	0,234	0,217
France	0,148	0,394	0,200	0,200	0,217	0,137	0,191	0,179	0,123	0,186	0,202	0,232
Germany	0,111	0,372	0,167	0,179	0,199	0,125	0,134	0,160	0,130	0,163	0,152	0,172
Italy	0,186	0,412	0,270	0,236	0,236	0,237	0,176	0,175	0,243	0,270	0,296	0,281
Japan	0,253	0,395	0,191	0,124	0,198	0,262	0,125	0,201	0,166	0,163	0,123	0,206
United Kingdom	0,171	0,393	0,201	0,167	0,168	0,171	0,116	0,172	0,148	0,178	0,145	0,180
United States	0,172	0,534	0,369	0,188	0,164	0,378	0,163	0,206	0,288	0,203	0,251	0,239
China	0,682	0,479	0,358	0,273	0,298	0,881	0,265	0,409	0,444	0,342	0,341	0,457

- Services trade restriction across sectors (0-1), year 2018
- Red: Most restrictive within the given service sector
- Source: OECD (n.d.-c)

Table 6: Services Trade Restrictions by Indicator

	Foreign entry	Movement of people	Other discriminatory measures	Barriers to competition	Regulatory transparency
Canada	0,087	0,030	0,044	0,024	0,032
France	0,071	0,069	0,034	0,035	0,019
Germany	0,063	0,045	0,003	0,022	0,037
Italy	0,085	0,078	0,036	0,033	0,050
Japan	0,068	0,038	0,012	0,038	0,045
United Kingdom	0,052	0,063	0,014	0,022	0,028
United States	0,083	0,049	0,044	0,022	0,040
China	0,227	0,050	0,042	0,065	0,063
G7 average	0,073	0,053	0,027	0,028	0,036
Dif. China and G7	0,154	-0,003	0,015	0,037	0,027
Dif. in %	211%	-6%	57%	133%	75%

- Services trade restriction across sectors and by indicators (0-1), year 2018
- Source: Source: OECD (n.d.-c)

APPENDIX 3: IPR

Table 7: Patents Granted

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
CANADA	18.703	19.497	19.120	20.762	21.819	23.833	23.749	22.201	26.424	24.099
FRANCE	15.615	14.560	14.435	15.014	17.716	16.315	16.617	18.124	19.407	19.179
GERMANY	30.806	25.819	26.231	25.300	24.653	27.275	28.110	28.914	34.382	34.442
ITALY	9.576	20.269	18.393	8.669	7.864	10.466	10.069	9.629	9.636	7.969
JAPAN	176.950	193.349	222.693	238.323	274.791	277.079	227.142	189.358	203.087	199.577
UNITED KINGDOM	7.334	7.074	7.451	9.119	8.886	7.299	7.059	7.560	8.532	9.434
UNITED STATES	157.772	167.349	219.614	224.505	253.155	277.836	300.678	298.407	303.049	318.829
CHINA	93.706	128.389	135.110	172.113	217.105	207.688	233.228	359.316	404.208	420.144

- Numbers are calculated on the basis of resident and non-resident patents granted in each country
- Source: Data retrieved from individual country profiles from the statistical database of World Intellectual Property Organization (n.d.)

Table 8: Patents in Force

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
CANADA	129.347	134.150	133.355	137.368	144.363	153.781	161.442	166.771	175.236	180.727
FRANCE	439.075	436.931	435.915	471.362	490.941	500.114	510.490	520.069	535.554	563.695
GERMANY	509.879	519.209	514.046	527.917	549.521	569.340	576.273	602.013	617.307	657.749
ITALY			229.648	241.543	246.688	255.350	263.824	279.336	287.499	297.672
JAPAN	1.270.367	1.347.998	1.423.432	1.542.096	1.694.435	1.838.177	1.920.490	1.946.568	1.980.985	2.013.685
UNITED KINGDOM			1.231.671	1.268.275	1.307.291	1.334.425	1.361.796	1.378.617	1.346.823	1.243.678
UNITED STATES	1.872.872	1.930.631	2.017.318	2.113.628	2.239.231	2.387.502	2.527.750	2.644.697	2.763.055	2.984.825
CHINA	337.215	438.036	564.760	696.939	875.385	1.033.908	1.196.497	1.472.374	1.772.203	2.085.367

- Source: Data retrieved from individual country profiles from the statistical database of World Intellectual Property Organization (n.d.)

Table 9: Patents Granted, by Indicator, 2017

	Resident	Non-resident	Total	Resident (%)	Non-resident (%)	Total (%)
CANADA	2.500	21.599	24.099	10%	90%	100%
FRANCE	17.530	1.649	19.179	91%	9%	100%
GERMANY	29.353	5.089	34.442	85%	15%	100%
ITALY	7.650	319	7.969	96%	4%	100%
JAPAN	156.844	42.733	199.577	79%	21%	100%
UNITED KINGDOM	6.390	3.044	9.434	68%	32%	100%
UNITED STATES	150.949	167.880	318.829	47%	53%	100%
CHINA	326.970	93.174	420.144	78%	22%	100%

- Source: Data retrieved from individual country profiles from the statistical database of World Intellectual Property Organization (n.d.)

Table 10: Protection of IPR

	Protection of IPR
CANADA	5,8
FRANCE	5,8
GERMANY	5,7
ITALY	4,4
JAPAN	5,8
UNITED KINGDOM	6,2
UNITED STATES	5,8
CHINA	4,5

- Protection of IPR (0-7), year 2016-2017
- Source: World Economic Forum (2017)

APPENDIX 4: DISPUTE SETTLEMENT

Table 11: US Win Loss Record in WTO Dispute Settlement

	US as complainant	%	US as respondent	%
Lost core issues	4	5,1%	57	58,8%
Won core issues	46	58,2%	17	17,5%
Resolved	29	36,7%	23	23,7%
Total	79	100,0%	97	100,0%

- Source: United States Trade Representative (2015)

Table 12: China as Complainant and Respondent over Time

Year	China as complainant	China as respondent	Total
2002	1	0	1
2003	0	0	0
2004	0	1	1
2005	0	0	0
2006	0	3	3
2007	1	4	5
2008	1	5	6
2009	3	4	7
2010	1	4	5
2011	1	2	3
2012	3	7	10
2013	1	1	2
2014	0	1	1
2015	1	2	3
2016	2	4	6
2017	0	1	1
2018	5	4	9
Total	20	43	63

- Source: World Trade Organization (n.d.-c)

Table 13: China as Third Party over Time

Year	China as third party
2002	19
2003	17
2004	9
2005	6
2006	8
2007	2
2008	7
2009	6
2010	7
2011	4
2012	11
2013	12
2014	12
2015	8
2016	7
2017	9
2018	23
Total	167

- Source: World Trade Organization (n.d.-c)

Table 14: Disputes by WTO members

	China as complainant	China as respondent	Total
US	15	23	38
EU	5	9	14
Mexico	0	4	4
Canada	0	3	3
Japan	0	2	2
Guatemala	0	1	1
Brazil	0	1	1
Total	20	43	63

- Period: 11 December 2001 – 31 December 2018
- Source: World Trade Organization (n.d.-c)

Table 15: Quotations of Agreements in Disputes involving China as the Respondent

China as respondent	1. Total	2. Total %	3. WTO total	4. WTO total average %	5. Difference % points (2-4)	6. Difference in % (2-4)/4
GATT	33	76,7%	248	92,2%	-15,4%	-16,8%
GATS	6	14,0%	9	3,3%	10,6%	317,1%
TRIPS	4	9,3%	12	4,5%	4,8%	108,5%
TRIMS	5	11,6%	18	6,7%	4,9%	73,8%
Accession Protocol	26	60,5%	-	-	-	-
Rules of Origin	1	2,3%	3	1,1%	1,2%	108,5%
Agriculture	6	14,0%	35	13,0%	0,9%	7,2%
Import Licensing	1	2,3%	19	7,1%	-4,7%	-67,1%
Safeguards	1	2,3%	39	14,5%	-12,2%	-84,0%
SCM	16	37,2%	58	21,6%	15,6%	72,6%
Anti-dumping	8	18,6%	74	27,5%	-8,9%	-32,4%

- Period: 11 December 2001 – 31 December 2018
- “WTO total” and “WTO average” based on the remaining membership of the WTO (i.e. excluding China as a principal party) in the chosen period
- Source: World Trade Organization (n.d.-c)

Table 16: Quotations of Agreements in Disputes involving China as the Complainant

China as complainant	1. Total	2. Total %	3. WTO total	4. WTO total average %	5. Difference % points (2-4)	6. Difference in % (2-4)/4
GATT	20	100,0%	248	92,2%	7,8%	8,5%
TRIMS	2	10,0%	18	6,7%	3,3%	49,4%
Accession Protocol	5	25,0%	-	-	-	-
Safeguards	3	15,0%	39	14,5%	0,5%	3,5%
SCM	6	30,0%	58	21,6%	8,4%	39,1%
Anti-dumping	9	45,0%	74	27,5%	17,5%	63,6%
SPS	1	5,0%	28	10,4%	-5,4%	-52,0%
Agreement est. WTO	3	15,0%	50	18,6%	-3,6%	-19,3%
DSU	2	10,0%	10	3,5%	6,5%	187,0%

- Period: 11 December 2001 – 31 December 2018
- “WTO total” and “WTO average” based on the remaining membership of the WTO (i.e. excluding China as a principal party) in the chosen period
- Source: World Trade Organization (n.d.-c)

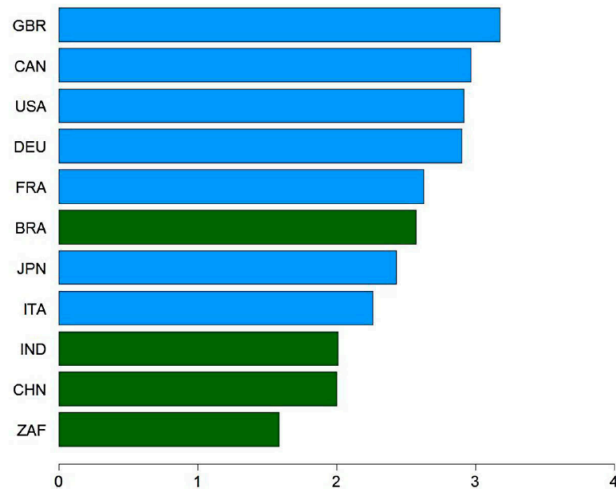
Table 17: Disputes with China as the Respondent by Stage

Settled/terminated	Implemented	In process	Reasonable period of time not expired	Compliance proceeding with finding of non-compliance	Compliance proceeding in process	Authorization to retaliate requested	Authorization to retaliate granted
15	16	7	2	2	1	0	0

- Period: 11 December 2001 – 31 December 2018
- Information retrieved from World Trade Organization (n.d.-c) and cross-referenced with Lester & Zhu (2018) and U.S.-China Economic and Security Review Commission (2017)

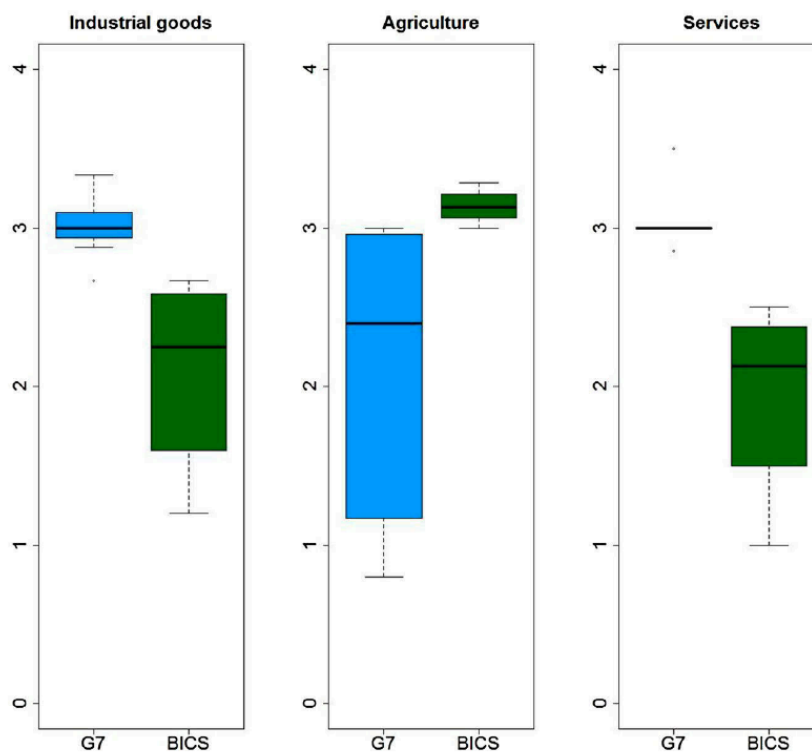
APPENDIX 5: CHINA IN TRADE NEGOTIATIONS

Figure 1: Overall Support for Trade Liberalisation in Doha Negotiations



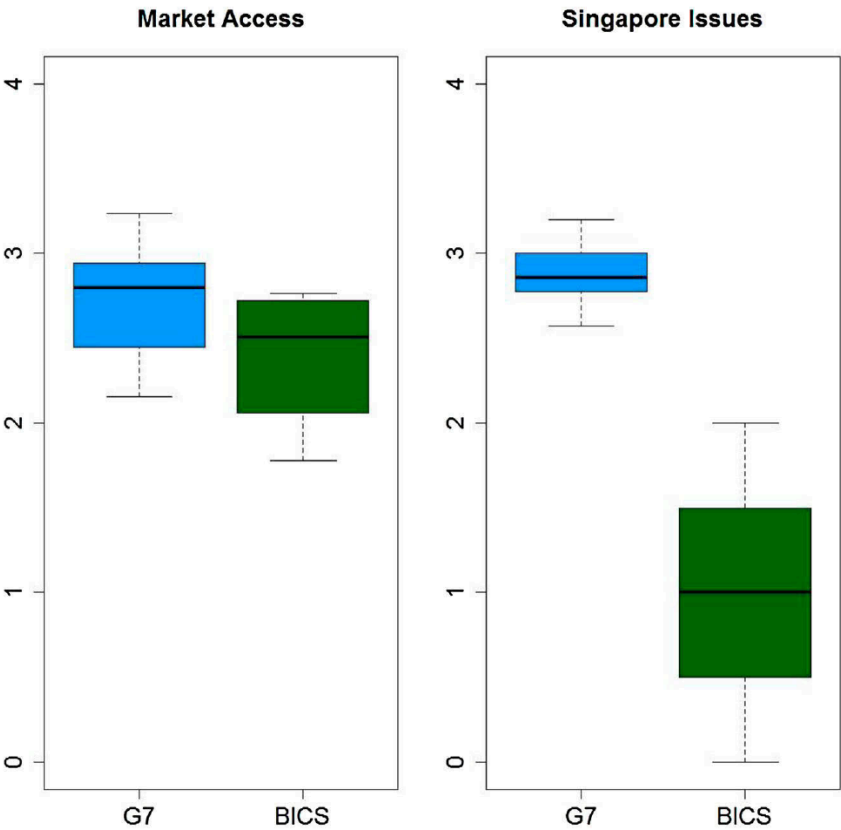
- Source: Stephen & Parížek (2018)

Figure 2: Comparison of G7 and BICS Group Positions across Areas



- Source: Stephen & Parížek (2018)

Figure 3: Comparison of G7 and BICS’s Support for the “Singapore Issues”



- Source: Stephen & Parízek (2018)