Think Pieces for 2012
Bridges China Dialogue
Perspective on China and Sustainability

September 2012
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PART I:
SOFT LANDING IS CRUCIAL FOR CHINA
AND THE REST OF THE WORLD

Zhenyu Sun
Chairman
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I. SOFT LANDING IS CRUCIAL FOR CHINA AND THE REST OF THE WORLD

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A recent report by the International Monetary Fund (IMF) indicated that China’s economy is on track to achieve a soft landing despite the worsening external economic situation. It also pointed out that China’s economy may have a moderate growth rate of 8 percent this year after a slowdown for six consecutive quarters.

I believe this is an objective conclusion from the IMF on China’s economic future. The negative impact of the Euro crisis has been felt throughout the world, and China is no exception. Due to the rising cost of labour and raw materials as well as sluggish external demand, China’s industrial output grew only by 9.5 percent year on year in the second quarter of this year, the slowest growth since July 2009.

Chart 1: Growth of industrial added value (Quarterly growth rate year on year)

<table>
<thead>
<tr>
<th></th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>Q1</td>
<td>14.4%</td>
</tr>
<tr>
<td>Q2</td>
<td>14%</td>
</tr>
<tr>
<td>Q3</td>
<td>13.8%</td>
</tr>
<tr>
<td>Q4</td>
<td>12.8%</td>
</tr>
<tr>
<td>Q1</td>
<td>10.5%</td>
</tr>
<tr>
<td>Q2</td>
<td>9.5%</td>
</tr>
</tbody>
</table>

(Source: Ministry of Industry and Information Technology)

Two years ago, China’s industrial output was 20 percent. Normally, the industry growth index is higher than gross domestic product (GDP) by 3 to 4 percentage points. China’s GDP growth slowed to 8.1 percent in the first quarter, the weakest in three years, and it declined to 7.6 percent in the second quarter. The official purchasing managers’ index (PMI) dipped to 50.2 in June from 50.4 in May, which indicated contraction in manufacturing activities.

On top of that, China’s benchmark stock index, the Shanghai Composite Index, dropped to somewhere close to 2100, the lowest since March 2009, showing that investors remain skeptical about how strong the economy could pick up.

This is, of course, not a very encouraging picture. However, we should not lose confidence at this stage. There is still a chance for China’s economy to improve in the second half of this year, although a lot depends on whether China can boost investment in the short term, whether the growth model can be rebalanced toward more domestic consumption, and whether the external economic environment shows some improvement.

Challenges and Opportunities

The challenges faced by China are quite obvious. The economic slowdown is worse than people expected. The uncertain global economic environment and weak overseas demand have posed a threat to many small- and medium-sized enterprises in China. There are already many reports of bankruptcies and job losses in the coastal cities.

Domestic investment, one of the three main engines of the economy, has slowed down sharply this year. Except for affordable housing projects, investment growth is weak in many sectors. There is even recession in some sectors, such as manufacturing.
As a result of the slowdown of domestic production, a large amount of imported iron ore and coal is actually floating on the sea.

China's export growth rate has experienced a significant decline, owing to weak external demand in the traditional markets of the United States, the European Union (EU), and Japan. In the first seven months of this year, China's exports to the EU remained stagnant with a growth rate of only 1 percent over the same period last year. In the month of July, China's exports to the EU declined by 16.2 percent to USD 29.4 billion. At the same time, there were more trade frictions and increasing trade remedy measures aimed at Chinese enterprises, which were the targets of 40 anti-dumping and subsidy investigations from 18 countries and regions in the first half of this year. The total volume of goods involved in the investigations amounted to USD 3.72 billion, an increase of 76 percent over the same period last year.

However, there is some silver lining in the dark cloud. There are certainly opportunities, which give hope for recovery.

China's consumer price index (CPI) declined to 2.2 percent in June and to 1.8 percent in July, which means that there will be more room for the government to take measures to stimulate the economy.

Chart 2: CPI trend

<table>
<thead>
<tr>
<th></th>
<th>2011</th>
<th></th>
<th>2012</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Oct</td>
<td>5.5%</td>
<td>Nov</td>
<td>4.2%</td>
<td>Dec</td>
</tr>
<tr>
<td>Jan</td>
<td>4.5%</td>
<td>Feb</td>
<td>3.2%</td>
<td>Mar</td>
</tr>
<tr>
<td>Apr</td>
<td>3.4%</td>
<td>May</td>
<td>3%</td>
<td>Jun</td>
</tr>
<tr>
<td>Jul</td>
<td>1.8%</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(Source: National Bureau of Statistics)

Another encouraging sign is that sales of passenger vehicles in China have increased for the sixth month in a row. In the first seven months of this year, more than 8 million vehicles were sold in China, a year-on-year increase of 5.8 percent, which indicates growing domestic consumption.

Chart 3: China's monthly vehicles sales (% year on year growth)

<table>
<thead>
<tr>
<th></th>
<th>2011</th>
<th></th>
<th>2012</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Oct</td>
<td>-4.2</td>
<td>Nov</td>
<td>-2.9</td>
<td>Dec</td>
</tr>
<tr>
<td>Jan</td>
<td>-16.5</td>
<td>Feb</td>
<td>22</td>
<td>Mar</td>
</tr>
<tr>
<td>Apr</td>
<td>6.1</td>
<td>May</td>
<td>16.6</td>
<td>Jun</td>
</tr>
<tr>
<td>Jul</td>
<td>8</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(Source: China Passenger Car Association)

With an Internet population larger than that of the United States and Japan combined, China saw its online shopping grow very rapidly. In the first half of this year, Chinese shoppers spent CNY 511.9 billion online, an increase of 46.6 percent year-on-year.

Some experts also pointed out that the negative impact on real estate investment is nearing its end, and investment growth is expected to rebound slightly in the second half of this year.

The Impact of China's Economy on the Rest of the World

As the world's second largest economy and second largest importing country, the cooling of China's economy would no doubt affect the global economic recovery. Since China joined the World Trade Organization in 2001, China's annual contribution to world economic growth has been somewhere between 30 percent and 50 percent. Over the past 10 years, China's annual net increase of imports was more than USD 100 billion. China has become the largest...
importing country of Australia, Brazil, Japan and South Africa as well as many other Asian, African, and Latin American countries. China has been a major trading partner of the US, and the rate of increase in its import from the US over the past 10 years has been the highest among US trading partners.

**Chart 4: China’s annual imports (Billion US dollars)**

<table>
<thead>
<tr>
<th></th>
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<tr>
<td></td>
<td>53</td>
<td>132</td>
<td>659</td>
<td>791</td>
<td>956</td>
<td>1133</td>
<td>1005</td>
<td>1394</td>
<td>1743</td>
</tr>
</tbody>
</table>

(Source: Ministry of Commerce)

China started to make investments abroad even in the early 1980s. But, it experienced a fast growth only in the middle of the first decade of this century. Last year, overseas investment exceeded USD 60 billion for the first time, which was more than half of foreign investment in China.

**Chart 5: China’s annual outward investment (Billion US dollars)**

<table>
<thead>
<tr>
<th>Year</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2.8</td>
<td>5.5</td>
<td>6.9</td>
<td>16.1</td>
<td>18.7</td>
<td>40.6</td>
<td>43.3</td>
<td>59</td>
<td>60</td>
</tr>
</tbody>
</table>

(Source: Ministry of Commerce)

A soft landing of China’s economy is crucial not only for China, but also for the rest of the world.

China’s economic and trade relations with neighboring countries in Asia have become much closer. In the first half of 2012, China’s trade with the Association of Southeast Asian Nations (ASEAN) countries reached USD 188 billion, an increase of 9.7 percent over the same period last year. China’s trade with India, Pakistan, and other South Asian countries also expanded rapidly. At the same time, China’s investment in the Asian countries and regions was about USD 25 billion, an increase of 45 percent over last year.

China’s economic relations with Africa have become much stronger. At the recent China-African Forum, President Hu Jintao announced specific measures to promote African economic development. In the next three years, China will provide USD 20 billion in preferential credit for African countries to develop infrastructure, agriculture, and manufacturing industry and to focus on helping small- and medium-sized enterprises. China will provide training for 30,000 African technical personnel from various sectors and provide government scholarships for 18,000 African students. On top of that, China will provide medical service and safe drinking water for African people.

China is already the largest importer from the least-developed countries (LDCs). Last year, China’s imports from the LDCs totaled about 23 percent of their total exports. China will continue to provide technical assistance and professional training to the LDCs and is committed to provide duty-free treatment for LDCs, which will eventually cover 97 percent of their export goods.

Trade between China and Latin America amounted to USD 241 billion in 2011, a year-on-year increase of 31.5 percent. China is expecting the two-way trade to reach USD 400 billion in the next five years. China has provided a USD 10 billion credit line for infrastructure cooperation with Latin American countries.

We are glad to see that the close cooperation between China and Europe has helped in the EU’s efforts to cope with the financial crisis and maintain economic stability. In the first
half of 2012, China’s imports from Europe increased by 3.3 percent. China’s investment in Europe reached USD 860 million, a slight increase over last year.

In this highly globalized world, the word “interdependent” has been popular for quite a long time. As China’s economy grows, the shared interests with its trading partners also become stronger. China is fully aware of its challenges as well as the responsibilities on its shoulders. Its final goal is to achieve a “win-win” situation for all countries. To achieve that goal, China must first put its own house in order. A hard landing or a failed China would not be in the best interest of the rest of the world.

Measures to be Taken by China to Meet the Challenges

The Chinese government has been following the situation very closely and is always ready to take timely measures to meet the challenges. In order to promote investment and domestic consumption, the People’s Bank of China has cut interest rates twice since June this year. People are expecting more interest rate cuts and less stringent corset controls in the second half of this year.

But, there is a limit on the ability of monetary policy alone to stimulate the economy. Besides, there is also a limitation for adopting financial policy. In 2008, the Chinese government put forward a stimulus package of CNY 4 trillion to meet the challenges of the world financial crisis. While it helped greatly for China to protect itself from the negative impact of the crisis, it led to some unavoidable consequences. The heavy investment in infrastructure, such as roads, railways, airports, and coastal ports, propped up China’s GDP growth, but at the same time pushed up inflation rates, due to the sharp growth of money supply. The heavy financial burdens on the local governments make people worry about the health of the local economy.

Currently, there are debates among scholars and within academic circles on the possible choices for the Chinese Government to take in gearing its financial policies to meet the challenge. Among the various choices, two are preferred. One is to expand further public investment. The other is to reduce taxes.

We should try to avoid the strong financial policy the Government adopted in 2008. Given the declining rate of profit among enterprises, there is relatively weak desire to make investments. Although growing public investment could effectively restore domestic needs in the short term, a reduction of taxes could help increase profit rates and restore enterprises’ confidence to make investments. Therefore, in the medium and long term, the reduction of taxes is probably a better choice. It could meet the objective of both steady economic growth and structural re-adjustment.

Since the beginning of this year, the Chinese Government has made a lot of efforts to reduce taxes and encourage investment within the private sector. There has been an experiment replacing business taxes with value-added taxes. There have also been reductions and exemptions of taxes for small and medium-sized enterprises. We are looking forward to more reform-related measures to reduce taxes and encourage investment by private sectors.

As far as China’s economic relations with other countries are concerned, it has become much more mature than 10 years ago, when China joined the WTO as a new Member. It has accumulated experience to face protective measures by other Members within the framework of the WTO legal system. There should be more bilateral consultations with Members taking the measures and making more efforts to resolve differences before resorting to WTO Dispute Settlement. Over the past 10 years, China was directly involved in more than 20 cases involving Dispute Settlement, either as a complainant or a defendant.
We have lost some cases and won some others. On the losing cases, China has made special efforts to comply with the rulings of the Dispute Settlement Body. While our experts may not fully agree with some of the rulings of the WTO, I believe it probably could help with our domestic reform process. Our final goal is to have more harmonious economic relations with all WTO Members. I am sure it is a shared objective among Members to achieve a win-win situation for all.
PART II:
A NEW CHINA, FOUR BATTLEFIELDS

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Managing Director ICTSD China &
Head for Asia Region
II. A NEW CHINA, FOUR BATTLEFIELDS

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Managing Director ICTSD China & Head for Asia Region

It is no secret that China continues to face serious problems from “unbalanced, uncoordinated, and unsustainable” development, in spite of its impressive economic achievements over the past three decades. China’s top political leaders, such as President Hu and Premier Wen, have admitted those problems on various occasions. Along with the central government, Chinese business leaders and economists have a shared consensus about the necessity and urgency of adjusting China’s economic development model.

Against this backdrop, transition has been one of the keywords in Chinese public debates in recent years. This year, the debates are reaching a peak, as the global economy continues to be trapped in recession after the financial crisis that began four years ago. And, the once-in-a-decade leadership transition in the Chinese Communist Party is just around the corner in late-2012.

The key question in the transition is not the lack of definition of the key problems of China’s economy. As widely recognized by Chinese economists and policymakers, the structural problems are quite obvious: investment is too high; consumption is too low; and China is overly dependent on exports. Other challenges include environmental pollution, income disparity, food safety, and political reforms, as stated in China’s 12th Five-Year Plan, which started from 2011.

The question is how China can accomplish its goals. And, if China succeeds or fails to accomplish them, how will that influence its trading partners and the global economic and sustainability landscape in general?

Four Battlefields

One of the objectives of this paper is to introduce to international colleagues the intellectual discussions that have been taking place among Chinese scholars, entrepreneurs, and officials. The author would like to summarize those discussions as follows: China needs to win in four battlefields to have a successful transition.

2.1 Keynesian Economics Shall Be Rooted Out

Over reliance on investment and exports has been for quite a while viewed as an immediate reason for China’s unbalanced economy. But, why do these problems persist when the causes have been diagnosed? Professor Zhang Weiying at Peking University pins it on Keynesian economics, which has been used as the main development theory in China. In his inaugural speech, entitled “Farewell to Keynesian theory, Back to Adam Smith” at the 2010 China Award for Economic Theory Innovation, Zhang said the Keynesian idea that governments should spend money they don’t have may have saved capitalism in the 1930s, and it proved to be a good instrument to handle an economy in crisis. But, Keynesian economics has its limitations and should not be used as the guiding theory for economic development.


In China, policymakers also misinterpreted Keynesian theory, using it as a guideline for economic growth, assuming that growth comes from three main sources: investment, consumption, and net exports. Whenever the economic numbers drop, the first response of governments from central to local is to increase investment for the sake of investment and GDP growth. Also, the role of exports in economic growth is overemphasized. It seems that only net exports make a positive contribution to economic growth, while trade deficits do not contribute to economic growth at all.

Professor Zhang Weiying and a few other economists argue that a successful economic transition requires a return to the fundamental economic theory stated by Adam Smith that economic growth comes from an increase of productivity, innovation, a better division of labour, and the expansion of markets. The Keynesian ideas that economic growth comes from investment, consumption, and net exports are misleading and dangerous. Keynesian economics may be good medicine for sick days, but using it all year long is like drinking poison.

2.2 The Urban-Rural Dual Structure Shall Not Be Endless

Sadly, the divide between urban and rural remains almost unchanged, although China has been successful in industrialization. After 30 years of development, today, the income per capita of rural residents is only one-third that of urban residents. Considering living conditions, education, and medical services, the absolute gap between urban and rural areas actually has been widening in past years, as pointed out by Xu Xiaonian, a professor at China Europe International Business School in Shanghai.3

China has urbanized very rapidly. But, two critical issues need to be solved. The first is the urbanization of “people.” So far, the urbanization has focused on “materials,” such as building infrastructure. Wang Tao, Chief Economist of UBS China, recently stated in Caijing Magazine that 160 million rural migrant workers should have been urbanized as urban residents, but 30 years later they are still called “peasant workers” (nong min gong) and are not able to enjoy the same salary, social welfare system, and rights of education for their children4 as other urban residents.

The second issue is related to unifying urban and rural areas into one market with a free flow of capital, labour, goods, and services − like the economic integration that has taken place within the European Union (EU). Guo Shuqing, Chairman of China Banking Regulatory Commission and previously the chairman of China Construction Economist, has commented that the urban and rural dual system is a bottleneck for upgrading China’s economic structure and rebalancing its economy. He suggests breaking all barriers and letting all production factors, such as labour and capital, move freely and in both ways between urban and rural areas.5 Economists, including Guo Shuqing, Xu Xiaonian, and Wang Tao, suggest a package of three key elements to break the long-standing curse of urban-rural disparity: land reform of rural areas in a market-oriented direction; unified labour market without discriminatory treatment against people whose registered residency (hukou) is from rural areas; and a nationwide, unified social welfare system that treats urban and rural residents equally. This way, rural residents can move and live in cities equally with urban residents, and urban residents can invest in land, buy houses, and live in the countryside. This will also improve


the living conditions in rural areas, which have been left behind as shabby and dirty places in the majority of China’s rural areas.

Such a transition is crucial. Rural residents shall not unjustly be second-class citizens. Blocking the upward social mobility of rural residents and their children will be socially costly. Moreover, the domestic market and consumption cannot expand if the rural people remain poor or inferior to urban residents politically, socially, and economically.

2.3 Market-Oriented Formulation Scheme of Production Factor Prices Holds the Key to Correcting Economic Imbalances.

There have been many discussions about how to solve the price distortions that caused structural and sustainability problems in the Chinese economy.

Liu Shijin, Vice President of Development Research Centre of China’s State Council, wrote China shall transform itself from a “speed economy,” where profits rely mainly on high-speed growth and bringing down costs, toward an “efficiency economy” that is focused on innovation based on higher profit margins. He suggests deepening the reform of factor markets to correct the distortion of formulation schemes of factor prices, such as wages, rents, interest rates, and the exchange rate.

The key to China’s industrial transition is not held by industrial leaders per se, but by the whole economic and financial system, as pointed out by another political economist, Xue Lei at the Shanghai Institute for International Studies. The old system has long been favouring state-owned sectors and ensuring their access to huge amounts of investment by pressing the prices of labour, natural resources, and capital.

2.4 Political Reform Cannot Be Bypassed.

“Without political reform, economic reform won’t succeed, and what we have achieved may disappear,” said the Chinese premier in his press conference at the 2012 People’s Congress. He particularly cited corruption as the biggest danger.

A successful economic transition cannot “bypass political reforms,” stated Professor Li Daokui of Tsinghua University in Beijing and former member of China Central Bank’s Expert Committee at the 2012 Tianjin Meeting of the World Economic Forum. Li emphasized that the essence of the political reforms is to establish a modern market economy, to improve the rule of law to regulate the behaviour of government, and to ensure judicial independence.

Free elections are a fundamental element of any modern democracy, and election-based democracy within the Party can be a starting point for political reform, wrote Professor Hu Wei of Shanghai Jiaotong University in the People’s Forum in 2010. It has also been suggested that it may be possible to expand the experiment of election of officials at sub-national levels so that the elected officials are more responsive to local

constituencies, which care more about air quality, green playgrounds for children, and education than the dry numbers related to the growth of gross domestic product (GDP).

**Implications for the World Economy**

To summarize, Chinese officials and experts are calling for a substantive transition from a “speed economy” to an “efficiency economy” that is (1) driven by innovation, rather than investment and low costs; (2) features an expanded and unified domestic market that ends the urban-rural divide, rather than net exports to foreign markets; and (3) supported by a modern market economic system backed by election-based political reform, the rule of law, and judicial independence.

If China wins on each of the above-mentioned battlefields, it will be a new China on the world economic horizon.

What will be the implications of China’s economic transition for other countries? Morgan Stanley Chief US Economist Vincent Reinhart believes “China will become an even bigger, fast-growing export market (for developed countries).”

China’s structural change will also present opportunities for other lower-income countries to enter the labour-intensive manufacturing sectors, commented Pamela Cox, the World Bank’s new Vice President for East Asia and the Pacific at the International Monetary Fund (IMF)-World Bank Spring Meetings in April 2012. She described China as moving upward on the ladder of global value chains.

Not everyone will be happy. If China succeeds in its economic transition from investment-driven to consumption-driven, it may cause difficulties for exporters of natural resources. For instance, a recent report prepared by Citibank pointed out that 4 - 15 percent of production capacity of the global steel and iron industry will be closed, and the closure will most probably happen in Europe, because China’s demand for steel and iron from the international market will shrink. But, analysts from the steel and iron sectors say the decrease in demand from China can be offset by rising demand from other countries’ investments in infrastructure and manufacturing.

It is worth noting that, as part of its transition, China announced in 2009 its goal to reduce the amount of greenhouse gases (GHG) emitted per unit of GDP (its carbon intensity) by 40-45 percent by 2020 compared with 2005. This goal will not be achieved by administrative measures, but requires structural reforms to change the development model as described above. If it succeeds, China will not only make its contribution to curbing climate change, but also provide tremendous business opportunities for clean technology holders and environmental services providers.

China has been in transition for the past three decades. But, where it is heading is critical now more than ever. Correcting an unbalanced, uncoordinated, and unsustainable economy in real terms is a daunting task for the new generation of leadership as well as the whole society. It is in this context that policy discussions and exchanges of ideas between Chinese and international experts and stakeholders shall be fostered. At the end of the day, a successful transition in China is in the interest of achieving a sustainable recovery and a rebalancing of the world economy.


11 Ibid.

12 “China’s Economic Transition May Have Big Impacts on Global Steel and Iron Market” http://info.china.alibaba.com/news/detail/v0-d1042366161.html
PART III:
RIO+20 AND BEYOND:
THE FUTURE CHINA WANTS –
INTERSECTIONS OF THE GREEN ECONOMY, INNOVATION AND TRADE

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III. RIO+20 AND BEYOND: THE FUTURE CHINA WANTS
- INTERSECTIONS OF THE GREEN ECONOMY, INNOVATION AND TRADE

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Research Fellow
Stanford Law School

China is currently in the midst of yet another historic revolution - a visionary, all-pervasive, "green" revolution. Over the past decade, China has moved rapidly to institute an ambitious, comprehensive, nationwide sustainable development strategy that is not only transforming the Chinese ecological landscape, but also triggering fundamental structural adjustments in the economy. China's current sustainability efforts, to a significant extent, track many of the sustainable development (SD) proposals, policies, and programmes advanced by the international and Asia Pacific communities dating back some two decades to the original Earth Summit in 1992 and most recently expanded upon at the United Nations Conference on Sustainable Development (UNCSD) Rio+20. Indeed, much of what was discussed and advocated at Rio+20 in terms of growing a greener economy is already a living, actionable reality in China. Across a range of SD areas, China is poised to become a green global leader.

Transition to a Green Innovation Development Model

Historically, China has not shown strong interest in environmental issues. Throughout the 1980s and early 90s, as China embarked on wide-ranging economic reforms to create a "socialist market economy," roughly along western lines, and massively industrialize the country, the Chinese leadership was concerned almost exclusively with standard Asian models of economic development and poverty alleviation and neglected the severe impacts such a development strategy wreaked upon the natural environment as well as on the life, health, and well-being of Chinese citizens (Economy, 2006). Environmental law and policy took a distant backseat to the more urgent diktat of industrialization, domestic economic reforms, and foreign trade and investment prerogatives. Environmental institutions, such as the antecedent National Environmental Protection Agency (NEPA) - now the Ministry of Environmental Protection (MEP) - operating at the sub-ministry level until 1998 and its local bureaus, were known to be weak actors in the Chinese administrative bureaucracy (McElwee, 2011). However, sea changes in the Chinese leadership's approach to sustainable development and environmental protection began to appear in the mid-1990s and have dramatically accelerated in the first 12 years of the 21st century, with China's increasing participation in international organizations and treaty negotiations, particularly its ratification of the Kyoto Protocol in 2002 − albeit without firm commitments to reduce greenhouse gas (GHG) emissions − support for the Bali Action Plan 2007, and full engagement in ensuing United Nations Framework Convention on Climate Change (UNFCCC) Conference of the Parties (COP) meetings in Cancun and Durban as well as other UN-sponsored environmental forums up to and including Rio+20. This increased international exposure and participation has altered China's developmental perspective, opening up new vistas for Chinese policymakers to evaluate the earth's environmental and resource exigencies, which have in turn contributed to a fundamental re-formulation of China's economic development model to comprehensively embrace sustainable development and the green economy.

The policy considerations underlying China's "ecologizing of economic governance" have been manifold. Recognition by the Chinese leadership of the consequences of China's extensive carbon and other GHG emissions footprint and the detrimental implications for global climate change have demonstrated the fundamental unsustainability of the traditional
western industrialization model in the 21st century for large developing countries seeking to modernize (World Bank, 2012). This has directly led to China establishing public targets/commitments to reduce energy intensity and carbon, sulfer dioxide (SO2), and other GHG emissions up through 2020 (World Bank, 2012). There has also been the stark realization among the Chinese of the finite scarcity of the earth’s natural resources, with the supply of fossil fuels and other strategic resources, including mineral wealth, insufficient over time to meet the development demands of all countries, particularly the voracious industrial appetite of the Chinese economy. This is what has been termed the resource revolution (McKinsey, 2011). Severe ecological degradation, engendered by largely unchecked intensive industrialization under China’s earlier development model, including nearly toxic levels of air, water, and soil pollution in certain parts of the country; population pressures and migration; unprecedented increases in urbanization over the last decade; and vulnerable dependencies on foreign fossil-fuel supplies, particularly foreign oil imports, have all contributed to this fundamental paradigm shift in favour of growing a green economy in China. It is noteworthy that in adopting a sustainable economic development model, China, unlike many developing countries, has apparently rejected notions that economic competitiveness and sustainable development are somehow adversaries.

However, what is perhaps most distinctive about the new Chinese economic development model for a future-oriented green economy is the pairing of sustainable development with innovation and technological advancement of the Chinese economy. In terms of comprehensive, overall national planning, the 12th Five-Year Plan for National Economic and Social Development (12th FYP) (2011-15) covers both green economy and innovation programmes. However, below this macroeconomic threshold of national planning, there exist discrete, more detailed national plans, promulgated by the State Council or the National Development and Reform Commission (NDRC), including: The National Sustainable Economic Development Plan (2011-15, currently pending approval by the State Council); the Medium- and Long-Term Renewable Energy Development Plan (2005-2020); the Medium- and Long-Term Science and Technology Development Plan (2006-20); and the recently released 12th Five-Year Plan for the Development of China’s Strategic Emerging Industries (2011-15), among others. Key ancillary enactments include the PRC Renewable Energy Law (2005, amended and effective 2010) and the State Council Decision on Accelerating the Fostering and Development of Strategic Emerging Industries (2010).

China’s clearly articulated current development goals envisage technological innovation as the core of its national development strategy, accomplished in many cases through the realization of green economy initiatives (McGregor, 2010). In this regard, the Chinese leadership aims to vault the economy up the value chain, away from cheap labour-intensive production toward high value-added, technology-intensive goods and services, which are, at the same time, environmentally friendly. Technological leapfrogging is the means to this end, and this will often implicate the development of Chinese green industries as well as the eco-transformation of China’s mega-cities (Bai, 2012).

This coupling of SD and innovation is most clearly evident in China’s plans, policies, and regulations related to so-called indigenous innovation and the growth of China’s “strategic emerging industries.” In relation to China’s strategic industries development, it is remarkable that most of the seven identified priority sectors, which are intended to raise substantially the technological level of the Chinese economy, are in fact “green” industries: energy efficiency and environmental protective industries; biotechnology; alternative energy industries (i.e. renewables); new materials; and clean-energy automotive industries.

Backing up this new green-focused, innovation-driven development model is the tremendous heft of unprecedented Chinese government support. For strategic industries development alone, the Chinese government at national and local levels is investing USD 1.5 trillion over
a five-year period. Broad-based support for strategic industries and indigenous innovation is available in the form of grants, subsidies, promotion funds, venture capital support, soft loans, guarantees, and generous tax incentives (McGregor, 2010). Separate additional substantial funding to Chinese industry includes science and technology research and development (R&D) allocations. China’s gross expenditure on R&D in 2011 is estimated to have been USD 153 billion (in purchasing power parity terms), second only to the United States (Crookes, 2012). R&D spending as a proportion of gross domestic product (GDP) is targeted to increase from 1.75 percent in 2010 to 2.5 percent by 2015, among the highest for all countries (World Bank, 2012). Moreover, separate additional government funding and incentives are also available for specific categories of SD industries, e.g., renewables, as evidenced by government-mandated feed-in tariffs and the Golden Sun subsidy programme for photovoltaic (PV) solar installations. Under the 12th FYP, the Chinese government is investing USD 468 billion in green sectors compared with USD 211 billion in the previous five years, with a focus on three sectors: waste recycling and re-utilization (i.e. circular economy); clean technologies; and renewable energy (UNEP, 2012).

These staggering amounts of Chinese government funding and their attendant incentives, although primarily intended for Chinese domestic enterprises, may also be accessed by foreign investment enterprises (FIEs) operating in China and by foreign technology suppliers or investors involved in technology transfer and/or cooperation with Chinese entities, if certain qualifying criteria are satisfied. In this regard, it is clear that the Chinese government, recognizing that many of the world’s cutting-edge technologies are currently the intellectual property (IP) of western and Japanese companies, welcomes collaborative innovation and technology cooperation with a view to the development of its green and strategic industries and the nurturing of new, improved technologies in China. Several governments, including the US government, are supportive of collaborative innovation between Chinese and foreign companies and have provided their own funding and/or other forms of government support to promote such technology cooperation (S&ED, 2012). Inevitably, however, issues of sufficient levels of IP protection in China have continued to act as a significant brake on the exuberance of foreign technology suppliers contemplating participation in such lucrative collaborative innovation arrangements (USITC, 2010). To counter such reservations, the Chinese government has worked conscientiously to construct an IP protection regime that is compliant with the World Trade Organization (WTO), providing a range of safeguards, including civil and administrative remedies as well as criminal sanctions for IP infringements, related to patents, copyrights, software, trademarks, and, to a lesser extent, trade secrets. Other concerns of foreign suppliers of technology and investors have included equity caps on foreign ownership of green or strategic companies in China and, particularly, regulatory exhortations that foreign corporations transfer “core IP rights” in order to qualify for benefits associated with investment in Chinese strategic industry, indigenous innovation, and green energy projects (Wolff, 2011).

**Rio+20 Developments**

The Rio+20 conference, which concluded on June 22 and involved the participation of more than 190 countries and governments, pursued a much-touted agenda that sought to focus global attention on the advent of the green economy and the need for institutional governance reform in support of sustainable development. Rio+20 achieved some progress in generating consensus on certain green economy issues and initiatives with a modicum of forward movement accomplished with respect to institutional reform, particularly an enhanced prospective role for the United Nations Environment Programme (UNEP).

Rio+20 results included: the official Rio+20 Outcome Document; a report entitled “The Future We Want”; and numerous policy recommendations emanating from the Corporate Sustainability Forum as well as a raft of voluntary commitments adopted by various interested
stakeholder groups. “The Future We Want” reports that consensus was reached on further mainstreaming SD in development strategies and the operation of national economies, recognizing that the achievement of comprehensive SD requires an integration of all three pillars: economic, social, and environmental.

The Outcome Document dedicates an entire chapter to addressing the challenges and opportunities presented by the green economy. The Outcome Document appropriately situates the green economy within the context of overall sustainable development and poverty eradication and further affirms that policies for the green economy should be guided by and in accordance with the Rio Principles, Agenda 21, and the Johannesburg Plan of Implementation, while contributing to the achievement of relevant internationally agreed development goals, including the Millennium Development Goals (MDGs).

The UNCSD also affirmed that green economy policies should observe certain guiding principles. Among these, government green policies should be consistent with international law; respect each country’s national sovereignty over its natural resources; and be supported by “enabling frameworks” and well-functioning institutions at all levels. They should also be inclusive with respect to all relevant stakeholders, including civil society. At the same time, the Rio+20 Outcome Document acknowledged that national governments have considerable independent policy space to craft their own green economy national development strategies.

Significantly, Rio+20 recognized the interlinkages between the green economy, technology advancement and innovation. Paragraphs 269-71 of the Outcome Document specifically address technology transfer, innovation and IP rights in relation to green technologies for developing countries. Paragraph 269, in particular, recalls the “provisions on technology transfer, finance, access to information, and intellectual property rights as agreed in the Johannesburg Plan of Implementation,” which refers to technology transfer of environmentally sound technologies (ESTs) to developing countries “on favorable terms, including on concessional and preferential terms, as mutually agreed.”

The backdrop to the inclusion of these green technologies provisions in the Outcome Document was highly contentious and reflects a serious, ongoing divide between developing and developed countries. The US and other developed countries were resistant to references to “technology transfer” and “IP rights” in the Outcome Document, owing to concerns about potential compulsory licensing of IP rights and the imposition of technology transfer requirements by developing countries (Khor, 2012). Such reluctance was triggered in part by demands made by the G-77 and China in submissions to Rio+20 for a new “technology transfer mechanism” to promote SD in developing countries. This transfer mechanism and related measures were aimed at providing increased access to ESTs by means of a so-called balanced approach to IP rights, the use of TRIPS “flexibilities,” and arrangements such as patent pools, among other modalities (Latif, 2012).

Notably, the UNCSD in the Outcome Document also lends support for “green domestic product” and “green accounting” initiatives. The Outcome Document requests the UN Statistical Commission to coordinate with other UN bodies, including the UNEP and other organizations, to identify new approaches for measuring natural capital and progress in achieving a green economy that go beyond standard GDP indicators to include ecosystems, biodiversity, natural resource scarcity, pollution levels, and social exclusion factors. Moreover, Rio+20 adopted the voluntary 10-year Sustainable Consumption and Production Framework, covering a variety of sectors that range from tourism to government procurement, aimed at ramping-up public spending for goods and services that maximize environmental and social benefits. Perhaps the most laudatory achievement of Rio+20, in the view of Gro Harlem Brundtland and others, is the groundbreaking work on the setting of sustainable development goals (SDGs) - as supplements to the UN’s more general MDGs, which expire in
2015. The formulation of SDGs has been delegated to a 30-member working group that will refine the themes and report back to the UN General Assembly next year.

**Trade and Sustainable Development**

SD-related trade issues, considered as a subset of trade and the environment, have recently emerged on center stage at both the national and multilateral levels, engendered in part by a number of high-profile WTO and US trade disputes, in which China and Chinese companies have been the principal respondents. These disputes, since 2009, have embraced a range of different Chinese products, including wind turbines, wind utility towers, solar cells, rare-earths, and a host of raw materials. China’s use of natural-resource export controls and renewable-energy subsidies have been subject to challenge by the US and others in the WTO, implicating the WTO Agreement on Subsidies and Countervailing Measures (SCM) and several Articles of the General Agreement on Tariffs and Trade (GATT), with China defending on environmental grounds pursuant to GATT Article XX. At the national level in the US, Chinese wind power equipment and solar cells have been preliminarily targeted for the imposition of both anti-dumping duties (AD) and anti-subsidy countervailing duties (CVDs) by the US Department of Commerce, which may, if final determinations are forthcoming, effectively impede market access for some offending Chinese companies, particularly PV solar cell producers. China, in turn, has retaliated by filing a complaint against the US with the WTO Dispute Settlement Body, challenging the propriety of the US application of CVDs on some 22 products, including wind power equipment and solar cells, pursuant to GATT Article VI, the SCM Agreement and its CPA. Meanwhile, at the national level in China, the PRC Ministry of Commerce has launched its own AD/CVD investigation of imports of polysilicon (used in the production of solar cells in China) by US producers.

It can hardly be reassuring for China that its huge investments in the development of green technologies, in particular, have led to such an impasse. These results are also, to some extent, incongruous for the US, which strongly supports environmental protection, renewable-energy development, global reduction of GHG emissions, and actions to ameliorate climate change. This would scarcely seem to be the future that China - or the US - wants. However, China is bound to appreciate that its state-driven subsidization/investment programmes for green economic development, particularly when linked to a proactive export strategy, are vulnerable to challenge both nationally in other countries and at the multilateral level as constituting “unfair trade practices.”

China and the US are not alone in facing the quandary of reconciling the tensions that exist between sustainable development, on the one hand, and long-standing rules and principles of the world trading system, on the other. Several features of sustainability regimes raise amber or red-light signals under GATT-WTO rules, including: environmental/energy efficiency standards, eco-labelling/process and production methods (PPMs), and certifications; energy-related border tax adjustments; and green subsidies/domestic support programmes (UNCTAD, 2012). ICTSD, among others, has been at the forefront in confronting such tensions and positing plausible solutions, including revisiting certain environmentally relevant GATT-WTO rules, in light of the need for urgent collective action to combat global climate change and promote green economies, especially among developing countries (ICTSD 2008; Cosbey 2009, 2012).

As the 18th CCP Party Congress convenes this October, and notwithstanding such looming contradictions, the new Chinese leadership should be able to adroitly “cross the river by feeling for stones” through a proper blend of deepening market reforms, strengthened domestic institutional governance and inspired international engagement and collaboration at all levels.
PART IV:
FROM CHINA TO CHINESE:
EXPANDING NON-STATE ACTORS
IN GLOBAL GOVERNANCE

Scott Kennedy
Director, Research Center for Chinese Politics & Business
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VI. FROM CHINA TO CHINESE: EXPANDING NON-STATE ACTORS IN GLOBAL GOVERNANCE

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China has moved from being an outright opponent to being a quiet observer to playing a more activist role in global governance institutions. As part of this transition, China has come into compliance with its various legal obligations and contributes substantially to deliberations about setting the rules of the game. But, this evolution applies to official China, not non-state actors. Although companies and nongovernmental organizations (NGOs) are increasingly expected to play a role in a wide variety of global governance institutions, Chinese non-state actors have very limited involvement. This reflects China’s domestic political environment. Reforms that give greater space and voice to companies, NGOs, and other societal stakeholders in China are a prerequisite to China becoming a more effective global leader.

*China Complies and Participates*

Since joining the World Trade Organization (WTO), China has revised thousands of regulations and laws at the central and local levels, and the State Council and Ministry of Commerce regularly review drafts of new regulations and laws to compare them against China’s commitments. There are occasions where the written text or actual implementation is inconsistent, but foreign governments and industry are quick to point out these weaknesses. China has been brought to dispute settlement at the WTO on 16 occasions. Nine of those cases have been fully resolved, and by my informal count, China “lost” 8.5 of the 9 cases. It prevailed on important aspects of the intellectual property rights case (DS 362). The WTO made only official rulings on five cases; but, in the other four cases, China made concessions during consultations that by my admittedly arbitrary standard are equivalent to admitting defeat. In four of the five fully completed cases where a WTO panel officially ruled against China, it came into compliance by modifying domestic regulations and laws within the mandated period. In the lone exception, regarding the distribution of audio-visual products (DS 363), China and the United States reached a mutually acceptable settlement before the WTO could have given the US the right to adopt retaliatory penalties against China for noncompliance.

This is a very respectable record. The US has failed to come into compliance on time in at least 7 of 39 cases it has lost at the WTO, and the EU has been found noncompliant in 3 of 21 defeats.

China not only complies, but it actively participates. Since 2008, China has been one of the core participants in the Doha Round, attending all Green Room sessions. And its representatives regularly submit proposals in each of the WTO’s committees. Chinese figures have reached senior positions at many international economic organizations, including the World Health Organization, the World Bank, the International Monetary Fund, and the International Telecommunication Union. Chinese activism is greater than ever.

*Not Unofficial China*

However, this activity refers to official China. Over the last few decades, global governance has come to involve companies, NGOs, scholars, the media, and other important societal...
stakeholders, what some refer to as the “third sector.” This is what makes the difference between regulation (管理) and governance (治理). These members of society both provide support to government officials who participate in global governance and directly participate themselves, in what is called, “private governance.” They negotiate, draft principles and agreements, set standards, monitor compliance, and penalize noncompliers.

Non-state Chinese actors are not absent from the global governance scene, but they are in short supply and typically operate on a short leash. This limited activism is surprising given the extent of Chinese international trade and investment. Chinese companies and other parts of society have a strong self-interest in not only understanding the rules of the game, but also in utilizing them and even trying to change them. The Chinese export and invest so much these rules are central to the country’s basic livelihood. Non-state actors from countries with far smaller stakes in the global economy are far more active than their Chinese counterparts.

The only explanation for this surprising paradox is China’s domestic political environment. There are tight constraints on the public activity of non-state actors. Industry associations and other NGOs not only must register with the government, but also often are required to have an official or former official in a leadership role. Also, there is supposed to be only one association representing an industry (一业一会). Because of these constraints, industry associations are more creatures of the government than representatives of their members.

The awkward result is that neither their members nor their government regulators have much faith in these associations and do not depend heavily on them. There have been some reforms since the 1990s. Associations in certain regions are allowed more independence. The cities of Wenzhou, Shenzhen, Guangzhou, and Shanghai are known for relatively vibrant industry associations. And, a minority of national-level associations, particularly those registered under the All-China Federation of Industry and Commerce (工商联), have become more active. These associations are truly independent and initiated by their members, not government agencies. Examples would include the China New Energy Industry Association and the China Mergers & Acquisitions Association. Most active associations are from industries dominated by private companies.

Other non-state NGOs are under even tighter controls than industry associations. Although they can be important in solving social ills, from education to health care, their direct contribution to economic growth is less clear. There is more concern that these organizations will go beyond their regular focus and become politically active. Hence, they are monitored even more closely than industry associations.

Limited Involvement in Global Governance

Chinese industry is most active in bilateral trade disputes. Chinese companies and their lawyers regularly petition the Ministry of Commerce to launch antidumping and countervailing duty investigations against importers. Many of these cases are in the chemical industry and initiated by Sinopec (中石化) or one of its subsidiaries, but applicants are from a wide variety of sectors. Chinese industry and their associations are also active in responding to accusations of dumping abroad. This is particularly true in private-sector dominated sectors, such as light consumer goods and newly emerging industries, such as solar and wind power generation.

But, beyond bilateral trade disputes, Chinese industry, either individual firms or associations, are relatively passive and uninvolved in global governance. During the Doha Round, companies and industry associations from the US and Europe were regular visitors to Geneva. Whenever a ministerial was being held you could be sure representatives of these
companies would be there behind the scenes, briefing officials before negotiations or being briefed afterward. In Dispute Settlement Understanding (DSU) cases, even though these are state-to-state conflicts involving governments, Western businesses most directly affected by the case outcomes regularly meet with their governments at home and in Geneva.

I once ran into an executive of a US express mail company in Geneva who was following the Doha Round and also concerned about China's regulatory regime for express mail. He knew exactly where the negotiations were and was fully conversant in the language of the WTO as well as Chinese law. There must be hundreds, if not thousands of US and European company executives visiting Geneva on a regular basis with that level of knowledge and access.

By contrast, Chinese companies and industry associations are rarely visible in Geneva. They do not follow the Doha Round carefully or lobby the Chinese government to adopt one or another position. Lenovo and Huawei have offices in Geneva, but that is about it, and these offices likely focus on business, not public policy. During an early WTO case involving China, domestic Chinese manufacturers were in Geneva by chance during the dispute, and they made a plea for the Chinese representatives to protect their interests. But, that was a one-off visit not repeated later, and it appears their appeal had no bearing on how the Chinese officials acted in this case.

Chinese companies and NGOs participate to some extent in other areas of global governance, but are far less active than their counterparts from elsewhere. They are less prominent and influential in the discussions over global financial regulation occurring through the Bank for International Settlements and the G20, the UN Framework Convention on Climate Change, World Health Organization activities, and foreign aid discussions. Earlier this year, a Chinese association was participating in a multilateral organization that helps govern a high-tech sector. The group provides recommendations to officials on quality and technical standards, tariffs, and other issues. A consensus on a global tariff proposal was close at hand, but the Chinese association could not determine their government's likely position because, unlike their counterparts, they were unable to engage the relevant official in Beijing. Moreover, the Chinese association wasn't able to effectively press for agreement, because that same official, of course, appoints them to their association roles and is technically their boss. As a result, progress has been slow, and this means higher costs for trade in this hi-tech product, and that cannot be good for Chinese producers or consumers.

The one area in multilateral governance I have been able to identify where Chinese non-state participants are highly active is in the setting of technical standards in the telecommunications sector. Huawei, ZTE, China Mobile, and China Telecom have been deeply involved in the International Telecommunication Union (ITU) and industry consortia, such as the 3GPP that set standards for 3G, 4G, and other aspects of information technology. Their activism seems generated by the existence of a powerful connection between standards and their business models. They are the exception to the rule rather than indicators of a growing trend. But, common to other areas, these companies are motivated by their own accord, not brought to the table by a domestic industry association.

The Chances for Change

As long as Chinese industry and other stakeholders are not active on the global stage, it will be difficult for China to become a leader in global governance. Non-state actors provide information, energy, and organization in ways that governments cannot. China's ability to comply easily with WTO losses may actually be the other side of the same coin; a strong state is able to force its will on industry without facing direct negative consequences. But, this situation may work to the detriment of Chinese officials during multilateral negotiations, and it certainly hurts the interests of Chinese companies' whose business opportunities are
affected by the outcome of negotiations and implementation of the related rules. If the Chinese are not at the table or are unfamiliar with the rules of the game, they do not stand much chance of winning.

It would be simple to say that the key underlying issue is China’s political system. Without political reform, there may not be space for a more active and influential society. There may be some merit in this perspective, but China has always surprised observers by being extremely practical in addressing problems even when the solutions may appear to violate standard political logic. Deng Xiaoping launched economic reforms in 1978 by using the language of Mao Zedong thought, not opposing it. China now has private enterprises, huge corporations, stock exchanges, venture capital, and futures markets, and all of this and more is considered consistent with socialist principles. A strong “third sector” is increasingly important for China’s economic and social health. And, so I expect there is a way to explain that independent industry associations and NGOs do not necessarily have to be associated with multi-party democracies and, in fact, can help buttress the governing ability of the Chinese Communist Party.

If China is able to facilitate innovative changes in how domestic society is governed, China, both official and unofficial, will become a much greater force across global governance regimes. And, this can only be for the better for China, other countries, and the regimes themselves.
PART V:
GROWING LABOUR UNREST
AND EMPOWERMENT OF A NEW
GENERATION OF MIGRANT WORKERS
IN CHINA

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V. GROWING LABOUR UNREST AND EMPOWERMENT OF A NEW GENERATION OF MIGRANT WORKERS IN CHINA

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5.1 Introduction

In recent years, the term empowerment has become increasingly popular in China and around the world. Debates related to empowerment seem to have gained a new momentum from the new labour movement, which has been on a trend of acceleration owing to an unprecedented growth of labour unrest across the country, mainly in coastal regions. The most influential events in this movement include the 15 Chinese worker suicides at Foxconn, a world giant supplier for electronic devices, and the successful strike at Honda, a Japanese car company in Guangdong in 2010. In reaction to the new labour movement, the Chinese government has shown more tolerance and taken positive measures, including the adjustment of relevant regulations and policies in order to alleviate the tension between capital and labour.

The change of industrial relations and the political atmosphere has also provided a new momentum for the debates on empowering Chinese workers. Taking into account multiple constraints and the uneven structure and distribution of political resources in China, this paper aims to conduct a critical review of relevant debates, and contribute a multiple stakeholders' participation perspective. Accordingly, it is going to address the following questions: Why is it unavoidable to empower a new generation of Chinese workers? What are different understandings and approaches to the adjustment of industrial relations? How can different stakeholders, including international companies, Chinese factories, central and local governments, non-governmental organizations (NGOs) and Chinese workers, work together for win-win outcomes?

The above questions are addressed through a combination of second-hand information analysis and our own observations, based on an investigation of a number of factories involved in global supply chains in China.

5.2 New Labour Movement in China: Types and Trends

China’s economic achievements since the 1980s are largely based on the mobilization and full utilization of its human resources, especially hundreds of millions of so-called rural migrant workers (nong min gong), who leave the countryside for non-agricultural employment in urban areas, but keep their rural identity (hukou). While migrant workers have made huge contributions to China’s industrialization, urbanization, and in particular, the development of an export-oriented economy, what they got in return was low wages, long working hours, poor working conditions, and social discrimination. This arrangement, as part of the cheap labour strategy that lasted for more than two decades, seems to be approaching an end due to the unprecedented growth of labour unrest and conflict in recent years. The new labour movement in China cannot be narrowly understood as a process of improving working conditions and labour standards; it involves all stakeholders in adjusting the industrial relations and power structure toward empowering Chinese migrant workers.

To understand why empowering Chinese workers is inevitable and the message that can be taken from the new labour movement in China, this section divides the actions or responses from the new generation of Chinese workers into five categories: disputes, escape, suicides, strikes, and disturbances.
1) Litigation: individual efforts for protection of rights

According to the official statistics, there were 1,287,400 cases of labour disputes reported in 2010 compared with 930,000 in 2008, and 19,098 in 1994. The rapid increase of individual litigation is particularly related to the enforcement of the Labour Contract Law and the Law of Labour Dispute’s Mediation and Arbitration, which represents an effort of the Chinese government to improve the protection of worker’s rights. Of these cases, 81.13 percent were related to wage and welfare. This means economic interest is still the main concern of Chinese workers; it also means workers no longer accept the situation of low wage and welfare. The new labour laws provide more channels and take away the doorsill of the labour court, making it easier for workers to go to court. Despite the great improvement of access to labour courts, individual litigation often takes a long time and is expensive. This has impeded large numbers of workers from bringing their cases to the labour tribunals or courts to resolve labour disputes.

2) Escape: voting by foot

Most workers are more likely to select an escape strategy to express their dissatisfaction with poor working conditions. In this regard, turnover rates are the best indicator to reflect workers’ attitudes. According to an empirical study of 210 export-led manufactories conducted by an Institute of Contemporary Observation (ICO) team from 2008 to 2009 (Liu et al, forthcoming), the average annual turnover rate of employees has exceeded 50 percent in the Pearl River Delta and Yangtze River Delta. This is particularly true for electronic factories, in which according to an ICO investigation of 15 electronic factories based in Guangdong from December 2010 to March 2011, the average annual turnover rate was as high as 89 percent, and the highest reached 200 percent.

The high turnover rate in our sample factories has confirmed the trend toward increasingly severe shortages of workers. Electronic manufacturing as a vanguard of China’s export-led economy, for instance, in normal labour market conditions has an advantage in attracting and selecting high-quality workers due to its better working environment. It has become increasingly difficult for employers to maintain this advantage unless they implement significant changes in wages and working conditions. The high turnover rate, however, means neither employers nor workers can gain, and both suffer from the current situation. Employers have to spend more time, resources, and financial resources on recruitment and training to fulfill business contracts and maintain the quality of products. Meanwhile, workers have to give up a month’s wages if they leave and abandon possible opportunities to become skilled workers. So, the escape strategy is not seen as an optimal choice for many workers, but rather as a means to protect their own interests or protest their employers.

3) Suicide: a negative response

Perhaps there is nothing more shocking to the whole of China and the international community than the 15 suicides that occurred in 2010 at Foxconn’s Shenzhen plant, the biggest electronic manufacturing factory in the world. The tragedy has drawn public attention to the fragile life of Chinese migrant workers. Even more, it offers an opportunity for the public, industrial leaders, academic scholars, and policymakers in China and beyond.

to think about labour costs for the world factory in general and the limitation of the current labour regime and cheap labour strategy, in particular.

The allegations from workers and the media show the company expanded rapidly over the past two decades, owing to the exploitation of workers. In July 2004, an ICO research team conducted interviews of Foxconn's workers and found they had had to endure long working hours, low wages and benefits, poor communications, and serious punitive measures. The company fiscal report (2010) states its manpower increased 9.7 percent from 2008 to 2009, but its total labour costs were reduced 28 percent, labour costs per capita were reduced 34 percent. Workers interviewed stated they had grim lives and humdrum jobs. They had to repeat continuously a simple action 10-12 hours every day like a machine without any social space.

It is worth noting that working conditions in Foxconn were not the worst identified; in fact, conditions there were better than many small- and medium-sized enterprises in China. Young migrants who had just graduated from schools, however, had brought their dreams to work at the so-called top company globally only to find themselves falling into a labour trap in which they would make profits for the owners, with little for themselves other than long working hours (10-12 hours per day at least 6 days per week) and low salaries to support their daily lives. While Foxconn is a good example of the contemporary sweatshop system in China, the case of the suicides at Foxconn is a typical event that shows the new threshold for Chinese workers who do not accept such a system or working conditions that treat workers as part of working machines without any future.

4) Strike: collective action against poor working conditions

Compared with individual actions as described above, collective actions, including strikes and collective litigation, are more sensitive and are prohibited inside or outside of factories. Being aware of their rights and possible consequences, Chinese workers will try to avoid a strike, unless they have no other choice to protect their rights. Although tightly controlled by government and employers, there has been a trend toward a rapid growth of strike activity in the last decade. Most strikes were focused on wage, welfare, and compensation for termination, as well as compensation for work-related injuries/occupational diseases. As a rather new phenomena in some recent strikes, workers have raised requests related to political rights, including the selection or re-organization of trade unions to represent their interests. One such case was the Honda strike in 2010.

The strike by Chinese workers began on 17 May 2010 at a Honda transmission factory in Foshan, and has shut down all four of Honda’s factories on mainland China. The Honda strike involved about 1,900 mostly young people. The striking workers wanted to increase wages in the initial stage. When the clash happened between workers and the official trade union on 30 May, the workers released a public statement via the Internet that said they were making a movement for the migrant workers to protect their rights and to organize a trade union. The workers contacted domestic and international journalists and legal counsel through the Internet. The consequence of the strike was the company had to accept the workers’ appeal to increase wages by 24 percent and accept more representatives, who would be elected by workers, to the company’s trade union.


The success of the Honda strike, which is in contrast to the Foxconn's suicides, seems to indicate a new stage in the Chinese labour movement from individual struggle to collective action. It shows not only a new level of class consciousness among the new generation of Chinese workers, but also increased confidence and skills to negotiate with employers and other stakeholders.

5) Disturbances: a response of anti-society

Although migrant workers have become the mainstream of labour forces in developed regions, especially in the Pearl River Delta and the Yangtze River Delta, a social segregation regime, which is partly related to the Hukou system, is still effective. This regime has impeded or excluded migrant workers from integrating into cities or the regions where they work and live. As a result, migrant workers have suffered from not only labour exploitation from their employers, but also social discrimination/exclusion from local communities. Reflecting the voices and needs of migrant workers against such social exclusion/segregation, perhaps, the number of events involving social unrest in 2011 represents a turning point in which the social dimension has become an important element of the new labour movement in China.

An example of such an event is the large riot that occurred at Xintang, the jeans-production town near Guangzhou, on June 11 2011. This riot started when a 20-year-old pregnant woman, Ms. Wang from Sichuan, was allegedly manhandled by security staff in front of a supermarket. The security guards, hired by the local government, tried to stop the woman from peddling goods. The incident led to a protest by Sichuan migrants, tens of thousands of whom worked in Xintang or nearby. Many of them took to the streets, attacking police vehicles and public buildings. Significantly, the protest was targeted not only at local authorities and the police, but also at local residents, especially in upmarket neighbourhoods. The riots forced local residents to shut down their stores and run away. This incident seems to send a clear message to the Chinese government and the public as well that it will be increasingly difficult for the new generation of Chinese migrant workers to accept current institutional arrangements or regimes in which their need for integration into local communities, and relevant rights in education, health care, and housing, can be continuously denied.

Both collective action, e.g. strikes, and individual protests, i.e. litigation in court, show that workers are starting to protect their interests and rights through collective power and law; this is a proactive response to their poor working conditions and an attempt to change or improve their situation based on negotiations between workers and employers and the rule of law. These positive actions have increased awareness among the working class of worker's solidarity in China. Workers are starting to think about how to rebuild the relationships with employers, local communities, the government, and official trade unions.

5.3 Empowerment of Chinese Workers: Different Approaches

Against the background of the new labour movement practices in China, we have to recognize the need to empower the new generation of Chinese workers. Different people, however, may have different interpretations and approaches to empowerment. The unprecedented growth of labour disputes and unrest, nonetheless, provides a basis for us to analyse and compare those approaches from the perspective of the needs of new migrant workers in China. This paper defines the term empowerment broadly as a process of providing increased space for new (migrant) workers to express, pursue, and protect their interests and rights effectively. In other words, empowerment can be seen as a process of adjusting industrial relationships between Chinese workers and other stakeholders toward a new balance. Accordingly, various understandings or approaches can be divided into four categories: legal protection, trade unions, NGOs, and corporate social responsibility (CSR).
Legal protection focuses on the establishment, development, and improvement of the legal system to recognize and protect labour rights. With an emphasis on the central roles of legal means and labour management authority in upgrading labour standards, this approach was dominant in the late 2000s, when many new laws and regulations, including Labour Contract Law (2008) were enforced despite the fact that they were very controversial among Chinese policymakers and scholars. With a limited focus on individual labour rights, current legal/regulation systems can hardly be used by migrant workers to protect their rights. As opposed to the empowerment of migrant workers, instead, there is currently a process of “de-powerment,” in which migrant workers become even more vulnerable when they search for legal/administrative support, as shown in a recent empirical study of injured workers and their stories about the search for local legal assistance.\(^6\)

In reaction to the new labour movement and the success of the Honda strike, in particular, the reform and enhancement of **trade unions** has been increasingly emphasized as the most effective means to empower migrant workers and to achieve a balance of power between capital and labour.\(^7\) Accordingly, the official national trade union (All China Federation of Trade Unions) has announced a nationwide political campaign that aims to establish trade unions in the majority of private/foreign companies and to foster collective bargain processes, leading to signed agreements between the majority of employees or their representatives and employers in the private sector within the next five years or so. Two fundamental issues, however, have not yet been addressed in the official trade union campaign: the independence of trade unions from local government, employers and representatives of front-line workers, which impede the trust and participation of migrant workers. As a result, the campaign may have a positive impact in enlarging resources and space for local official trade unions, but may not lead to any significant improvement in the empowerment of migrant workers.

Different from the top-down approaches described above, many people believe that the development of NGOs would be the best and most effective solution for the purpose of empowering migrant workers. Based on an investigation on 10 grassroots labour NGOs in the Pearl River Delta, Huang finds that most of those organizations were initiated by migrant workers themselves with missions to promote the consciousness of migrant workers about rights and explore new mechanisms for legal assistance and empowerment. The development of labour NGOs, however, is still in its infancy, owing to limited resources, and many biases and constraints from local governments. Many of these organizations may not survive without international funding or financial support. In addition, there is also an issue of how to enhance collaboration and reduce conflicts between labour NGOs.\(^8\)

Compared with other approaches, the core principle behind the framework of corporate social responsibility (CSR) is the need to strike a balance between business profit and fundamental workers’ rights. This principle has been widely accepted and practiced in the international community. It has been introduced in global supply chains in China since the mid-1990s and has become an important business approach to monitor basic ethics and corporate performance. Given the multiple objectives of stakeholders, different interpretations of the principle, and the imbalance in the power relations between employers, it seems that empowering workers can hardly be brought into the central position in CSR practices unless the adjustment of industrial relations becomes a priority shared by all stakeholders.


\(^8\) Huang, Yan (2011), Empowerment of migrant workers and international support network, Empirical Study, 22-25. Online: http://www.cnki.net
The above approaches, however, are not necessarily mutually exclusive. Rooted in different principles for different purposes, each approach has its own limitations in facing various constraints from economic, social, and political systems. A more comprehensive and integrated perspective is necessary to develop, absorb, and integrate all the valuable elements of each of the above approaches.

Taking into account the complexity of empowerment and the multiple constraints in China, this paper attempts to pose a novel perspective, namely a multiple participation approach, which emphasizes the nature of workers as central and multiple stakeholders’ participation for sustainable, win-win outcomes. In theory, such an approach should contain the following elements:

- Workers as the centre of the whole process of empowerment. This means that any meaningful project, action, or solution should be reflective of or targeted toward the interests or needs of front-line workers. The trust, interests, and full support of workers are crucial for initiating and running the process toward constructive and sustainable outcomes that are beneficial for all stakeholders.

- Relevant stakeholders should be included; thus, this approach must involve communication and interaction with migrant workers. This includes, but is not limited to, employers in the factories, international traders, and local governments. Equal communication and mutual respect between migrant workers and other stakeholders are important for constructive outcomes.

- Corporate social responsibility (CSR) can be used as a foundation and the glue needed to bring all stakeholders together. This is not only because CSR has been widely accepted and adopted by the international community, but also because global supply chain firms in China, as a key stakeholder, must be included in this process to ensure their shared interests are met and they benefit from the empowerment of Chinese workers.

- It is equally important for trade unions or NGOs to play an important role to facilitate the process of equal communication and constructive dialogue between workers and relevant stakeholders. While all stakeholders should be recognized and appreciated for their knowledge and expertise in mobilizing and gaining trust from workers’ participation, equally important is the quality of intermediate organizations in terms of their independent and professional attitudes.

5.4 Conclusions

This paper aims to reveal the necessity and feasibility of empowering the new generation of Chinese workers. By combining secondary information and our own observations in export-oriented factories in costal regions of China, a number of conclusions can be drawn as follows.

First, the new labour movement in China calls for empowerment of Chinese workers. This refers to a process of enlarging spaces for Chinese workers to express, learn, communicate, and collaborate with relevant stakeholders, including international traders, factory managers, central and local governments, trade unions, and NGOs, etc. This requires an adjustment of industrial relationships and power structures that have ignored the voices, needs, and interests of Chinese workers for a long time.

Second, the empowerment of Chinese workers involves multiple dimensions, dynamics, and constraints, which can hardly be achieved without multiple stakeholders’ participation and contribution to this process. A narrow approach or focus on one or two factors can hardly
reveal the causes for the new labour movement or the real dynamics within the system. Nonetheless, the new labour movement offers new momentum for adjusting industrial relations and also opportunities for multiple stakeholders’ participation.

Third, it is crucial for multiple stakeholders’ participation and contribution to create a new platform or atmosphere of mutual respect and trust and equal communication between workers, employers, and other stakeholders. Lack of respect and trust for workers is a big barrier to constructive communication and dialogue, which will continue to impede the adjustment of industrial relations and transformation of China’s export-oriented sector.

Fourth, the feasibility of multiple stakeholders’ participation and contribution is largely dependent on NGOs, trade unions, academic institutions, and other intermediates that can initiate and facilitate constructive communication and dialogue between workers and multiple stakeholders. This requires the development of new professionals who have not only a global vision, mission, and commitment to empowering Chinese workers, but also proper methods and the skills to intermediate and negotiate between stakeholders.

Finally, there is no ‘blueprint’ or standard model available for multiple stakeholders’ participation and contribution to the adjustment of industrial relations in China. Nonetheless, there are many experiences and practices at the grassroots level, which call for further research, experiment, and methodological breakthroughs.
PART VI: 
CLIMATE CHANGE SUBSIDIES IN THE WTO: A FEW NOTES FOR LAW REFORM

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VI. CLIMATE CHANGE SUBSIDIES IN THE WTO: A FEW NOTES FOR LAW REFORM

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This brief paper discusses the case and challenges for reforming the current subsidy disciplines in the World Trade Organization (WTO) to make them more friendly with respect to climate-change support. It is, in essence, a question about the best possible governance for this type of support in the WTO.¹

In the first section, the case for law reform is outlined. In the second section, the main challenges and possible features of such reform are analysed. Section III concludes.

6.1 Climate Change Subsidies: The Case for Law Reform

6.1.1 The economic and policy case for public support of efforts to fight climate change

It is noted from many quarters that there are still various market obstacles for clean energy and that public support, often in the form of subsidization, is needed. It is also agreed that support should be properly designed, and in particular, should be as targeted as possible (with preference given to activities rather than sectors) and as cost-effective as possible to the goals pursued.

Therefore, many, if not all, countries do provide various forms of support to energy and clean energy in particular (e.g. energy efficiency and renewable-energy subsidies and biofuel subsidies).

It is also clear that public support in this area is often determined by a mix of policy objectives that are not only environmental, but also social and economic (such as job creation and industry support) as well as related to energy security.

6.1.2 The current legal framework is not satisfactory

The status of subsidies to address climate change is one of significant legal uncertainty and even conflict between legal requirements and policy prescriptions.

For example, the status of tax incentives, regulatory measures (like feed-in tariffs or purchase mandates, such as renewable portfolio standards or blending requirements) and the free allocation of emissions allowances is still not clear. Equally, the regulation of subsidies supporting production is dramatically inconsistent (for example, while production subsidies are substantially permitted, unless adverse effects are caused,² local-content subsidies


² Article 5 of the SCM Agreement.
- which may produce the same effects - are prohibited). Furthermore, the best policy prescription that measures targeting market failures should differentiate and be as specific as possible may easily run counter to the requirement that support should be non-specific and should not cause adverse effects. Finally, there are currently no legal exceptions that would expressly shelter certain desirable climate-change subsidies.

The inadequacy of the legal framework produces in itself a constraint on policy space.

The possibility that some issues may be clarified through litigation, through friendly interpretation of current rules and justifications (read GATT Article XX), does not improve the situation since disputes are subject to many vagaries and may offer, at best, a piecemeal and partial solution. The pressure put on the judiciary (read Panels and Appellate Body) should also not be underestimated. The analysis of the possible application of GATT Article XX to subsidies is the best example in point. If this application may be technically feasible and, to a large extent, even policy-wise desirable, it would certainly be politically troublesome and add undue pressure on the system.

To be sure, one important pragmatic argument has been put forward to dispel any sort of anxiety about the inadequacy of the legal framework. It is a fact that, until recently, energy subsidies in general (which include both subsidies to fossil fuels and to clean energy) have been laconically absent from the litigation record. Subsidization of energy has been tolerated, the only exceptions largely being those cases where there are more obvious breaches of the “rules of the game” (like export subsidies or support measures with local content requirements).

The unsatisfactory nature of the legal framework is not merely hypothetical. As the market for clean technology and energy is getting larger and competition fiercer, the stability of the “tacit agreement” not to challenge one another’s subsidies is put into question. The various trade disputes on support for renewable energy that have recently been filed at both the WTO and the national level are evidence of this. Rather than representing skirmishes to re-establish the rules of the game of energy support, they may well represent the beginning of a dangerous trend.

Against this scenario of inadequacy of the legal framework and increasing litigiousness, the case for negotiating new disciplines that clearly define what types of governmental interventions are legitimate and what are not becomes stronger.

The answer to the problem is therefore better regulation.

### 6.2 Challenges for New Rules for Climate Change Subsidies

The case for better regulation leads us to consider two orders of issues, one concerning the type of subsidies that may be covered and one focusing on more systemic considerations that reform may involve. This is based on the premise that the effective overhaul of subsidy rules should focus on both the substantive and procedural/institutional aspects, due to their links.

For the sake of simplicity, I have identified 10 main issues and briefly outlined them below. Arguably, what is crucial in considering these issues are the factors/incentives that can make change happen (assuming this change is desirable) and the features that the resulting system should have. In a nutshell, the question is about the best possible governance for climate change subsidies in the WTO.

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3 Article 3 of the SCM Agreement.

4 Apart from the readings in n. 1 above, see Terry Collins-Williams and Robert Wolfe, “Transparency as
6.2.1 Reform of subsidy rules

1. **Candidates.** The first issue to address focuses on what subsidies the new disciplines should cover. Likely candidates include support to renewable energy and energy efficiency, biofuels, and subsidy aspects in cap-and-trade systems (e.g. the free allocation of emissions allowances). The justification may cover both energy and technology and may operate, although differently, at various levels - e.g. research and development (R&D), production, and distribution. The decision of which subsidies should be covered should be informed by the findings of economic analysis and by the policy goals recognized by the disciplines.

2. **Legal technique.** There are three main paths that could be followed to provide legal shelter to these subsidies:

   a. The actual definition of subsidy could be clarified, for example, by expressly stating that certain mechanisms the purpose of which are to regulate the market, such as feed-in tariffs or mandatory purchase requirements, are excluded from the definition. Quite similarly, attempts could be made to clarify the law with respect to the determination of whether a tax incentive does amount to a subsidy and to the benefit determination.

   b. Legal exceptions expressly and clearly stating which subsidies should not be actionable could be (re-)introduced. The approach of the old rules on non-actionable subsidies - Agreement on Subsidies and Countervailing Measures (SCM) Articles 8-9 - could be followed, with the necessary adjustments. The European Union (EU) law on state aid (which is the only regulatory system that provides for exceptions for climate-change subsidies) could provide some inspiration. Alternatively, an approach similar to that of GATT Article XX - whereby the justification is granted through broad, general clauses subject to case-by-case interpretation - could be adopted.

   c. Members may decide to adopt a different approach. Not one whereby any subsidy satisfying certain conditions may be justified, but one under which a cumulative ceiling for certain measures of support is agreed by Members. In a word, a commitment approach like that of the Agreement on Agriculture.

   This list of options is certainly non-exclusive. Negotiators’ imagination may come up with other alternatives.

3. **Place.** One question that should be solved is whether the suggested law reform should be limited to subsidy rules or whether the latter should only represent one (important but not exclusive) part of a broader effort to regulate trade, energy, and environmental issues. In the former case, amending the SCM Agreement and the Agreement on Agriculture should be enough. In the latter case, Members may focus their effort in negotiating a broader Agreement on Sustainable Energy or an Agreement on Trade, Energy, and the Environment.

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6.2.2 Reform of System of Subsidy Control

4. **Transparency as a cornerstone of the system.** The first important systemic change should put transparency (for the form/size, objective, and impact of subsidies) at its centre. Transparency is an important value for the governance of subsidies. Although transparency reduces the room for strategic action by countries (hence it runs counter the individualistic interest of Members, which do not have an inherent incentive to be transparent), it is conducive to more compliance, mutual trust, and trust in the system (hence, it is beneficial for the system as a whole and, consequently, for the individual interests of the Members). This is particularly true with respect to support measures, like subsidies, which are particularly likely to act as trade irritants.

Members should thus think hard about how transparency in this field can be improved. What incentives and changes can be introduced for Members to duly notify their subsidies? These amendments should also address the difficulties Members may face in their compliance with transparency obligations. One important element to focus on is the clarification of the definition of subsidy (see point 2.a above) as well as the definition of a common template for notification and of common metrics (see point 5 below).

Finally, transparency goes hand in hand with the purpose, which will be made available by the relevant information and data. Members should thus clearly define this (see points 6 and 7 below). Only through this important clarification (What are we providing information for? Who is going to use it and with what effect?), can crucial issues about the content of notifications be sorted out. For example, what about sensitive information, particularly the trade impact, whose notification may be perceived as self-incrimination? Do we have to provide this? Who is going to use it and in what way? Crucially, what kind of legal and other consequence may ultimately derive from our disclosure?

5. **Common template and metrics.** The use of a common template and common metrics (to define and measure subsidies in a uniform manner) is crucial when it comes to notifying subsidies and making sense of them. If this is evident, less clear is where these should be found. The answer to this question is clearly linked to cooperation with other organizations as discussed in point 9 below.

6. **Discussing subsidies.** Members should be clear about whether they consider it useful to discuss subsidies and their objectives. Would open and thorough discussions, for example, in the Committee on Subsidies, be desirable? Would they improve the understanding of other countries’ measures? Would this possibly improve learning in the complex area of climate-change action?

7. **Assessing subsidies.** Another important question to answer is whether it would be desirable to provide for an assessment of subsidies, their objectives and their (trade and environmental) impact. If the answer is yes, the next issue is the determination of who should do this and how. Furthermore, what role should experts play in this assessment?

8. **The role of the WTO.** There are also important questions of institutional design and management. What role should the WTO and its existing bodies (e.g. Committee on Subsidies, Secretariat, Group of Experts, Trade Policy Review Mechanism) play with respect to the issues from 4 to 7? Can we envisage different responsibilities for existing bodies? Should we have new bodies?

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5 This is true not only from the strictly legal point view, but also because, for example, the eventual effect of justification or non-actionability of the subsidy may be subject to its notification (see old SCM Article 9).
9. The role of other organizations. Finally, the institutional question goes beyond the WTO. Since subsidies in general and clean energy subsidies, in particular, fall also within the responsibility of other international organizations - e.g. the World Bank, the International Monetary Fund (IMF), the Organisation for Economic Co-operation and Development (OECD), and regional organizations - agencies (e.g. the International Energy Agency), and non-governmental entities (e.g. Global Trade Alert), how could we make the most of this availability of data and expertise to improve transparency? What is needed are practical suggestions for a useful inter-institutional framework of coordination.

6.3 Conclusive Thoughts

The case for reforming the current WTO rules to make them more friendly to climate-change subsidies is in our view clear. So are (at least some of) the challenges that law reform efforts should face. Imagination, good will, and a sense of responsibility will help.

The really crucial issue is, however, the feasibility of (any) reform. What could put the issue of reform of subsidy rules on the negotiating agenda? What could make Members willing to cooperate? What we need here are imaginative and at the same time practical ideas. To a large extent, good will and a sense of responsibility may not be enough if any action of reform does not present the right incentives and benefits to catalyse Members’ consensus to push through a meaningful reform.

China is a key player in the “green economy” and a leader in the trade arena, as well as a major contributor and sufferer of climate-change effects. As such, it cannot but benefit from actively sponsoring in the WTO new rules conducive to more legal certainty with respect to the policy space Members need to provide the necessary support to sustain this economy.