

# The United States, China, and Global Governance: A New Agenda for a New Era

## 中美两国与全球治理：新时代的新议题



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**English Version**

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# Preface

It is regularly said that the US-China relationship is at a historical juncture, but there are several simultaneous transitions that make this claim more appropriate in 2013 than in years past. Internationally, we are witnessing a long-term shift in the global balance of power partly generated through the forces of globalization. At the same time, the economies of many countries, particularly in Europe, are in a fragile state. The United States is trying to revive its engines of growth while managing substantial debt, and China is attempting to avoid a “middle-income trap” by promoting factors that fuel more efficient growth and help it to re-balance its economic structure. Within this context, the US, China, Japan, and other countries are going through transitions in their political leadership. At the same time, the World Trade Organization (WTO), the world’s most effective institution for international economic governance, is also choosing a new leader, and in the process, setting its agenda for the years ahead.

Given these developments, it is a particularly opportune moment to take stock of US-China relations and consider both the challenges and opportunities of collaboration. Doing so has always been important for bilateral relations, but increasingly the healthy governance of global trade, investment, finance, the environment, and other areas depends on the active involvement and cooperation of both countries’ governments and peoples. We believe in the benefits of deep collaboration, not only between governments, industry, and other stakeholders, but of scholars as well. This report grows out of our in-depth cooperation fostered over the past year.

Both the Research Center for Chinese Politics & Business (RCCPB) and the Institute of World Economic & Politics (IWEP) have an abiding concern in carrying out research that enlightens both scholars and policymakers about issues related to the global economic affairs. For the past three years the RCCPB has been engaged in the Initiative on China and Global Governance in order to more fully understand the extent and significance of Chinese involvement in major areas of economic global governance. The initiative includes 30 working papers, several articles, three books, four international conferences, and a series of private discussions involving stakeholders in several countries on issues related to global governance and US-China relations. IWEP has a long and distinguished history of scholarly excellent, international collaboration, and effective policy engagement on many of these same issues. On the foundation of this record, IWEP recently created a new center on global governance that will help extend its reputation as providing thought leadership on emerging areas of international political economy.

Beginning in November 2012 we began to convene meetings of experts in and out of government to help us identify the key global economic issues that the US and China must grapple with in the coming years. Due to constraints on time and our own view of what constitute the highest priorities, we focused the discussion on trade, investment, finance, and the environment. (For reasons of space, we have unfortunately left the environment discussion out

of the report.) We asked participants to consider not only the issues within these areas that are important, but at what levels – unilateral, bilateral, regional, or multilateral – they would be best addressed. Through gatherings in Beijing, Washington, DC, and New York, we heard a range of voices. Some focused on very broad issues, such as questions of identity, while others offered specific policy proposals. This report owes its existence to the generosity of these experts. A special note of gratitude is expressed to Nicholas Lardy and his research assistant Nicholas Borst, who hosted the Washington, DC meeting at the Peterson Institute for International Economics in mid-December 2012. In addition to hearing from the participants in these brainstorming sessions, we conducted additional interviews in the US and China over the last several months to collect further insights from government and industry leaders.

Beyond the gatherings organized specifically to help us prepare this report, we are also grateful to the scholars who have participated in the RCCPB global governance initiative and in various IWEP programs. Their research has also given us rich inspiration and provides an enormous wellspring of ideas. We also appreciate the staff of the RCCPB and IWEP who have supported this work. Critical logistical support was provided by the RCCPB's Liu Jiajing, Erica Kendall, and Andrea Wald, and IWEP's Xi Yanbin, Huang Yijie and Gauss Chu provided helpful research assistance. Zhang Ming, Li Yuanfang, Yang Panpan, Wang Bijun, Feng Weijiang and other IWEP scholars provided help during the drafting process, and Andrea Wald did an excellent job as production editor. We also benefitted from the participation of IWEP scholars Zhang Bin and Huang Wei in all of our meetings and interviews in China and the United States. We should emphasize, though, that the views expressed here are ultimately our own, and it is likely many people who we have consulted would not fully endorse either our analysis or our policy recommendations.

We want to also especially thank the Henry Luce Foundation for its generous support of the RCCPB's research initiative and its Beijing office during the past three years. Their vision and commitment has made our efforts possible.

Finally, it is important to emphasize that this report is a product of genuinely deep collaboration. Partnerships between American and Chinese scholars are not new, and we are honored to be a part of that tradition. At the same time, we notice that some reports co-written by American and Chinese about the relationship highlight an “American” view and a “Chinese” view. There is often common ground, but also identification of differences of opinion. We have chosen a different approach. Although there has been some division of labor, we have both fully contributed to every part of the report. We speak with a single voice, the voice of a scholar who cares deeply about both of our countries and the important role they must play in promoting development, peace, and harmony for the globe.

Scott Kennedy  
He Fan

# 1

## Executive Summary

The world faces twin deficits in global economic governance of insufficient institutions and inconsistent leadership. We call on the government, industry, and NGOs in both the United States and China to more constructively show leadership at multiple levels – domestically, bilaterally, regionally, and multilaterally – in ways that serve the world’s general needs. Achieving greater US-China cooperation on global governance will not be easy because of the different approaches they take. Questions of identity, approaches to economic governance, their political systems, and economic interests have all served to constrain cooperation on global governance. The world’s leading multilateral economic institutions – the WTO, IMF, and G20 – are all not extremely ineffective, and there are many areas of global governance where no clear rules or institutions exist.

Our recommendations to address these issues include:

1. We should recognize that whether China is recognized as a “developing country” is more of a political issue than one that directly affects the substance of negotiations or implementation of arrangements. Because China’s economic circumstances are changing so rapidly, it does not fit any single category, and this complexity should be recognized and supported.
2. The US-China Strategic and Economic Dialogue needs to become more strategic by including the country’s top political leaders, Presidents Obama and General Secretary Xi Jinping.
3. A seven-year roadmap should be developed to pave the way for China to join the OECD by 2020. This means both encouraging China to recognize the benefits of many existing OECD norms and standards, but it also means giving China a voice in determining the OECD’s mission and focus.
4. The Trans-Pacific Partnership (TPP) and other regional arrangements currently under negotiation have the potential for great good if they can point a path to wider application of their standards in the future, but they also have the potential to cause harm if they drive a wedge between the US, China, and others. All parties need to proceed with caution and greater transparency.
5. There needs to be an architecture created to managed the various elements of international investment, including resolving anti-trust concerns and questions of national security. The dependence on domestic regulations leads to inconsistent application of rules, raises political tensions, and makes mutually beneficial economic cooperation more challenging.
6. The international financial system has suffered several crises in the last 15 years, each one more harmful than the one that preceded it. We need to develop standards and rules that balance the twin goals of ensuring the free flow of capital to serve the real economy and maintain the stability of financial systems. Possible solutions may include specifying rules for capital account adjustments and having stricter rules on short-term capital flows.

# 2

## The Global Governance Deficit and US-China Relations

In 2005, then US Treasury Secretary Robert Zoellick called on China to be a “responsible stakeholder.”<sup>1</sup> At the time, his remarks were meant to encourage China to both abide by its international commitments and to take on more of a leadership role in nurturing the very global institutions that have facilitated its growth and rise. But his well-intentioned comments gave the impression, perhaps incorrectly, that the US itself was preforming up to task and that defense of the existing rules of the game in and of itself could be equated with good global governance. We take a more neutral perspective and humbly suggest that both the United States and China need to do much more to be responsible stakeholders. Moreover, we believe that being responsible does not necessarily mean protecting the status quo, but in many instances means promoting reform of existing institutions and developing new institutions to tackle emerging challenges.

The purpose of this report is to identify those challenges across a number of key areas and propose new ways of thinking about and tackling them. This report is not a call for a new Group of 2 (G2), but rather is a call for government, industry, and NGOs in both countries and elsewhere to more constructively show leadership at multiple levels – domestically, bilaterally, regionally, and multilaterally – in ways that serve the world’s general needs. We currently face twin global governance deficits. In some areas we lack clear rules and institutions, but more broadly there is a lack of leadership across regime areas. The world is in danger of drifting into establishing practices and architectures that could potentially undermine existing institutions, which would threaten the

prosperity so many enjoy and reduce the chances of those in developing countries to move along a sustained upward trajectory.

### *The State of Global Governance*

Global governance is defined as the rules, procedures, and norms that define appropriate behavior, facilitate cooperation, and manage differences for state and non-state transnational actors. This broad definition is more realistic than narrower ones that focus on specific kinds of institutions or goals. Some observers equate global governance with broad, state-based multilateral institutions such as the WTO or IMF. But as Jonathan Koppell shows, global governance comes in all shapes and sizes.<sup>2</sup> Some are sovereign-based in which states are members, some are composed of both state and non-state actors, and others are purely private in which members are individuals or non-state groups (such as companies or NGOs). Global governance refers to both efforts to set rules, such as summit meetings and other negotiations as well as the processes of using and implementing the rules, both globally and within countries on issues that pertain to cross-border economic activity.

There are two other important misconceptions. The first is the mistaken belief that the global governance regime is relatively complete. In fact, in many areas there are very few clear rules and no established procedures to resolve disagreements. For example, in the case of exchange rates, there is no single “exchange rates regime” defining how exchange rates should be set, let alone permit punishments when a country follows one approach or another. The sec-

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<sup>1</sup> Robert B. Zoellick, “Remarks to the National Committee on US-China Relations,” New York City, September 21, 2005.

<sup>2</sup> Jonathan G. S. Koppell, *World Rule: Accountability, Legitimacy, and the Design of Global Governance* (Chicago: University of Chicago Press, 2010).



and is that all global governance regimes uniformly promote openness, national treatment, and reciprocity. That may be generally true, but the exceptions are very numerous. In fact, the WTO and other arrangements specifically permit protection of domestic industry and other stakeholders due to concerns about public health, safety, the environment, and national security.<sup>3</sup> And “safeguard measures” allow countries to protect domestic industry simply because it faces imminent threats from foreign competition, regardless of whether unfair trade practices were used. Similarly, governments, companies, and their lawyers make every effort to craft the rules in their favor and then ensure that their implementation is also consistent with their interests. Hence, the rules themselves, not just how they are adopted, have built-in biases that can favor one party over another. For example, strong intellectual property rights (IPR) protections in general are laudatory, but they provide more relative benefits to countries where innovators have already amassed a great deal of intellectual property.

Chinese activism in global governance has followed a relatively clear trajectory.<sup>4</sup> China first joined various economic organizations in the 1980’s, but primarily observed but did not participate much then. Over the next couple decades, Chinese joined more state and non-state based groups, and gradually came to be more active. The tipping point may have been in the summer of 2008, when the WTO’s Doha Round reached a critical juncture. As had happened in earlier rounds and in the Doha Round, a small number of leading countries were invited to negotiate amongst themselves, hoping they could then present a deal to the rest of the membership. In 2008, China was for the first time invited into this inner circle, known as “green room negotiations.”

Although no deal was reached, the precedent of involving China in such backroom negotiations was set, and it has been followed since in, among

other places, the G20 and the UN Convention of Climate Change. At the same time, Chinese have become to assume leadership positions in various bodies, including the WTO, World Health Organization, World Bank, International Monetary Fund, and International Telecommunication Union. China hosts a substantial number of secretariats of both state-based and non-state international economic organizations.

Although greater participation by China and other emerging economies should be welcomed, there are other trends of global governance that are more problematic. On the one hand, in the immediate aftermath of the global financial crisis, the Pittsburgh summit of the G20 produced a substantial agreement that helped keep the crisis from become deeper and identified areas of needed future cooperation. In addition, Simon Evenett has documented that resort to protectionist measures were widespread but not as extensive as in previous crises as a result of pledges made in the G20 and the wide legitimacy of the WTO.<sup>5</sup>

On the other hand, the momentum for multilateralism has just about completely stalled. The Doha Round began with great fanfare in 2001, but year by year the political will of participants to reach a deal declined, and the 2008 collapse of the negotiations may very well have been fatal. China’s leading WTO entry negotiator Long Yongtu said at an October 2010 conference the RCCPB hosted on the 10th anniversary of China’s WTO entry, “What was once called ‘progress’ are now called ‘concessions’” (*yuanlai jiao ‘jinbu’de xianzai jiao ‘rangbu’*). He was referring to the perceptions of Chinese officials, but he could very well have been referring to their counterparts in the United States, the EU, and elsewhere. The G20 has continued to meet, yet the actions emerging from its gatherings is declining, threatening to leave it as uninfluential at the G8 had become.<sup>6</sup>

As these multilateral regimes have suffered,

<sup>3</sup> Those who worry that greater Chinese involvement in global regimes weakens the liberal international order begin with the assumption that the international order is liberal. This is not uniformly the case. G. John Ikenberry, “The Rise of China, the United States, and the Future of the Liberal International Order,” in David Shambaugh, ed., *Tangled Titans: The United States and China* (Lanham, MD: Rowman & Littlefield, 2013, pp. 53-73.

<sup>4</sup> Chinese are very curious about the meaning of global governance. The most significant Chinese review of the Western literature on the topic is Pang Zhongying, ed., *World Politics – Views from China, No. 8: Global Governance* (Beijing: New World Press, 2007).

<sup>5</sup> Simon Evenett, *Broken Promises: A G20 Summit Report by Global Trade Alert* (London: CEPR 2009).

<sup>6</sup> For excellent overviews of the challenges of multilateralism, see Alan S. Alexandroff, ed., *Can the World Be Governed? Possibilities for Effective Multilateralism* (Ontario: Wilfrid Laurier University Press, 2008); and Alan S. Alexandroff and Andrew F. Cooper, eds., *Rising States, Rising Institutions: Challenges for Global Governance* (Waterloo, Ontario and Washington, DC: Center for International Governance Innovation, and Brookings Institution Press, 2010).

countries have turned to other avenues to fill the gap. There has been an explosion of free trade arrangements (FTAs) and other non-region specific preferential trade arrangements (PTAs). This overlapping and inconsistent “spaghetti bowl” is substantially reducing the percentage of global trade undertaken on a genuine most-favored nation basis. The deals may benefit the parties involved, but their overall effect may be to distort trade and reduce the overall welfare. One senior American business executive with whom we talked complained that the complexity of regional arrangements cost his firm months in deals just trying to determine what rules applied. The other direction countries have gone in is expansionary monetary policies to generate growth. The expansion of credit around the world is resulting in the piling up of debt, and this debt could be the source of either the next financial crisis or increasingly sclerotic growth over a long period of time.

### *Tensions in American and Chinese Participation in Global Governance*

One would hope that the United States and China would be able to collaborate and address these problems, but there is no expectation that these challenges will be resolved in the short term. Deeper cooperation has been hindered by differences about self-identity, approaches to governance, and economic interests. The first is a conflict over identity. Chinese officials have long described the PRC as a “developing country.” The implication from their perspective is that the system’s current rules necessarily are more consistent with the interests of the wealthier states who designed the rules, and that China should not be expected to bear the same responsibilities as advanced industrialized economies. Although first applied toward environmental governance, one regularly hears Chinese invoke the phrase, “common but differentiated responsibilities” to defend their perspective. By contrast, the US, EU, and others see China as a rapidly rising country whose international commercial success makes it a formidable player that gives China clout far beyond that described by the term “developing country.”

The second difference is their contrasting approaches to global governance. This is reflected along two continua, one economic, the other political. The US has a philosophy of limited government intervention and has substantial systems in place to protect the workers, consumers, the public health, and the environment. Although China no longer has a planned economy and markets have become more developed, the central and local governments intervene in markets on a regular basis, employing a wide variety of tools to promote certain industries and specific companies. Moreover, although there are regulations that protect other interests, the interests of industry (often state-owned sector in particular) receive privileged treatment relative to consumers and other stakeholders. In this regard, China’s approach is akin to that adopted by other East Asian developmental states in the post-World War II era.<sup>7</sup>

In addition, there are obvious differences in their domestic political institutions. In the US’s boisterous democracy, interest groups from across the spectrum compete openly for influence on both domestic and foreign policy, and the Executive and Legislative branches of government often put forward competing agendas that lead to gridlock. In China’s authoritarian system, although businesses lobby on a wide variety of economic policies, civil society groups, including industry associations, are extremely weak and less proactive than their American counterparts, both at home and abroad.

These differences in economic and political governance yield contrasting approaches to global governance institutions. The US is deeply involved in a wide variety of regimes that support a diverse spectrum of interests, from producers to environmentalists; and American business groups and NGOs actively participate in global governance, both as advisors to governments in state-based institutions, and as direct participants in non-state bodies. By contrast, China primarily promotes the interests of industry in its global governance activities, and it feels much more comfortable in state-based institutions as opposed to private governance regime.<sup>8</sup> On certain occasions, China has tried to “sovereignize” private

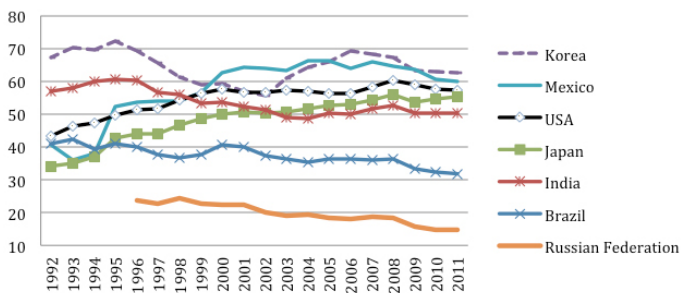
<sup>7</sup> For a persuasive argument that the United States, Great Britain and other Western countries have often relied on protection to achieve rapid growth, see Ha-Joon Chang, *Bad Samaritans: The Myth of Free Trade and the Secret History of Capitalism* (New York: Bloomsbury Press, 2008).

<sup>8</sup> For research that quantifies the limited involvement of Chinese NGO’s in global governance, see Hongying Wang and Erik French, “China’s Participation in Global Governance from a Comparative Perspective,” *Asia Policy*, No. 15 (January 2013), pp. 89-114.

governance mechanisms by seeking to replace non-state with state actors or by moving to a new state-based regime altogether. A good example is when the China Iron and Steel Industry Association, a body that grew out of the old ministry of metallurgy and still reflects government preferences, in 2009 took over the chief role in the annual iron ore negotiations from Baoshan Iron & Steel.

### China's Export Similarity with Various Countries

(Export similarity indexes at the 2-digit SITC revision 3 level)



Source: UN Comtrade database, accessed March 2013.

The third and final difference is one of simple economic interest. Expanded trade and investment ties have brought enormous benefits to both countries, but as Chinese companies move from assembly and manufacturing to design and marketing, they are increasingly coming into competition with American firms. As the figure indicates, the export profile of the US and China is becoming increasingly similar; this is partly the product of participating at different segments of the same supply chains, but it also reflects increasing competition in the same segments. According to the UN, the largest component of this overlap is in electronics and telecommunications. Complementary data on this competition comes from the Conference Board, who issued a 2012 study showing that in global electronics supply chains, the value added accruing to Chinese firms rose from 6% in 1996 to 24% in 2008. That figure is almost assuredly higher today.<sup>9</sup>

### The Potential Narrowing of Differences

The combination of differences over identity, governances, and interests makes deep coopera-

tion on global governance very challenging. Despite those differences, such cooperation has, in fact, regularly occurred, and the US and China just often share policy preferences as differ over them. In terms of the broad outlines of governance policies, China has largely been in favor of the status quo or advocated relatively minor reforms or revisions.

There is also good reason to either be less concerned about these three sources of tensions or anticipate the decline of their significance in the coming years. Although many Chinese still cling to the idea of China as a developing country, as China becomes wealthier and stronger militarily, others increasingly see China as a “newly rising large power” (*xinxing daguo*), and this may reduce inhibitions on China’s part to shoulder broader responsibilities. Equally important, in the daily operation of global governance institutions, China’s supposed status has been of declining practical significance. Negotiations on various issues are carried out point by point and not in reference to how wealthy or poor China is. Relatedly, whenever China mentions the general principle of “common but differentiated responsibilities,” enunciated in the Kyoto Protocol, to assert the US and other developed countries need to make larger commitments than China, the appropriate response is to note that the original full phrase is “common but differentiated responsibilities and respective capabilities.”<sup>10</sup> As American officials like to say, “China is not Chad.” As China’s capabilities rise, so must its responsibilities, and this recognition of a changing situation is helpful to dissolving contrasting perceptions of identity.

Although Chinese companies are competing with American industry at higher levels of value-added chain, this has positive consequences as well. As Chinese companies’ stock of IPR increases, their defense of TRIPS and other IPR-related regimes will rise. As Chinese become wealthier, they will have growing expectations regarding the environment, health care, education, and access to information. As a result, the markets for all of these services will expand dramatically, creating a larger pie that will benefit foreign industry.

<sup>9</sup> The Conference Board, “Chart of the Week,” September 28, 2012.

<sup>10</sup> Article 3 of the UNFCCC states that “parties should protect the climate system for the benefit of future and present generations of human kind on the basis of equity and in accordance with their common but differentiated responsibility and respective capabilities. Accordingly, developed countries should take the lead in combating climate change and the adverse effects thereof.” [United Nations. 1997. *Kyoto Protocol to the United Nations Framework Convention on Climate Change*, Conference of the Parties on Its Third Session, FCCC/CP/1997/L.7/Add.1, December, 10th.]

Finally, China's political institutions may not fundamentally change soon, but there is greater appreciation that allowing more autonomy for industry associations and other NGOs benefits the economy. Most recently, in late March 2013, the State Council issued a new reform plan providing a roadmap to liberalize industry associations over the next three years. As these plans progress, Chinese stakeholders will become more comfortable in non-state institutions, and the government may be less inclined to try to sovereignize private governance regimes.

### *Proposals for a Multi-Tiered System*

The seriousness of the problems we face requires that we act expeditiously and effectively. Doing so means tackling the issues simultaneously at each of the tiers of the system – unilateral, bilateral, regional, and multilateral.

Resolving some of the problems will be aided simply by **unilateral** steps the US and China can take on their own to get their respective domestic houses in order. Beijing and Washington can reduce debt levels, expand opportunities for green energy, improve education, and strengthen health care and other components of the social safety net on their own, and doing so would make some of the global governance problems seem less intractable.

Much attention is already placed on **bilateral** engagement and dialogue. There are over 60 official bilateral dialogues, even more unofficial or track-II dialogues, and countless people-to-people exchange programs. The two countries seem about as entangled as they could be.<sup>11</sup> Yet the dialogues that exist could be more effective. One American participant to the original Strategic Economic Dialogue told us that the SED (and now the S&ED, under the Obama Administration) is neither strategic nor a dialogue. There are dozens of cabinet-level officials on both sides who participate, and the biggest issues of the relationship or global governance are not on the agenda. We believe that the S&ED's overall structure is useful, but the top political leadership of both countries, Presidents Obama and Xi, need to personally be involved. Although there may be a greater role for their own

personal emissaries, there is no substitute for their own involvement if the dialogues are going to build personal trust and deeper mutual understanding.

**Regional** collaboration is also important. We will say more about this below in the next section on the multilateral trading system, but suffice it is to say here that the move toward binding regional economic arrangements, such as the Trans-Pacific Partnership (TPP) carries both potential benefits and risks. The benefits could be reduced barriers in new areas not previously covered by other arrangements. At the same time, the TPP could be a wedge that divides the Asia-Pacific into two blocs if China is not included and the negotiations are not made more transparent.

Finally, we believe that more progress could be made at the **multilateral** level. We, of course, would welcome a renewed commitment to the Doha Round and implementing G20 declarations. But we would suggest that a more important new initiative be developing a roadmap for China to join the Organisation for Economic Co-operation and Development (OECD) by 2020. Although considered a club for rich countries, the OECD is really dedicated to developing high standards of conduct in a wide variety of areas, from trade to the management of information technology. These areas of governance typically are relevant for China, who is often asked to reference or abide by OECD guidelines. Since 1995, China has had an official dialogue arrangement with the OECD, led by Ministry of Commerce but involving another 24 ministries and agencies. Given China's goal of becoming a middle-income country by the middle of the century, planning for OECD full membership now makes sense. At the same time, it is incumbent upon the OECD and its current members to work with China to reconceive what the OECD's mission is so that China could feel like a full and equal member of the organization.

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<sup>11</sup> James Shinn, ed., *Weaving the Net: Conditional Engagement with China* (New York: Council on Foreign Relations Press, 1996).



## Preserving the Multilateral Trading System

Of all the areas of global governance, the multilateral trading system is by far the most robust and well developed. The Uruguay Round resulted in the General Agreement on Tariffs and Trade (GATT) becoming the World Trade Organization (WTO) in 1995. In addition to extending governance into new areas, such as intellectual property rights (TRIPS), the most important change was to give the WTO mandatory dispute resolution authority. This small organization of less than 650 full-time staff has helped to promote liberalization and limit protectionism through the accession process for new members, trade negotiations organized by rounds, the monitoring of existing agreements, and the resolution of trade disputes based on the Dispute Settlement Understanding.<sup>12</sup> Moreover, the WTO supports and is supported by important regional trade arrangements as well as national laws and regulations regarding almost every aspect of trade.

But this system is under immense stress. The dispute resolution process at both the national and multilateral level has been extremely effective, but the process has been abused, or at least over-used, by several members, including the US and China. More worrying, the multilateral rule-making side of the system is now almost frozen, with diplomats in Geneva having more time on their hands than they know what to do with. As a result, we are witnessing an explosion of bilateral and regional trade arrangements. These have the possibility of pushing boundaries of liberalization and making progress in new areas, such as competition policy, and serving as bridges to full-fledged multilateralization in the future. But they just as likely could lead to trade diversion and the break-

down of the multilateral trading system. The US and China need to consider both their own short-term interests and the greater good that results through protecting a system that has benefited everyone. It may be too much to expect for the US and China to place much weight on the bargaining table in Geneva, but both need to proceed with the utmost caution in how they handle negotiations over the Trans-Pacific Partnership (TPP) and other regional arrangements.

### ***Bilateral Trade Governance: Remediating Trade Remedies***

Governance of the US-China trade relationship at the bilateral level is in general relatively healthy, though not without its problems. American industry and government continue to identify a large number of tariff and non-tariff barriers to China's market. These include discriminatory sanitary and phytosanitary measures, technical standards, and limit access to China's government procurement market. Though China maintains a large trade surplus, it, too, complains about various bilateral obstacles, including the US's export controls on dual-use technologies and the Buy America program.<sup>13</sup>

Many of these issues have been raised in bilateral dialogue forums, such as the Joint Commission on Commerce and Trade (JCCT) or the S&ED. Some are resolved through these processes, but others are not. In particular, concerns related to dumping and subsidies typically have been managed through the trade remedies procedures. China is the most common target of antidumping cases of any WTO member, facing 884 cases since 1995, 21.4% of the total.

<sup>12</sup> WTO Annual Report 2012, p. 142.

<sup>13</sup> For a broad critique of China's tariff and non-tariff barriers, see James McGregor, *No Ancient Wisdom, No Followers: The Challenges of Chinese Authoritarian Capitalism* (Westport, CT: Prospecta Press, 2012).

The US and EU both have launched 109 cases against China, leaving them trailing only India, which has initiated 150 such cases.

#### Global Antidumping Cases: Targeted Countries (January 1995 – June 2012)

	Country	Cases
1	<b>China</b>	<b>884</b>
2	South Korea	299
3	USA	237
4	Taiwan	223
5	Japan	170
6	Indonesia	168
7	Thailand	168
8	India	160
9	Russia	127
10	Brazil	116
Total		4125

Source: WTO Antidumping Database

Although China for many years was simply a respondent, and not a very active one at that, over the last decade, it has become a much more active initiator of antidumping cases itself. China's domestic producers have lawyered up, and as of June 2012 had persuaded the Ministry of Commerce to initiate 195 investigations against foreign exporters. 35 of China's cases have been directed at American companies, followed closely by Japan (33), South Korea (31), the European Union (19), and Taiwan (16). The majority of cases have been initiated by China's chemical companies, followed by steel.

#### Global Antidumping Cases: The Initiators (January 1995 – June 2012)

	Country	Cases
1	India	663
2	USA	465
3	European Union	444
4	Argentina	301
5	Brazil	258
6	Australia	241
7	South Africa	216
8	<b>China</b>	<b>195</b>
9	Canada	165
10	Turkey	154
Total		4125

Source: WTO Antidumping Database

Although this is a substantial number of cases in all directions, the overall amount of effected goods has been relatively low (estimates are less than 2% of total trade). And although in some instances, China investigation procedures have been criticized by foreign parties or it initiates steep penalties on foreign exporters, in general China's trade penalties against foreign exporters have been kept relatively low. This is often the result of counter-lobbying in the cases by the Chinese downstream companies who depend on these imports. This reflects both the typically consensual nature of China's policy process, but it also reflects China's antidumping law, which unlike the US, has a "public interest" provision giving Chinese authorities the latitude to modify or cancel trade penalties if doing so would hurt other sectors of the economy.

The number of cases and amount of effected trade is somewhat troubling. But more disconcerting

For a list of the highest priority reforms sought by American industry, see "US-China Business Council Board of Directors' Statement of Priorities in the US-China Commercial Relationship," US-China Business Council, Washington, DC, January 29, 2013.

are innovations in how these cases are pursued. First, since at least the mid-1980's the United States has officially identified China as a "non-market economy" based on criteria developed by the Commerce Department related to currency convertibility, government ownership of assets, and how prices are set for wages, resources, and products.<sup>14</sup> The question of MES is relevant only for trade remedy cases. Since China's domestic prices are not seen as market-based, those who accuse China of dumping products abroad often determine the "normal" home-market price by taking price figures from a third country or using some other methodology.

When China acceded to the WTO in 2001, it agreed to be identified as a non-market economy for the first 15 years of its membership, or until December 2016. The result is that in most antidumping cases against China, the applicants seeking relief use one of these alternative methods to compute prices, and are able to consistently hit Chinese exporters with high tariff penalties. Although there certainly are distortions that affect the price of products in the Chinese market, the use of non-MES methods seems to have become divorced from China's actual economic environment and is essentially a convenient tool to dampen competition from Chinese exporters.

Starting in 2004, China began a campaign to persuade its trading partners to recognize it as a market economy, but by 2010, only 74 countries had done so – the US, EU and Japan have not – and they accounted for just a minority of China's exports and an even smaller percentage of the total antidumping cases brought against China. We had expected that China would have to wait until 2016 to have this approach put to rest; however, there has been some discussion that the United States and perhaps others will continue to use non-MES methodology after 2016 and not stop until the WTO rules on the matter, which likely would require another 2 to 4 years to resolve.

The other "innovation" in trade remedies cases is the simultaneous institution of both antidumping and countervailing duties. The US "started it," and so far has launched over a dozen such "double remedy" cases against China, but the Chinese have responded,

likely in a tit-for-tat fashion, with similar cases against some US products.

There needs to be substantial reform of trade remedies rules. Standards of proof of dumping and injury have declined over time, and the use of non-MES and the growth of dual AD/CVD cases is enriching lawyers but is likely introducing as many distortions into trade as they claim they are eliminating. China has "learned" these rules well and is now as dependent on these tools as others. Its approach diverges a great deal from Japan, which after being targeted so often, became a radical critique of the antidumping regime as a whole and out of principle foreswore bringing cases itself. We also would hope that the US and China would show more restraint in bringing trade remedy cases, and that China's trading partners, including the US, would in declare their position regarding China's MES before 2016 arrives, thereby reducing uncertainty and not eroding confidence in the system.

In addition, we also are concerned about the targeted short-term policy actions, also often tit-for-tat, that are used to punish trading partners. Such actions are often not resolvable by using bilateral or multilateral remedies since it would take too long for relief to be provided through legal channels. Although China is not alone, a good example is China's halting of exports of rare earths to Japan in 2010, which sent a shockwave through the international system. Such measures undercut confidence in the system. Not relying on these tactics requires self-restraint, respect for the system, and recognition that if abused, one can also end up being the target of such tools.

### ***The WTO: Protect the World's Top Organization***

Prior to China joining the WTO, there was concern China would "break the system" because there would be a flood of China cases. This has not been the case whatsoever. As far as trade disputes go, China has become a "normal" member of the system; its behavior is far from perfect, but is "good enough" to fall within the range of standard practice.

Through March 2013, China has been a re-

<sup>14</sup> Zhao Shuang and Scott Kennedy, China's Frustrating Pursuit of Market Economy Status: Implications for China and the World," in Scott Kennedy and Shuaihua Cheng, eds., *From Rule Takers to Rule Makers: The Growing Role of Chinese in Global Governance* (Bloomington, Indiana and Geneva, Switzerland: Research Center for Chinese Politics & Business and International Centre for Trade and Sustainable Development, 2012), pp. 63-70.

spondent in 17 cases, a complainant in 11, and a third party in 97 cases. Its record is similar to that of most other WTO members. It has lost most of the cases when it has been a respondent, and it has won most of the cases when it has been the complaining party. In all but one of the cases it lost, it has modified its domestic laws and regulations to come into compliance with the WTO ruling within the allotted time. In the lone exception, the publications distribution case, a settlement was reached that provided commercial relief for Hollywood.

**China's WTO Scoreboard**  
(through March 2013)

	<b>China as Respondent</b>	<b>China as Complainant</b>
<b>Total Cases</b>	<b>17</b>	<b>11</b>
<b>Total Completed</b>	<b>8</b>	<b>8</b>
<b>China Wins</b>	<b>1</b>	<b>6</b>
<b>China Losses</b>	<b>6</b>	<b>2</b>
<b>Split Decisions</b>	<b>1</b>	<b>0</b>

Source: World Trade Organization

Note: Complainants on average win 90% of their cases. This "scoreboard" is based on our own reading of the WTO decisions, which often are ambiguous and require interpretation to determine who won and lost.

The cases have contributed to governance more than one would expect. Many of the cases against China concern elements of its industrial policy, including subsidies, intellectual property rights protection, and trade restraints. The WTO verdicts have served to clarify the boundaries of what is and is not permissible. China's cases against others, including the US, have mainly focused on challenging the permissibility of trade remedies tools. Such cases are relevant for a smaller share of China's total trade, but it does concern one of the most obvious areas of potential abuse and unpredictability for market access. We expect the number of cases to continue to rise, and frankly, are not very concerned about this prospect. We believe the WTO dispute settlement system

has the capacity to manage these cases.

Our confidence in the DSU is not matched by the WTO's other highly prominent function, negotiations. The Doha Development Agenda (DDA) is a worthy goal, but the political will to achieve it has declined continuously. And as developing countries have come to play a larger role, creating an environment with truly multilateral negotiations, it is harder for WTO members to reach a consensus, what is known as a "single undertaking," where in the negotiations nothing is agreed until everything is agreed. Blame for the collapse of negotiations in the summer of 2008 might go mainly to India, but China and the US were not blameless. China could have tried to isolate India (as Brazil did), and the US could have offered more concessions on agricultural subsidies.<sup>15</sup> But the real challenge is simply that the shape of the negotiating table has fundamentally changed.

We think it is worth considering what steps could be taken to revive the Doha Round. Some have suggested expanding the negotiations to include services, specific industrial sectors, treatment of state-owned enterprises, and competition policy. Another option is to shrink the negotiations to those areas where consensus is most likely. And a third option is to reform the WTO rules to put aside the "single undertaking" requirement, which is seen by many as a "straightjacket."<sup>16</sup> Each option has strengths and weaknesses. Reducing the scope of negotiations may be the most pragmatic; it would deliver the least, but it provides the best chance for success, and the WTO simply needs to record a negotiation victory to renew the institution's full capacities. Regardless of which way the WTO goes, the ongoing process of selecting a new director-general is an excellent opportunity to discuss these issues. It would be a breakthrough if the US and China could agree on which of the seven candidates ought to be chosen and link that choice to broader questions of the WTO's future.

### ***Regionalism: Proceed with Caution!***

In a perfect world, all else being equal, we would not be in favor of most regional binding free-

<sup>15</sup> Paul Blustein, *Misadventures of the Most Favored Nations: Clashing Egos, Inflated Ambitions, and the Great Shambles of the World Trade System* (New York: PublicAffairs, 2009).

<sup>16</sup> Kent Jones, *The Doha Blues: Institutional Crisis and Reform in the WTO* (Oxford: Oxford University Press, 2010).



trade arrangements. We agree with Jagdish Bhagwati that the proliferation of such agreements creates a messy “spaghetti bowl” of rules that are as likely to distort trade as to create it.<sup>17</sup> But we are not in a perfect world. There are already 354 FTAs in force today, and most of the world’s trade is subject to one or more of these arrangements. The loss of momentum in the Doha Round and the existence of so many FTAs (cause and effect are difficult to disentangle) makes it harder to determine the efficacy of a Trans-Pacific Partnership (TPP), the Regional Comprehensive Economic Partnership (RCEP), and a China-South Korea-Japan FTA. All three are currently being negotiated, and the consequences for trade, investment, and other elements of economic interaction are substantial.

There is certainly potential for the TPP to provide a window to the future of global economic governance by going further than the WTO, in services, treatment of state-owned enterprises, protection of intellectual property rights, environmental protection, and other areas. This may be why American National Security Advisor Tom Donilon has called the TPP the most important negotiations the US is presently engaged in. However, the TPP also could have substantial negative consequences. There may be elements of an agreement that may not be in the public interest; there has been much discussion over whether increased protections for the IPR of pharmaceutical companies is the best public policy choice to be made. In addition, the secretive nature of the negotiations has led those outside the process to assume the worst. Finally, the difficulty of having China join the negotiations may result in it being outside the deal. Yes, China could voluntarily agree to accept the requirements of participation, but the very issues under discussion are particularly politically sensitive for it. It is possible that a deal struck without China might eventually induce China to move in ways consistent with the arrangement, but it could also backfire, and lead to an arms race of competing FTA’s that generate both economic and political tensions.

As a result, we believe that the question is not “TPP or no TPP,” but how TPP. That is, the process by which the TPP and other arrangements are negotiated is just as important as the substance of the issues.

We offer several modest suggestions:

1. The substance of all of the negotiations need to be more transparent. To the extent the dialogue can be open to outsiders the better it will be for the legitimacy of the final deal. If it is inappropriate to inform the broader public or even legislative authorities, the US and other TPP participants could create a mechanism for regular briefings of “interested third parties” in exchange for confidentiality commitments, just as is done in WTO disputes.
2. These FTAs should adhere to the WTO’s principles.
3. There should be thought out in advances modalities for facilitating harmonization in the future. This includes steps to allow latecomers to join the FTAs, and thinking about methods to consolidate multiple FTA’s, or move toward full multilateralization of certain elements.
4. Where there is a lack of clarity in how the rules are applied to companies or products, create a fast-track process to reach decisions, and where the interest parties cannot agree, make the default option to allow the companies to enjoy the FTA-level benefits.

We agree with one of the experts we consulted who told us during one of our meetings that we “need to walk on two legs,” pursuing both multilateral and regional arrangements. We encourage simultaneous efforts, but we also caution against reaching arrangements too hastily without considering both the potential positive and negative consequences.

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<sup>17</sup> Jagdish Bhagwati, *Termites in the Trading System: How Preferential Agreements Undermine Free Trade* (New York: Oxford University Press, 2008).

# 4

## Developing an Architecture to Govern Foreign Investment

From the first generation of growth models, economists long ago realized the importance of investment in achieving growth. The “China Miracle” that we have witnessed in the last three decades also highlights the importance of investment. Travelling around China, you will see highways, high-speed railways, airports, and fancy modern buildings mushrooming everywhere. Before the global financial crisis, when discussing global imbalances, many pundits blamed high saving in the surplus countries or over-consumption in the deficit countries. What is missing, it finally turned out to be, was insufficient investment. After the global financial crisis, advanced countries slowed down the pace of investing in developing countries and hurt their growth even more. The key to boosting global growth is investing more and doing so wisely.

Under this backdrop, the issue of establishing international rules on global investment becomes more relevant than ever. It also is an interesting area where you can see that the US and China are rapidly changing their roles. Once a major recipient for foreign direct investment, now China has a huge interest in investing overseas. One favorite destination for Chinese investors is the United States. China is also competing with American companies in Africa, Latin America and Middle East. Is the stage large enough for two stars? Will China and the US collaborate to put in place the cornerstone of the architecture for global investment?

### *Exchanging Blame*

Once upon a time, the US used to play a dominant role in China’s foreign direct investment. In 1983-1986, the share of US in China’s FDI accounted for nearly 20%, second only to Hong Kong. But the figure gradually declined. In 2000, China received about 10% of its FDI from US, and by 2012 its share was only 2% of the total. On the US side, China received only 0.77% of US’s total outbound direct investment (ODI) during 2010-2011, while the number for 2000-2001 was 1.73%. By the end of 2011, the stock of the US’s ODI in China was \$54.23 billion, concentrating mainly on manufacturing (especially chemicals, computers and electronics, and food) and banking sectors.<sup>18</sup> Unlike Hong Kong or Taiwan firms, whose main interest is taking advantage of the large pool of cheap unskilled workers to produce export products, 90% of American companies in China now produce in China to sell to its booming domestic market.

China is the largest foreign holder of US Treasury bills. By the end of 2012, US Treasury owed \$1202.8 billion to China, accounting for 21.7% of all America’s foreign-owned Treasury bills. China’s direct investment in the US is much tinier, but has risen rapidly during the 2000s, cumulatively reaching \$8.99 billion in stock by the end of 2011.<sup>19</sup>

Although in stock and flow terms, neither is the others’ most important investor, save for Treasury holdings, investment has become one of the most important issues in bilateral negotiations where the two countries have their own areas of dissatisfaction.<sup>20</sup>

<sup>18</sup> Data on China’s ODI is from the PRC Ministry of Commerce. US data is from the US Commerce Department’s Bureau of Economic Analysis.

<sup>19</sup> PRC Ministry of Commerce.

<sup>20</sup> The best primer on the state of Chinese investment in the United States is Daniel H. Rosen and Thilo Hanemann, *An American Open Door? Maximizing the Benefits of Chinese Foreign Direct Investment*, Special Report for the Center on US-China Relations of the Asia Society and the Kissinger Institute on China and the United States of the Woodrow Wilson International Center for Scholars, May 2011.

Surging Chinese investments have aroused anxieties in the United States. The shadow of the hostile reactions to China National Offshore Oil Corp.'s (CNOOC) takeover attempt of Unocal still looms over the Sino-US investment relationship.<sup>21</sup> Since then, several major Chinese investments have run into obstacles. The high profile blocked cases include: Huawei's joint bid with Bain Capital for network gear maker 3Com in 2009, China's Northwest Nonferrous International Investment's proposal to acquire gold mining company Firstgold in 2009, Tangshan Caofeidian Investment's bid for a provider of solar photovoltaic and fiber optics technology-maker Emcore, and Huawei's purchase of assets from bankrupt California startup 3Leaf. In all of these cases, Chinese investors withdrew their offers after a negative recommendation by the Committee on Foreign Investment in the United States (CFIUS). But in 2012, Sany-controlled Ralls launched a lawsuit against the President Obama and CFIUS after it was required to abandon a wind farm project near a military base in Oregon and divest all of its related assets.

Moreover, even in those cases where Chinese make successful investments, many have also experienced hardships. For example, both Lenovo's purchase of IBM's personal computer division in 2005 and Anshan Steel's joint venture in a greenfield slab steel project in Mississippi had an immense amount of difficulty in responding to concerns raised by American industry, the security community and members of Congress. It seems that whenever a major Chinese investment proposal is announced, the first reaction in the media is to argue about its possibility of the deal being blocked in Washington. The result is a growing perception in China that the US does not welcome Chinese investment.

On the US front, the negative perception among Chinese companies is not in line with the portrayal of the US as an open and fair investment destination and masks the efforts by local governors, officials and mayors to promote Chinese investment. Many Americans already realized that Chinese investments are beneficial to the US economy, espe-

cially in terms of job creation. It is reported that the number of jobs associated with majority Chinese-owned subsidiaries in the US grew from fewer than 2,000 before 2000 to more than 27,000 today.<sup>22</sup> If one includes employment provided by firms with minority Chinese stakes, the direct and indirect job creation of Chinese firms is not insignificant. And if trends continue, it is estimated that approximately 200,000–400,000 Americans will be hired by Chinese firms by 2020. Chinese investment can also help to stimulate innovations in the US. Even though the latest shale gas revolution has occurred in the US, Chinese firms have played a positive role. Sinopec invested \$2.5 billion in Oklahoma-based Devon Energy to develop shale gas, and Lanzhou Haimo Technologies Co bought a 14.3% stake in Houston-based Carrizo Oil & Gas's Niobrara shale oil and gas assets in Colorado for \$27.5 million.

American companies are not satisfied with China's investment environment either. They appeal to Chinese authorities to strengthen foreign investor protection, in particular, the intellectual property rights and enforcement of the rule of law. They also complain about pressures to transfer technology that they would rather keep in-house, which in their view is a violation of the WTO's Agreement in Trade-Related Investment Measures (TRIMs).<sup>23</sup>

More broadly, American companies and their cousins in other countries have continued to push for a more open and liberal Chinese domestic market. China still maintains significant controls on capital flows. China still uses a foreign investment catalogue to identify areas that are encouraged, discouraged, or outright off limits to foreign industry. Beyond this list there are a variety of non-tariff barriers that make investment difficult. The most closed sectors are in services and some monopoly sectors. US companies have a keen interest in entering the market for government procurement, and they worry about the fair competition environment with SOEs and other foreign companies.

From the Chinese perspective, they do not think there is much discrimination against foreign investors. The market access restrictions in some sec-

<sup>21</sup> This case's effect was somewhat muted by CNOOC's acquisition of the Canadian oil firm Nexen, which was approved by US authorities this past February.

<sup>22</sup> Thilo Hanemann, "The employment impacts of Chinese investment in the United States," East Asia Forum, October 30, 2012.

<sup>23</sup> AmCham China, *American Business in China: 2012 White Paper* (Beijing, 2012). Also see European Chamber, *European Business in China Position Paper 2012/2013* (Beijing, 2012).

tors are not discriminatory since they apply to investors from the US and other countries alike as well as to Chinese domestic private players. The promotion of FDI has been an important aspect of the country's economic reforms and China's economic success has largely relied on its outward orientation and foreign capital. But undoubtedly, China's FDI policy is gradually becoming more selective, emphasizing the quality of foreign investment rather than sheer quantity and prioritizing technological development together with environment friendly activities. Apart from any explicit policies, changes in market conditions, such as more competitive rivals from other countries and local Chinese enterprises as well as soaring labor and resource costs in China, all have lead to harder times for some US companies.

#### ***Bilateral Disputes and a Bilateral Investment Treaty***

China and the US each share responsibility for their bilateral investment disputes. The CFIUS process of screening for national security concerns is increasingly under threat of being politicized. And although it is understandable that the process must be confidential, the highly secretive nature of the reviews and limited explanation for decisions creates the impression that the process is being manipulated by the US business competitors of Chinese or that broad security concerns about China overly color analysis of individual investment deals. The risks and benefits of Chinese investment in the United States should be assessed objectively based on facts rather than fear. At the same time, instead of blaming protectionism, Chinese investors should also be introspective. State-owned enterprises (SOEs) are still subjected to massive government influence, and many of China's private enterprises suffer from nontransparent corporate governance practices. Improving corporate governance and transparency, and more clearly separating Chinese regulators and enterprise management will all likely facilitate easier entry into the US market.

At the bilateral level, the US and China should push ahead with the bilateral Investment Treaty (BIT)

negotiations. The first round of Sino-US BIT negotiations were initiated in September 2008 in Beijing and the other five rounds followed over the next 14 months in Beijing and Washington.. The negotiations were held up due to the 2004 Model BIT revision in the US, but discussions resumed with the seventh round held in Beijing in October 2012.

There are several sources of disagreement in the negotiations, including:

1. Market access: whether the parties should commit to pre-establishment national treatment for investments and thereby narrow the scope for considerations of industrial policy or national security goals;
2. Fair competition: what standards, if any, should be set with regard to state-owned enterprises, labor practices, and the environment;
3. National treatment: financial services, performance requirements, taxes, and transparency of law and regulations;
4. Investor protections: liberalized capital flows, expropriation compensation, state-authorized investment, and customary international law; and
5. Dispute settlement: the extent to which arbitration is governed by the Convention on Settlement of Investment Disputes between States and Nationals of Other States (the ICSID Convention/Washington Convention) and the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention).

Generally speaking, the US has pursued BITs that facilitate market access by lowering barriers to investment, whereas Chinese BITs have focused largely on protecting investment assets and dispute settlement.<sup>24</sup> Reaching an agreement does not require clearing up all of these divisions since some can be exempted through exceptional arrangements and other legislative techniques, but both sides will have to make major concessions.<sup>25</sup> Hence, the negotiations will be complicated and drawn out. It took 18 years for China to establish a BIT with Canada. We do not expect a Sino-US BIT deal to be reached soon, but

<sup>24</sup> China's approach, consistent with BITs adopted by European countries, is known as the "admission model," and the US approach is known as the "preestablishment model." Axel Berger, "The Politics of China's Investment Treaty-Making Program," in Tomer Broude, March L. Busch, and Amelia Porges, eds., *The Politics of International Economic Law* (Cambridge University Press, 2011), pp. 162-185. As of the end of 2011, there were 2,833 BITs worldwide. UNCTAD, World Investment Report 2012, p. xx.

<sup>25</sup> The US State Department has placed online a copy of a model bilateral investment treaty that reflects American preferences on each of these issues, available at <http://www.state.gov/documents/organization/188371.pdf>.

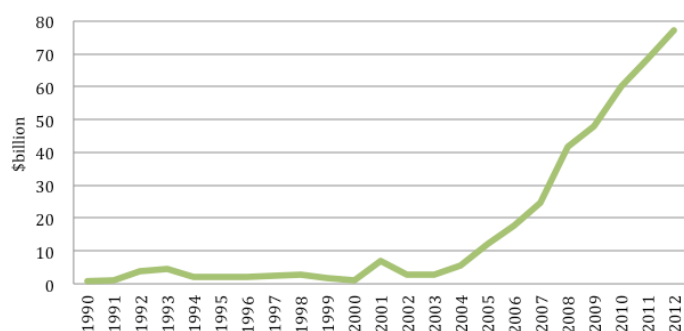


the negotiations per se are helpful in promoting a healthy Sino-US investment environment. Bilaterally, the US and China should carry forward investment agreement negotiation, and attempt to achieve consensus on issues related to market access, investment review, performance requirements and transparency. Another necessary action is to simplify the visa process of citizens from the other country, and encourage the cooperation and communication among local governments, business circle as well as think tanks.

### ***A Global Perspective: Cooperation and Competition***

Sino-US cooperation and competition over the governance of international investment is not just a bilateral issue. Chinese ODI has seen a remarkable rise since the global financial crisis with non-financial ODI flow from \$24.8 billion in 2007 to \$41.9 billion in 2008 and \$77.2 billion in 2012. Chinese firms are pushed by multiple motivations to go abroad, including securing the supply of energy and raw materials, exploring new markets, seeking strategic assets for extending value chains and improving efficiency in multinational operations.

### **China's Outward Direct Investment Flows 1982-2012**



Sources: Data from 1982 to 2001 are from UNCTAD; Data from 2002 to 2012 are from PRC Ministry of Commerce, Bulletin of China's Outward Foreign Direct Investment.

Note: Data from 2002 to 2012 are all non-financial outward direct investment from China.

China's ODI plays a positive role in stimulating global economy. When investment from the developed world withdrew in some countries because of the crisis, China's increasing ODI alleviated the

impact to a certain extent. During 2007 to 2011, ODI from developed countries dropped by 32%, while China's grew by 189%.<sup>26</sup> Chinese ODI plays an active role in promoting stability and prosperity for the world economy. It offsets the decline of the overseas investment of developed countries, helping to boost the building of infrastructure, and also brings China's development mode to destination countries, and show them a new way to prosperity.

The risks, though, hidden in China's investment should not be ignored. China has invested in countries that were not stable, such as Libya, Venezuela, North Korea and Sudan. Data shows China's investment in these "unstable" countries were about 11.4% of its total FDI stock in 2011.<sup>27</sup> Brutal competition among overseas Chinese companies and the environmental pressures and labor practices they bring to the host countries are all the challenges for which China needs to come up with solutions.

China is active in participating in regional investment cooperation, and 61% of China's outward FDI flowed to Asia in 2011.<sup>28</sup> At the policy level, China supported the Interconnection Project, proposed by the Asian Development Bank, which is focused on constructing and connecting infrastructure among Asian countries. Recently, China showed its willingness to participate in establishing a BRICS Development Bank to support infrastructure financing in emerging countries. Whether China and the US will become friends or foes when both are investing in Asia is still not clear. But to avoid the clash of interests among these two large countries, more cooperation should be carried out through existing organizations such as APEC. The TPP may become another platform for cooperation related to investment, but, as stated earlier, this would require the TPP negotiations to be more open and transparent, with the US and other parties better informing China about the substance of the negotiations.

At the global level, the rise of Chinese ODI presents both challenges and opportunities for US interests. The emergence of overseas Chinese multinationals enhances competition for scarce global assets such as limited natural resources, leading technologies, prestigious brands, marketing chan-

<sup>26</sup> Source: UNCTAD

<sup>27</sup> We identify Afghanistan, Sudan, Venezuela, Iran, North Korea, Iraq and Libya as "unstable" countries. Source: MOFCOM, China

<sup>28</sup> The main destination of China's investment is Hong Kong, which makes up 48% of the total. Source: MOFCOM

nels and other strategic assets. These global assets, if managed well and fully absorbed, will make Chinese firms stronger in their home markets and transform the competitive landscape in global markets. Another issue is about diplomatic controversies - China might invest in countries that are not supported by the US and may erode its influence.

Nevertheless, China's move abroad also brings dividends for American business. Chinese enterprises are willing to take over assets that US companies discard as profit margins shrink and they transform their business model or attempt to upgrade their technology. Chinese are also interested in sharing the risks with US companies by jointly investing in unstable high-risk regions. It is also likely that Chinese companies operating overseas may invite their foreign partners to collaborate with them in China's domestic markets.

Acknowledging a highly liberalized international investment environment and strengthening investor protections are certainly central to the future of international investment rules. Both China and US should take an active role in global governance in international investment. There is the WTO in international trading regime and the IMF for the international financial system, but so far no comprehensive and binding international investment agreement supported by a similar institution has been created. A possible reason is because traditionally the major investors have been from developed economies and the current international standards regarding overseas investment provide them with immense flexibility and suited to their interests. But the international investment landscape has changed with increasingly significant investors from developing economies like China. As a result, it is necessary to formulate new international rules on investment that take into consideration the interests of emerging economies, not as only recipients of investment but as sources of investment as well.

Hence, opposition to investment protectionism and creating a new regulatory investment should be high on everyone's agenda. UNCTAD, the WTO and OECD have discussed creating multilateral investment rules, but almost no progress has been made. In the global regulation of sovereign wealth funds (SWF's), the Generally Accepted Principles and Practices (GAPP), also known as the Santiago

Principles, are understandably challenged for being unenforceable and not demanding sufficient transparency. Moreover, there is very little clarity about the appropriate standards and procedures by which target countries should measure the national security implications of investment, and this makes individual cases vulnerable to immense political pressure and inconsistent treatment across jurisdictions. China and the US should work through these problems, and overcome challenges through compromise in order to build a global governance regime for international investment that is in the interests of all parties.

The most practical way of fostering cooperation among China and the US may be working out some large joint investment projects, which would showcase the willingness of both parties to collaborate and display the mutual benefits accruing from such activities. Relatedly, information about the benefits and success of investment in both directions needs to be regularly highlighted just as much as the obstacles and problem cases. The U.S and China can also working on reforming some supporting institutions, such as building a diverse, scientific and transparent credit rating system, and designing more complete rules regarding the conduct of sovereign wealth funds. But more ambitious goals cannot be ignored either. on the global stage, the US and China should be the leaders in pushing for a multilateral investment agreement, and the reform in the Investor-State Dispute Settlement Mechanism (ISDSM), or even a World Investment Organization.

## Ensuring Global Financial Openness and Stability

Finance is the lifeblood of any individual economy and of the world economy. Hence, protection of the world's financial system is a precondition to the economic development of emerging economies and sustaining growth for advanced industrialized economies. Financial governance faces the challenging of simultaneously maintaining the free flow of capital so it can efficiently serve the needs of the real economy and ensuring financial stability in order to avoid or limit the extent of crises. In the last decade and a half the world has suffered several financial crises, each one greater in intensity than the last. There are multiple financial issues facing the United States and China, among them the exchange rate, capital controls, market access, prudential regulation, and debt management. The extent of institutionalization of the governance of finance is not as mature as trade, but it is somewhat more developed than in the investment arena. Addressing the weaknesses of the system will be a central challenge for Beijing, Washington, other governments, and the financial community in the coming years.

### *Moving Beyond the RMB Exchange Rate Debate*

Some American politicians always want to name and shame China as a currency manipulator. China critics argue that the Renminbi (RMB) has been intentionally kept undervalued to artificially raise the competitiveness of China's exports. The undervalued RMB is then thought to have caused US job losses

and dampened global demand. Paul Krugman used a back-of-the-envelope calculation to suggest that about 1.4 million jobs may disappear in a couple of years because of "Chinese mercantilism."<sup>29</sup> In his testimony before the US Congress, Fred Bergsten gave a smaller number, only about one-third of Krugman's. Nevertheless, he added that China's revaluation could cut the US global current account deficit by anywhere from \$50 to \$120 billion dollars.<sup>30</sup>

However, China sees the issue differently. They do not believe there is any convincing evidence that shows causation between the value of the RMB and its trade surplus. The RMB appreciated by 17% in nominal terms against the US dollar between mid-2005 and 2008, while the trade surplus in 2008 was 50% higher than in 2005. After the global financial crisis broke out, the RMB stopped its appreciation and was pegged to the US dollar in 2008-2009, but China's surplus fell by 12% in 2009. A study by our colleagues at the Institute of World Economics and Politics shows that the income elasticity of China's exports are much larger than the price elasticity, meaning that China's exports depend more on how deep are American's pocket, not on how cheap the price tag of "Made-in-China" goods.<sup>31</sup> Trade statistics may distort the facts further. Nowadays, processing trade accounts for more than 40% of China's trade and nearly all of its trade surplus. There is ongoing argument that China's trade surplus to a large extent reflects its integration into the global production chain, while the role of exchange rates in reducing

<sup>29</sup> Paul Krugman, "Chinese New Year," *New York Times*, December 31, 2009.

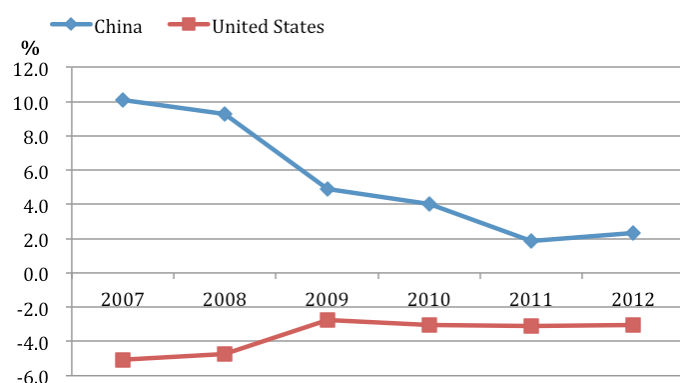
<sup>30</sup> C. Fred Bergsten, "Correcting the Chinese Exchange Rate", Testimony for the Hearing on China's Exchange Rate Policy, Committee on Ways and Means, US House of Representatives, September 15, 2010.

<sup>31</sup> Qingyi Su, Zhizhong Yao and Feng Tian, "Income and Price Elasticities of China's Exports," *China & World Economy*, Vol. 21, No. 1, pp. 91, 106, 2013.

trade surplus from processing trade is rather limited.<sup>32</sup>

The RMB has nominally appreciated by more than 30% against the US dollar since 2005, and the appreciation in real terms is even more since China's inflation rate has been higher than that of the US in this period. It is fair to say that now the RMB exchange rate is moving close to its equilibrium level. Thanks to some rapid changes of fundamentals like the demographic profile (Chinese labors are getting older and more expensive), and more rapid urbanization, which helps to boost domestic demand, China's current account surplus, after reaching record levels of around 10% of GDP in 2007, declined significantly to 2.6% of GDP in 2012.

**Current Account Balance (% of GDP)**



As a result of these changes, Americans are increasingly focused on more practical issues rather than the highly politicized currency debate. The American Chamber of Commerce in China came out in opposition to the US Senate-initiated Currency Exchange Rate Oversight Reform Act of 2011, and it pressed Congress to urge China to open its financial services industry. According to China's WTO commitments, China's financial services industry should have been fully opened by December 2006. However, progress on this front has not been smooth. The US and others have raised issues about China's regulations on banking and related services, insurance,

securities, pension services, financial information services, as well as regulatory transparency. Americans have complained about China's restrictions on foreign ownership of Chinese banks and insurance companies, and restrictions for foreign companies to enter the market for China's enterprise annuities services. Nevertheless, considering the painful deleveraging process that the West's financial sector is still undergoing, overseas expansion of the financial giants has slowed. It is also still not clear whether American financial firms are well prepared for operating in such a dramatically different market like China's. In the long run it is fair to say that as China's middle class bulges, there will be enormous demand for investment management and insurance services, and the slice of pie available for American financial companies will inevitably grow.

China has always taken a defensive position on the exchange rate debate, but it has started to complain more loudly about the negative spillover of American monetary policy. In particular, the Federal Reserve's unconventional policy to pump money into the economy, known as "quantitative easing," has released a huge flood of liquidity into international financial markets. With short- and long-term real interest rates hitting record lows, investors are biased towards more risky investment in commodities and emerging markets. This may artificially boost commodity prices and cause sudden money inflows into China. As a rapidly growing importer of major metal and energy commodities, China worries about the impact of quantitative easing on world commodity prices, leading China to effectively import inflation. The impact of quantitative easing by the US (and now Japan), on international capital flows is also a concern for China. There is some evidence that effectiveness of China's capital control has been on the decline.<sup>33</sup> China has experienced significant swings in short-term capital flows during the post-crisis period. Its size relative to China's GDP has grown much larger than in the pre-crisis period. As a result, the

<sup>32</sup> Hong P, Vos R and Yao K, "How China Could Contribute to a Benign Global Rebalancing," *China & World Economy*, Vol. 16, No. 5, (2008), pp. 35-50; and Yuqing Xing, "Processing Trade, Exchange Rates and China's Bilateral Trade Balances," GRIPS Discussion Paper 10-30, January 2011.

<sup>33</sup> Guonan Ma and R. McCauley, "Do China's Capital Controls still Bind? Implications for Monetary Autonomy and Capital Liberalization," BIS Working Papers No. 233 (August 2007); Yongding Yu, "Managing Capital Flows: The Case of China," Research Center for International Finance, Institute of World Economics and Politics, CASS, Working Paper No. 0816, September 2008; Yongzhong Wang, "An Estimation of the Effectiveness of China's Capital Controls and Sterilizations," Institute of World Economics and Politics, International Trade and Investment Series, Working Paper No. 09008, November 10, 2009.



People's Bank of China has given warnings about short-term speculative capital flows and exchange rate risks. This is posing rising difficulties for China's macroeconomic management, especially when China's monetary policy framework relies heavily on quantitative goals rather than price goals. As a result, dialogue at the bilateral and multilateral levels once focused on the setting of exchange rates now needs to make room for consultations about broader macroeconomic policies that may have a huge effect on exchange rates, inflation, and trade flows.

### **RMB Internationalization**

RMB internationalization accelerated after 2009 but has slowed recently. Its initial rapid development was fueled by expectations of RMB appreciation, so it has slowed as this expectation has vanished.

In its earliest stage, RMB internationalization has faced some unexpected problems. First, it accelerated rather than restrained the accumulation of China's foreign reserves, the opposite as the government's expectations. This peculiar phenomenon arose because more RMB is used in import settlement than in export settlement, and China still has a huge trade surplus. Hence, the more RMB is used for international settlement, the more US dollars flow in. Second, with the RMB appreciation expectation, it is economically more reasonable for China to increase its RMB assets and reduce its RMB liabilities. However, the RMB internationalization through the issuance of Dim Sum bonds has caused the opposite to occur.<sup>34</sup> Third, the backflow channels for the RMB have proved to be another tricky issue. RMBs lurking in the offshore markets are eager to flow back and invest on China's stock markets or housing markets. Further development of RMB internationalization requires widening of the backflow channel, which is equivalent to further capital account liberalization. However, since China has not moved forward with new reforms to domestic interest rates or the exchange rate mechanism, rapid

liberalization of capital account could cause financial instability and welfare losses for China.<sup>35</sup>

Some American scholars have been quite optimistic about the prospects of the RMB as an international currency, encouraged by examining the historical precedents. By contrast, the general attitude on part of the US government seems to be benign neglect.<sup>36</sup> In the foreseeable future, it is unlikely that the RMB will become a core currency in the international monetary system, since a precondition for doing so would be liberalization of China's capital account liberalization. Nevertheless, China's economic policies and state of its financial system are continually unfolding, and it makes sense that China and others need to more proactively consider the implications of RMB internationalization for China and the global financial system.

### **Asian Monetary Cooperation**

Monetary cooperation in East Asia has developed rapidly in the wake of the East Asian Financial Crisis, but the pace slowed down after the recent global financial crisis, especially since the European debt crisis. China has been actively engaged in the East Asian monetary cooperation by promoting the multilateralization of the Chiang Mai Initiative. However, cooperation has been constrained by lack of a clear economic impetus for further development. To deepen regional monetary cooperation, possible areas to be considered include: boosting regional infrastructure investment, promoting the use of local currencies for regional trade and investment, and establishing a regional exchange rate coordination mechanism. The current tensions among Asian countries, especially the territorial dispute between China, Japan and Southeast Asian countries, makes the future of Asian monetary cooperation more gloomy. However, because there already are several established mechanisms (CMI, reserve pooling, Asian Bond Market Initiatives) and platforms (AMRO), these could serve as a convenient springboard to launch full-fledged cooperation.

<sup>34</sup> He, et al., "Hong Kong's Offshore Renminbi Market: Situation, Prospects, Problems and Risks," *International Economic Review*, No. 3 (2011).

<sup>35</sup> Yongding Yu, "Roadmap of RMB Internationalization Revisited," Institute of World Economics and Politics, CASS, *Financial Review Series*, No. 2011036 (June 21, 2011); and Ming Zhang, "RMB Internationalization: The Onshore and Offshore Perspectives," Research Center for International Finance, Institute of World Economics and Politics, CASS, Working Paper No. 2011-W09 (June 29, 2011); and Bin Zhang, "Sequencing of China's External Financial Policies - An Analysis Based on the External Balance Sheet," *International Economic Review*, No. 2 (2011).

<sup>36</sup> Barry Eichengreen, "The Renminbi as an International Currency," January 2010, available online at: [http://emlab.berkeley.edu/~eichengr/renminbi\\_international\\_1-2011.pdf](http://emlab.berkeley.edu/~eichengr/renminbi_international_1-2011.pdf); Jeffrey Frankel, "Historical Precedents for Internationalization of the RMB," Council on Foreign Relations, November 2011; and Arvind Subramanian, "Renminbi Rules: The Conditional Imminence of the Reserve Currency Transition," Peterson Institute for International Economics, September 2011.

Americans' attitude toward Asian monetary cooperation is mixed. The US had opposed Japan's proposal of an Asian monetary fund after the East Asian Financial Crisis. But nowadays, it senses no real harm to its interest and has taken a more easy-going attitude toward Asian monetary cooperation as long as it does not pose direct threat to the American's interests. China is also actively pursuing regional collaboration among developing countries. The creation of a BRICS Development Bank provides a new way for emerging economies to collaborate. Some in the US may be suspicious about the intent and functions of a BRICS bank, and so, just as with RMB internationalization and other regional monetary measures, greater consultation and dialogue are needed.

### ***Reform of the International Financial System***

At the global level, China has played an active role in promoting reform of the IMF. The IMF 2010 quotas and governance reforms will not only double the total quotas but realign the quota shares to better reflect the changing global economic landscape. Once the reforms take effect, China will be the third largest member country in the IMF, and the 4 BRIC countries will be among its ten largest shareholders. Thus, China shares common interest with other emerging large economies in supporting the reform. The US also supported the reform, but has not yet received approval from the Congress. From a narrow perspective, these are welcome changes, but they are far from transforming the current international monetary system.

The Achilles heel of current international financial system is the dearth of clear international rules. Though not perfect, the WTO has played an important role in setting the rules of the game for international trade. But when it comes to the international financial system, there is not only a set of common rules missing, there is not even agreement on the question of where our focus should be. International financial regulatory reform has been a hot topic since the global financial crisis, but this is a topic mainly for the advanced economies that have more sophisticated financial markets. Many developing countries find this topic boring and irrelevant. By contrast, there is more concern within developing countries on the question of the US dollar's role as a global currency and on capital flows. There is virtually no constraint on the dol-

lar, which provides the US with much more financial freedom than other countries. In addition, international supervision of capital flows is extremely limited.

With the deepening of global economic and financial integration, inadequate provision of public goods in the international monetary and financial system can trigger systematic risks. The recent global financial crisis epitomized the possible outbreak of these risks. These are all important areas that close cooperation between China and the US in several important areas can serve their own interests and promote global welfare. Strategic dialogue on global financial governance must address at least three critical issues:

1. *Who provides public goods?* Currently, the IMF can be considered as the "global lender of last resort." Hence, the IMF needs to be reformed so that it can be a more effective supplier of global public goods. China and the US have reached certain consensus on reforming the IMF, but there is still a long way to go.
2. *Specify the rules for current account adjustments.* Significant surpluses or deficits represent the misallocation of resources and carry with them hidden instability. The G20 framework tried to propose a 4% threshold for current account imbalances. Whether or not this yardstick is ever adopted, China and the US need to move further to make further contributions to correct global imbalances. This means addressing the bilateral imbalance and helping the US reduce its overall trade deficits. Doing so may depend on China's willingness to expand trade ties and further open China's service sector, such as education, health care, and financial services.
3. *Exert stricter controls on short-term capital flows.* The IMF adopted an institutional view on the management of capital flows last December, admitting there was no presumption that full liberalization was an appropriate goal for all countries at all times. Although there now appears to be a consensus on this question, the details need to be further elaborated. For China and the US, the controversial issue will be what happens if the economies move further toward rebalancing. If so, that would mean a greater capital outflow from the US and capital inflows into China. Policymakers and financial institutions need to be prepared to understand likely trends in capital flows, and determine what would be the appropriate strategy, if any, for capital controls.



# 中美两国与全球治理：新时代的新议题

中文版

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**何帆** 中国社会科学院世界经济与政治研究所副所长，研究员，博士生导师。同时任中国社会科学院世界经济与政治研究所世界经济形势预测与政策模拟重点实验室副主任、《世界经济》和《国际经济评论》副主编。1996和2000年毕业于中国社会科学院研究生院，分别获得经济学硕士和博士学位。1998年至2000年在美国哈佛大学进修。其他学术和社会兼职包括：中国人民银行汇率专家组成员、财政部国际司顾问、商务部WTO司顾问、中国世界经济学会副会长、世界经济论坛（达沃斯）青年全球领袖、亚洲社会青年领袖、美中关系委员会青年领袖、Bellagio央行行长及学者小组（30人小组）成员、北京大学等高校兼职教授。主要研究领域包括：中国宏观经济、国际金融、国际政治经济学。已经出版的专著包括《为市场经济立宪：当代中国财政问题报告》、《经济全球化时代的对外政策》、《人民币汇率改革的经济学分析》，并有多部个人文集和译著。在国内外重要经济学期刊发表论文100多篇、并在各种主流媒体发表财经评论500多篇，有较大的社会影响。

# 前言

人们经常讲，中美关系正处于历史的转折点。但最近发生的一系列事件，使得我们相信，和往年相比，2013年可能更像一个真正的历史转折点。从国际上看，我们正在经历一场由全球化导致的深刻的国际力量格局转变。很多国家的经济，尤其是欧洲各国，仍然非常脆弱。美国希望重振经济增长，但还得面对长期的债务问题。中国正在努力试图避免陷入“中等收入陷阱”，一方面进一步释放增长活力，另一方面改善其经济结构。与此同时，美国、中国、日本和其它一些国家都经历了政治领导层的更换。国际贸易组织（WTO），世界上最有效率的国际经济治理机构，也正在挑选新的领导，并将制定未来的工作计划。

在这一背景下，我们感到当前是一个绝好的时机，反思中美关系的历史进展，并展望未来两国共同面临的挑战和机遇。这对中美两国关系的健康发展是至关重要的。我们也注意到，关于全球贸易、投资、金融和环境的治理机制改革，日益取决于中美两国之间政府和民众的积极参与和合作。我们相信深度合作带来的收益。不仅政府、企业和其他利益相关者间要加强合作，学者之间也要加强合作。这一报告就是基于我们之间的长期合作完成的。

印第安纳大学中国政治与商务研究中心（RCCPB）和中国社会科学院世界经济与政治研究所（IWEPI）长期以来致力于和全球经济治理有关的研究，并在学术界及政府部门产生了较大的影响。在过去三年内，中国政治与商务研究中心进行了一项《中国和全球治理》的研究，试图更好的理解中国在主要的全球经济治理领域的参与程度和重要意义。我们完成了30份研究报告、一些评论文章、三本书、四个国际研讨会，以及一系列深度访谈，访谈的对象包括和全球经济治理、中美关系有关的数个国家的学者、官员、企业界人士和其他利益相关者。世界经济与政治研究所拥有众多优秀的学者，和国际学术界保持了紧密的合作，并积极参与中国的政策决策咨询。在过去的研究基础上，世界经济与政治研究所最近专门成立了全球治理研究室，力图提高其在新兴的全球政治经济议题中的影响力。

自2012年11月开始，我们这两个研究机构开始合作，召集了一系列学术讨论会，邀请了有关的学者、官员和业界专家，帮助我们判断未来中美必须加强合作的重点领域。考虑到时间的限制，以及我们专业知识的限制，最后我们框定了全球贸易、投资、金融和环境四个主题（由于篇幅的限制，我们在此报告中未讨论环境问题）。我们通过进一步的调研，试图理解在这四个主题之中，又有哪些问题是最重要的。我们还广泛征求意见，希望了解中美两国在单边、双边、区域和多边四个维度，如何进一步加强合作。在北京、纽约和华盛顿的研讨会上，我们听到了各种观点。有些观点



关注更广泛的问题，如中美之间的关系如何定位，也有些观点更为具体，提出了非常详细的政策建议。我们这份报告之所以能够问世，得益于这些专家们的指教。我们尤其要感谢Nicholas Lardy教授和他的研究助理Nicholas Borst。2012年12月，他们帮助我们在华盛顿的彼得森国际经济研究所组织召开了一次成功的学术研讨会。除了在这些研讨会上听取各位专家们的头脑风暴，在过去的几个月内，我们还在中国和美国采访了一系列政府官员和业界领袖，以便更深入的了解他们对中美关系和全球治理问题的意见。

除了感谢参加会议和接受我们采访的各界人士，我们还要感谢参与中国政治与商务研究中心全球治理项目的各位专家，以及参与世界经济与政治研究所各项相关研究的学者。他们的研究成果使我们获益良多。我们也要感谢中国政治与商务研究中心和世界经济与政治研究所的各位同仁，感谢他们对这项研究的大力支持。中国政治与商务研究中心的刘佳静，Erica Kendall和陈笑彧，以及世界经济与政治研究所的袭艳滨，为这项研究做了大量的组织协调工作。黄懿杰和褚高斯同学是这个项目的研究助理。世界经济与政治研究所的张明、冯维江、李远芳、杨盼盼、王碧珺等在我们的初稿写作中提供了支持。陈笑彧为报告的编辑和排版做了大量的工作。世界经济与政治研究所的张斌和黄薇参与了我们的四场学术研讨会和众多的调查访谈。最后，我们想要指出，此报告中的观点完全是我们个人的观点，我们咨询过的各界人士很可能不会完全同意我们的观点，不管是我们的分析还是政策建议。

我们还要感谢Henry Luce基金会在过去三年内，对中国政治和商务研究中心的研究项目及其北京办事处的大量支持。他们的远见和坚定支持，使我们有幸完成各项工作。

最后，我们想要指出，这一研究是在深度合作的过程中产生的。美国和中国学者间的相互合作源远流长，我们也有幸继承这一传统。但我们也注意到，有些美中学者合作完成的关于双边关系的报告，是由两国学者分别阐述“美国观点”和“中国观点”。他们谈到了两国之间的一致意见，但也强调了两国观点的差异。我们选择了另一种写作方式。尽管在写作中有分工，但我们两位学者都参与了所有问题的讨论和研究。我们用一种声音表达自己的意见：我们都深深的热爱自己的祖国，也深信在未来的全球发展、和平和谐事业中，我们的祖国将发挥重要的作用。

甘思德  
何帆



# 1

## 内容简介

全球经济治理遇到“双赤字”（twin deficits）：一是机制不足，二是领导力不够。我们呼吁，在全球经济治理中，不管是在国内、双边、区域或是多边层面，美中两国的政府、工商界、非政府组织都应该发挥更重要的领导作用，这样才能更好的实现全球的共同利益。美中之间就全球经济治理实现合作，并非易事，因为它们采取了不同的策略。关于角色定位、治理之道和经济利益的分歧，都制约着两国在全球治理问题上进一步的合作。但这一挑战已经变得非常迫切：全球的主要多边国际经济机制，如国际贸易组织（WTO）、国际货币基金组织（IMF）和二十国集团（G20），都变得效率低下，更不用说，在很多全球治理领域，连清晰的规则和有关的机构都不存在。

为了更好的解决这些问题，我们的主要政策建议包括：

1. 我们认为，中国是否被视为“发展中国家”，更多的是一个政治问题，对国际规则谈判或执行国际规则中的实质利益影响并不大。中国的经济实力和环境变化速度极快，没有哪个单一的标签适合中国的定位。对中国国情的复杂性，必须要有更好的认识和应有的尊重。
2. 中美战略经济对话机制要变得更具战略性，两国的政治领导人，奥巴马总统和习近平总书记应领导和参与中美战略经济对话。

3. 可制定一个为期七年的路线图，创造条件使中国在2020年能够加入经济与合作组织（OECD）。这七年的准备期可让中国更好的认识到，OECD已有的一些规范和标准对中国是有利的，也有足够的时间让中国提高自己的发言权，从而改变OECD的使命和关注焦点。

4. 跨太平洋伙伴关系（The Trans-Pacific Partnership，简称TPP），以及正在谈判之中的其它区域贸易协议，如果能够为今后广泛应用新的规则创造条件，将能带来巨大的利益，但如果这些协议的结果是导致美国、中国和其它国家之间出现更深的裂痕，也将带来巨大的损害。各方均应更加谨慎，谈判应增加透明度。

5. 有必要构建一套有关国际投资的国际规则体系，其中包括反垄断、国家安全等问题的解决办法。目前依靠国内制度解决这些问题的做法导致了执行中的前后矛盾，造成政治紧张，并使得本可带来共同收益的经济合作遇到更大的挑战。

6. 在过去15年内，国际金融体系遇到数次严峻的危机，每一次危机都比上一次危机的破坏力更大。我们需要制定一套标准和规则，一方面保障资本能够自由流动，更好的服务于实体经济，另一方面要维持金融体系的稳定。具体的政策可能应涉及到对经常账户调整有更明确的规定，并进一步加强对短期国际资本流动的监管。

## 双赤字与中美关系

2005年，时任美国财政部长的佐利克（Robert Zoellick）提到，希望中国做一个“负责任的利益相关方”（responsible stakeholder）。<sup>1</sup> 他的本意是想鼓励中国在国际机构中起到更多的领导责任，毕竟，这些国际机构的存在，有助于中国的发展和崛起。但是他原本善意的讲话，却容易被理解，或误解为，美国认为自己完全负起了应有的责任，或者，只要坚定地捍卫既有的游戏规则，就是推进了良好的全球治理。我们持一种更中立和谦卑的态度。我们认为，美国和中国都应该比现在做得更好，才能称得上是“负责任的利益相关方”。而且，我们相信，负责任的态度不等于完全维持现状，而是要一起合作，推动现有全球治理机构和机制的改革，并建立起新的机制，以应对不断出现的新的挑战。

这份报告的目的是为了在几个关键的领域厘清最重要的挑战，并提出一种应对这些挑战的新思路。我们不是要呼吁中美两国结成G2联盟，而是要呼吁两国的政府、企业界和其他利益相关方，在相关的国际事务方面，不论从国内、双边、区域和全球层面，都起到更有建设性的作用，更好的满足全球的共同利益。我们如今在全球治理方面遇到“双赤字”。第一，在一些具体领域，我们缺少清晰的规则和制度；第二，我们在跨领域的全球治理中尤其缺乏领导力。当前，全球治理遇到的最大风险是，一些正在酝酿中的新规则可能会逐渐侵蚀已有的规则，威胁到世界各国曾经享受过的经济繁荣，并减少发展中国家稳步上升的机会。

### 全球治理的现状

全球治理是指为了规范国家或非国家的国际事务参与者而形成的一套规则、程序和范例，

以便使它们行为得当、加强合作，并合理解决彼此间的差异和分歧。我们采用的这一定义较为宽泛，这一定义比那些更集中于特定的机构和目标的狭义定义更具有现实性。有些学者在谈到全球治理的时候，将全球治理视同国家间组成的国际机构，如世界贸易组织（WTO）或国际货币基金组织（IMF）。正如Jonathan Koppell指出的，全球治理形式多样、规模各有千秋<sup>2</sup>：有些是以主权国家为成员的，有些融合了国家和非政府的行为者，有些是纯粹是个人、非政府机构如企业或非政府组织（NGO）。全球治理既包括规则的制定，如在各峰国峰会或国家间的谈判，也包括在国际上和国内运用和执行这些涉及跨国经济活动的规则。

有两个关于全球治理的错误观点。一种观点认为全球治理已经相对完备。但事实上，在很多领域，几乎没有任何清晰和现成的规则，以解决各方的利益分歧。举例而言，在汇率问题上，没有一套国际规则，能说清楚各国的汇率政策应如何制定，更不用说，如果某些国家的政策对其它国家带来了这样或那样的影响，该如何进行处置。第二个错误观点认为，所有的全球治理规则都不约而同的鼓励开放、国民待遇和互惠。一般情况下确实如此，但例外的情况随处都是。比如，在世界贸易组织的规则中，明确允许对国内产业和其它利益相关方的保护，尤其是在涉及到公共卫生、质量安全、环境和国家安全等问题时<sup>3</sup>。只要是遇到外国的竞争，不管这些竞争是否运用了不公平的贸易做法，“保障条款”都允许一国保护其国内的产业。在实践中，每一个国家、每一个企业，以及他们的律师，都在想方设法影响规则的形成，以便更好的保护其自身的利益。因此，规则的形成，更不用说规则的执行，都存在内在的倾向性，会导致对一方有利，对另一方

<sup>1</sup> Robert B. Zoellick, “Remarks to the National Committee on US-China Relations,” 纽约市，2005年9月21日。

<sup>2</sup> Jonathan G. S. Koppell, *World Rule: Accountability, Legitimacy, and the Design of Global Governance* (Chicago: University of Chicago Press, 2010).

<sup>3</sup> 那些担心中国参与全球治理会破坏自由的国际规则的观点，是建立在国际规则就是支持经济自由的假设上的。这并非完全正确，参见：G. John Ikenberry, “The Rise of China, the United States, and the Future of the Liberal International Order,” in David Shambaugh, ed., *Tangled Titans: The United States and China* (Lanham, MD: Rowman & Littlefield, 2013, pp. 53-73).

不利。比如说，更强的知识产权保护从总体来看当然是值得肯定的，但这一做法一定会更有利于那些已经在过去积累了大量知识产权的国家。

中国一贯积极参与全球治理，其行动路线清晰可见<sup>4</sup>。在20世纪80年代，中国就陆续加入了一系列国际组织，但当时仍然以观望为主，并未全面实施这些国际规则。之后的二十多年时间里，中国参加了越来越多的国际组织，包括政府间或非政府间的国际组织，也变得越来越主动积极。或许，一个转折点是在2008年夏天，当时WTO的多哈回合谈判到了一个关键时刻。在之前的WTO谈判中，往往先由一个领导国家小组事先互相磋商，拿出一个方案，再提交所有成员讨论。这一做法被称为“绿屋谈判”（green room negotiations）。2008年，中国第一次被邀请参加“绿屋谈判”。

尽管多哈回合最终未达成一致意见，但中国被邀请加入核心小组的惯例已经形成。在这之后，无论是在二十国集团（G20），还是在联合国气候公约谈判中，中国都是核心成员。中国开始主动的追求在各种国际组织中有更大的发言权，比如WTO、国际货币基金组织（IMF）、世界银行、世界卫生组织、国际电讯联盟等。中国也承担了很多政府间和非政府间国际组织的秘书处工作。

尽管中国和其他新兴大国对全球治理的更多参与是应该受到欢迎的，但也有一些问题，使得全球治理仍然存在诸多不确定性。全球金融危机之后，在G20的匹兹堡峰会上，各国首脑提出了一系列倡议，旨在防止危机进一步恶化，并确定了未来各国加强合作的重点领域。根据Simon Evenett的研究，全球金融危机之后各种保护主义政策有所抬头，但由于G20峰会各国的共同倡议，也由于WTO仍然具有广泛的合法性，和之前的危机相比，这次危机之后保护主义政策的普遍程度有所下降<sup>5</sup>。

但是，我们也不得不指出，在全球金融危机之后，多边主义已经进入基本停滞的状态。2001年多哈回合刚刚启动的时候，人们普遍寄予厚望，但年复一年，各国的参与意愿逐渐下降。2008年谈判破裂，带来的影响可能是致命的。2010年10月，在中国政治与商务研究中心为庆祝中国入世十周年举办的研讨会上，中国当年的首席谈判代表龙永图先生讲：“原来叫‘进步’，现在叫‘让步’”。他所讲的是中国的看

法，但在美国、欧洲和其他地方，大家一样是这种看法。G20还定期开会，但每次讨论能够取得的成果却越来越稀少，长此以往，G20也有可能步G8的后尘，成为一个无足轻重的摆设<sup>6</sup>。

由于这些多边机制停滞不前，很多国家开始另辟蹊径。各种各样的自由贸易区（FTAs）如雨后春笋。各种各样的非地区性的优惠贸易区（PTAs）层出不穷。这一“意大利面条”模式在一定程度上破坏了按照真正的最惠国待遇原则推进全球贸易体系的进程。这些协议可能会对成国有利，但其总体影响可能带来贸易的扭曲、减少全球福利。我们采访过的一位美国企业家曾经抱怨，区域规则变得如此复杂，他的企业需要花费数月时间，才弄清楚哪些规则是适用的。另一个问题是，各国过度依赖扩张性的货币政策刺激经济增长。过度宽松的货币政策将导致债务逐步积累，这些过度积累的债务，或者会触发下一轮金融危机，或者会阻碍长期经济增长。

### 中美在参与全球治理中遇到的问题

人们希望中美之间能加强合作，共同应对这些挑战。但是，在短期内要解决这些所有的这些问题是很难的。中美之间的深度合作，受制于双方在角色定位、治理之道，以及经济利益方面的分歧。

第一个问题是对角色定位的分歧。中国的官员一直坚持，中国是一个“发展中国家”。这意味着，他们相信现有的规则是为了照顾富裕国家的利益，中国不应该被要求承担和发达工业化国家一样的责任。中国官员经常会提到“共同而有区别的责任”。这一说法最早出现在气候谈判中，现在中国希望按照这一原则捍卫自己的利益。相反，美国和欧盟则认为中国是一个快速崛起的国家，其在全球市场上的成功表现，已经证明中国在国际舞台上是一个极具活力的角色，中国理应承担比所谓的“发展中国家”更多的责任。

第二个问题是对治理之道的不同看法。这其中既有经济上的因素，也有政治上的因素。美国人的哲学是政府的干预越少越好，但其实美国有各种各样保护工人、消费者、公共卫生和环境的政策。中国虽然不再是计划经济，市场体制也有了长足的发展，但中央和地方政府仍然经常直接干预市场，政府会采用各种政策，鼓励或限制特定产业、甚至特定公司的发展。尽管政府也正在完善各项监管措施，但总体来说，对行业和企业，尤

<sup>4</sup> 中国对全球治理的含义非常感兴趣。在西方文献中引用较多的是庞中英的文章。参见：庞中英，主编《全球治理》（北京：新世界出版社，2007年）。

<sup>5</sup> Simon Evenett, *Broken Promises: A G20 Summit Report by Global Trade Alert* (London: CEPR 2009).

<sup>6</sup> 关于多边主义的研究，可参见：Alan S. Alexandroff, ed., *Can the World Be Governed? Possibilities for Effective Multilateralism* (Ontario: Wilfrid Laurier University Press, 2008); and Alan S. Alexandroff and Andrew F. Cooper, eds., *Rising States, Rising Institutions: Challenges for Global Governance* (Waterloo, Ontario and Washington, DC: Center for International Governance Innovation, and Brookings Institution Press, 2010).

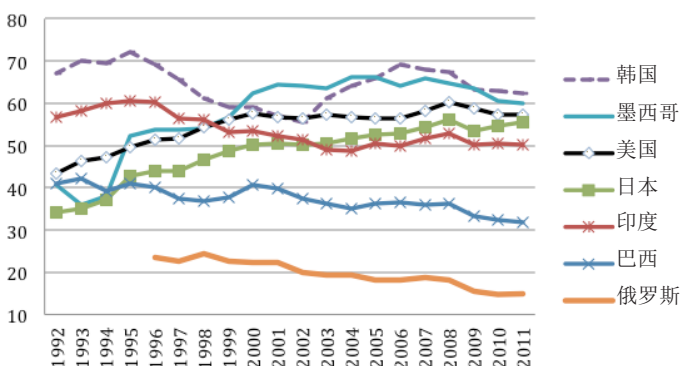


其是对国有企业利益的保护，高于对消费者和其他利益相关方的照顾。在这一点上，中国的做法和二战之后其他亚洲新兴工业化国家非常相似<sup>7</sup>。

美国和中国的国内政治制度也极其不同。在美国喧闹的民治制度中，来自各个方面的利益集团会公开地对政府的国内和国际政策施加影响，以保护自己的利益。行政和立法机构有时候会提出互相矛盾的想法，最后导致决策陷入僵局。在中国的集权政治模式下，尽管各个行业也会为其利益游说政府，但各种社会组织，包括行业协会，对政策的影响力是相当微弱的。跟美国相比，中国的社会组织和行业协会无论在参与国内和国际政策制度方面都不够积极。

这些经济和政治的差异，使得美国和中国在如何看待全球治理之道方面存在着较大的见解差异。美国广泛而深入的参与各种全球治理机制，有的是为了保护生产者，有的是为了支持环境主义者或其它社会组织。美国的工商界和非政府组织对全球治理的介入程度非常深，有时候，它们是做为政府间国际组织的顾问，有时候，它们会直接成为非政府间国际组织的代表。与此相反，中国在全球经济治理中主要关注各个行业的利益。中国更适应政府间的国际组织，对非政府间的国际组织较为生疏<sup>8</sup>。有时候，中国会试图把非政府间的组织“主权化”（sovereignize），比如试图让政府代表取代私人部门代表，或是将有关的组织升格为政府主导的组织。比如，2009年中国钢铁工业协会（原冶金工业部），取代了宝钢，直接介入铁矿石价格国际谈判。

中国和其它国家的出口相似度  
(SITC第三版二位码)



数据来源：联合国商品贸易数据统计库（2013年3月查阅）

第三个差异是经济利益的差异。对中美两国来说，扩大贸易和投资联系都将带来巨大的利益，但随着中国的企业逐渐从加工和制造环节升级到设计和市场销售环节，它们将越来越多地和美国企业互相竞争。如上图所示，中国和美国出口产品结构日益相似。这可能说明中美两国是在同一产品的不同生产环节之间互相配合，但也可能说明它们正在同一生产环节相互竞争。根据联合国的研究，中美之间的出口产品相似程度最高的是在电子产品和通讯产品行业。世界大型企业联合会2012年的一份报告指出，在全球电子产品的供应链中，中国企业的价值增加所占的比重，从1996年的6%已经提高到2008年的24%，如今这一比例可能还会更高。<sup>9</sup>

### 如何减少分歧

由于在角色定位、治理之道、经济利益方面的差异，导致美中两国在进一步深化全球治理方面的合作时会遇到重大挑战。尽管困难重重，但美中之间其实时有合作。差异的确存在，但美中两国在很多问题上的立场是非常一致的。总体而言，中国对待全球治理问题，一直希望维持现状，提出的建议也是主张渐进的改革，而非激进的革命。

我们有理由相信，今后中美之间的这三个分歧可能会逐渐弥合，或是其重要性会逐渐减弱。尽管很多中国人仍然坚持认为中国是一个发展中国家，但随着中国的经济和军事实力提高，中国也开始将自己视为“新型大国”，这意味着中国将更主动的承担其更广泛的责任。同样重要的是，在全球治理体系的日常运行中，中国关心的地位问题从实践上看越来越不重要。很多谈判是就事论事，而非取决于中国是富裕还是贫穷。与此相关的是，当中国引用京都协议书中所说的“共同而有区别的责任”，以强调美国和其它发达国家英国比中国做出更多的承诺时，也不应忘记，原文中的全文是“共同而有区别的责任和各自的能力”（common but differentiated responsibilities and respective capabilities）。<sup>10</sup> 美国的官员曾经说过：“中国不是乍得”。随着中国国力的提高，其责任也相应增加，对中国地位变化的承认，有助于解决在角色

<sup>7</sup> 美国、英国和其他西方国家都曾经借助保护主义政策发展本国产业，促进经济增长。可参见：Ha-Joon Chang, *Bad Samaritans: The Myth of Free Trade and the Secret History of Capitalism* (New York: Bloomsbury Press, 2008).

<sup>8</sup> 关于中国非政府组织参与全球治理的研究，参见：Hongying Wang and Erik French, “China’s Participation in Global Governance from a Comparative Perspective,” *Asia Policy*, No. 15 (January 2013), pp. 89-114.

<sup>9</sup> The Conference Board, “Chart of the Week,” September 28, 2012.

<sup>10</sup> 《联合国气候变化框架公约》第三条指出：“各缔约国应当在公平的基础上，并根据它们共同但有区别的责任和各自的能力，为人类当代和后代的利益保护气候系统。因此，发达国家缔约方应当率先对付气候变化及其不利影响。” [United Nations. 1997, *Kyoto Protocol to the United Nations Framework Convention on Climate Change, Conference of the Parties on Its Third Session, FCCC/CP/1997/L.7/Add.1*, December, 10th.]

定位问题上的分歧。

尽管中国企业开始逐渐在高附加值的生产环节上跟美国企业形成竞争，但这也会产生积极的影响。随着中国企业的自主知识产权不断增加，它们将变得越来越认同TRIPS或其他和知识产权有关的规则。随着中国民众的收入水平提高，他们对环境、医疗卫生、教育和对信息获取的需求会更高。结果是，这些行业的发展将会加快，同时也会给外国企业带来更大的商机。

最后，中国的政治体制不会出现剧烈的变化，但政府对行业协会及其他NGO的发展将会更加支持。2013年3月底，国务院刚刚提出一项新的改革计划，在未来三年内将逐渐开放行业协会。随着这些改革的进展，中国的利益相关方将更积极的参与非政府间的国际机构，政府也不会有强烈的冲动将非政府的国际机制“主权化”。

### 一项关于多层次体系的倡议

我们面对的问题是严峻的，这需要我们及时而高效的做出回应。为此，我们需要在多个层次，包括单边、双边、区域和多边层次，同时采取行动。

**从单边政策来看**，为了解决这些问题，首先需要美国和中国分别采取行动，调整各自的国内政策。中国和美国可以各自发展绿色能源、改进教育体系、改善医疗卫生体系、改革其他社会保障制度。中国 and 美国的这些努力将使得一些全球治理遇到的问题变得更容易解决。

**从双边政策来看**，目前已经有很多关注和讨论。事实上，中美之间已经存在着超过60种不同的双边对话机制，非政府及第二轨道的对话机制比这更多，两国民众之间的交流渠道越来越畅通。美国和中国的相互交流似乎已经密不可分。<sup>11</sup>但是，现有的对话机制有必要变得更有效率。一位从开始就参与了中美经济对话（SED，奥巴马时期改为中美战略经济对话，即S&ED）的美国官员在接受我们采访时谈到，这一机制已经变得既没有战略，也不是对话。两国都派出了数十位部长级的官员参与对话，但两国关系中的战略性议题，以及全球事务中的最重要议题，却时常不在讨论的范围之内。我们相信，中美战略经济对话的框架仍然是非常有用的，但两国的最高领导人，奥巴马总统和习近平总书记，需要亲自介入双边对话。尽管他们的特使可以从中发挥更大的作用，但来自最高领导人的亲自参与是无法替代的。只有这样，才能增加领导人之间的互信，以及更深的相互理解。

**从区域的角度来看**，美国和中国的进一步合作是非常重要的。我们将在国际贸易部分更深入的谈及这一点。在此有必要指出，区域贸易协定谈判，如关于TPP的谈判，有可能带来利益，但也有可能带来损害。利益将来自于在原有的规则无法覆盖的领域，引入了新的国际规则。但TPP也可能会增加美中之间的裂痕。如果中国没有参与到TPP谈判之中，或是TPP的谈判缺乏足够的透明度，亚太地区甚至将分裂为两大阵营。

**从多边层面来看**，我们相信美国和中国能取得更多的合作进展。我们首先希望多哈回合能重新启动谈判，各国能够进一步落实G20的宣言。但是，我们也建议，应该制定一个时间表，以便中国能够在2020年之前加入OECD。OECD一直被认为是富国俱乐部，但实际情况是，OECD一直致力于在很多领域，从国际贸易到信息技术的管理，建立一套更高标准的规则。这些领域对中国都具有重要意义。很多时候，中国都会被要求参照或执行OECD标准。从1995年起，中国就已经和OECD建立了官方联系。中国商务部负责牵头，但其它24家部级单位都参与其中。考虑到中国的目标是在本世纪中叶成为一个中等发达程度的国家，从现在就开始做好加入OECD的准备工作是有必要的。与此同时，OECD及其现有的成员国需要重新定义这一组织的宗旨，惟其如此，中国才会感到自己有可能成为其中平等的一员。

<sup>11</sup> James Shinn, ed., *Weaving the Net: Conditional Engagement with China* (New York: Council on Foreign Relations Press, 1996).

## 保护多边贸易体制

在全球治理的各个领域中，多边贸易体制仍然是最稳定、最发达的。1995年，在乌拉圭回合谈判中，关贸总协定（GATT）演变为世界贸易组织。之后，世界贸易组织一方面向其他新领域扩展，比如在知识产权领域制定了《与贸易有关的知识产权协定》（TRIPS），同时，WTO建立了一套贸易争端解决机制。世界贸易组织是一个小型的国际组织，全职职员还不到650人，但这一组织既负责协调新成员加入的谈判，又负责组织新回合的谈判，既要监督已有协议的执行情况，又要根据争端解决机制处理贸易纠纷<sup>12</sup>。这一组织推动了贸易自由化，并遏制了贸易保护主义政策。同时，世界贸易组织和各国的法律、监管制度，以及区域贸易协定相处融洽、相互支持，其监管范围几乎涉及贸易的每个方面。

但WTO多边贸易体制正遇到巨大的危机。在国家层面及国际层面，争端解决机制都非常有效，但这一机制却被一些国家，包括美国和中国过度使用。更值得担忧的是，WTO中的多边规则制定程序已经形同虚设，各国派驻在日内瓦的官员天天无事可做。结果是，各种各样的双边和区域贸易协定纷纷出炉。这些双边和区域贸易协定可能会在一些新的领域有所突破，比如在竞争政策方面，或许，它们也能成为推进多边贸易谈判的动力。但是，它们同样可能造成贸易转移，或是导致多边贸易体制的解体。美国和中国应该慎重考虑，不仅仅关注各自的短期利益，也要保护一个能够给所有各方带来利益的多边体制。期待美国和中国能够在日内瓦的多边贸易谈判中力挽狂澜，可能是不现实的，但两国一定要在进行TPP或其它区域贸易协定谈判时更加谨慎。

### 双边贸易关系：救济贸易救济

中美双边的贸易关系总体来讲是健康的，但也存在着一些问题。美国企业和政府总是能够在中国的市场上找到一些关税或非关税壁垒。这包括一些具有歧视性的卫生和植物检疫措施、技

术标准、对政府采购市场的限制等。尽管对美国的出口存在巨大的顺差，但中国也经常抱怨美国的保护主义政策，比如对军事民用两用技术的限制出口、美国的买美国货计划等。<sup>13</sup>

在双边对话机制中，比如中美商贸联合委员会（Joint Commission on Commerce and Trade，简称JCCT）和中美战略经济对话中，这些问题都曾被提及。通过双边对话，有些问题已经得到较好的处理，但也有一些问题仍然存在。最为突出的问题是关于倾销和补贴的问题，这涉及到贸易救济机制。中国已经成为被提起反倾销诉讼最多的WTO成员国。自1995年至今，中国已经遇到884次反倾销诉讼，占总数的21.4%。美国和欧盟分别对中国提出109次反倾销诉讼，仅次于印度。印度对中国提出了150次反倾销诉讼。

全球反倾销案件：申请方（1995年1月 - 2012年6月）

	国家	案件
1	中国	884
2	韩国	299
3	美国	237
4	中国台湾	223
5	日本	170
6	印度尼西亚	168
7	泰国	168
8	印度	160
9	俄罗斯	127
10	巴西	116
总数		4125

数据来源：世贸组织反倾销数据库

<sup>12</sup> WTO Annual Report 2012, p. 142.

<sup>13</sup> 关于对中国关税及非关税壁垒的研究，可参见：James McGregor, No Ancient Wisdom, No Followers: The Challenges of Chinese Authoritarian Capitalism (Westport, CT: Prospecta Press, 2012).



很多年以来，中国一直是被动的成为被告方，但最近几年，中国也开始积极提出反倾销诉讼。中国的国内企业学会了运用法律工具。到2012年6月，中国的国内企业已经说服商务部，提出了195次对外国出口企业的反倾销诉讼，其中35次是针对美国企业，33次是针对日本企业，31次是针对韩国企业，19次是针对欧盟，16次是针对中国台湾。提出反倾销诉讼最多的是中国的化工行业，其次是钢铁行业。

全球反倾销案件：申请方（1995年1月 - 2012年6月）

	国家	案件
1	印度	663
2	美国	465
3	欧盟	444
4	阿根廷	301
5	巴西	258
6	澳大利亚	241
7	南非	216
8	中国	195
9	加拿大	165
10	土耳其	154
总数		4125

数据来源：世贸组织反倾销数据库

尽管这些反倾销案件的数目较多，但受到影响的贸易额占总贸易额的比例很小（估计不到2%）。在某些情况下，外国企业会抱怨中国的调查过程过于苛刻，或惩罚金额过高，但总体来讲，中国对外国企业课征的罚金相对较低。这往往是由于，中国的下游企业也在游说政府部门，因为它们需要这些外国进口产品。这反映出来中国的决策过程常常需要兼顾各方利益，也反映出来中国的反倾销法律和美国的反倾销法律不同。中国的反倾销法中有“公共利益”条款，允许政府考虑到制裁可能会对其它行业带来损害时，可

以酌情减少或取消贸易惩罚。

反倾销的案件数量越来越多，影响到的贸易额也不断增加，但最令人担心的是，在处理这些案件的时候，出现了一些“创新”。首先，至少从20世纪80年代开始，美国就把中国视为“非市场经济国家”，这样做的依据是美国商务部关于货币可兑换性、国有资产、劳动工资和资源、产品的定价机制等方面的标准。<sup>14</sup> 是否具有“市场经济地位”，仅仅影响到贸易救济问题。由于美国认为中国的价格定价并非由市场决定，所以当美国企业提出对中国产品海外倾销的诉讼时，在决定什么是“正常价格”问题上，经常会找一个第三方国家作为参照。

中国在2001年加入WTO的时候，同意至少在15年内保留非市场经济国家地位。这意味着到2016年12月份，中国将一直是所谓的“非市场经济国家”。这主要影响到中国遇到的反倾销案件。当原告对中国企业提出诉讼的时候，它们经常会用其它国家、其它生产方式来确定“合理”价格，这总是能保证它们轻易的胜诉，使得中国企业受到各种高关税惩罚。尽管在中国国内市场上确实存在一些缺陷，导致价格定价有一定的扭曲，但对非市场经济地位的滥用，使得很多对中国企业的诉讼根本就没有考虑中国的具体情况，而是纯粹变成了遏制中国出口的很方便的武器。

从2004年起，中国开始争取让其贸易伙伴承认其市场经济地位，到2010年为止，只有74个国家承认了中国的市场经济地位，美国、欧盟和日本都没有承认。承认中国市场经济地位的国家在中国的对外贸易中所占比例很低，而且也很少对中国提出反倾销诉讼。或许，只有等到2016年，中国才不会再遇到这些麻烦。但是，美国已经在讨论，到2016年之后是否仍然把中国视为非市场经济国家，如果真是这样，或许其它一些国家也会追随美国，继续使用非市场经济地位这一手段对付中国。即使WTO最后出面解决这一问题，那至少需要再用2到4年的时间。

在贸易救济中出现的另一种“创新”是“双反”，即同时采用反倾销和反补贴税。美国是始作俑者。美国至今已经对中国提出了十多件“双反”调查，中国的对策则是“以眼还眼、以牙还牙”，也对美国的企业提出类似的诉讼。

只有进行大刀阔斧的改革，才能拯救贸易救济规则。关于倾销和损害的证明标准逐渐降低，非市场经济地位和“双反”用得越来越多，

美国企业对中国提出的政策改革清单，可参见：US-China Business Council, “US-China Business Council Board of Directors’ Statement of Priorities in the US-China Commercial Relationship,” Washington, DC, January 29, 2013.

<sup>14</sup> Zhao Shuang and Scott Kennedy, China’s Frustrating Pursuit of Market Economy Status: Implications for China and the World,” in Scott Kennedy and Shuaihua Cheng, eds., *From Rule Takers to Rule Makers: The Growing Role of Chinese in Global Governance* (Bloomington, Indiana and Geneva, Switzerland: Research Center for Chinese Politics & Business and International Centre for Trade and Sustainable Development, 2012), pp. 63-70.

其结果是律师们的生意日益红火。这些措施根本就没有像其声称的那样，是为了减少贸易扭曲，事实上，贸易扭曲反而越来越严重。中国很快就学会了这些规则，而且运用得“得心应手”。中国的做法和日本非常不同。日本也经常受到反倾销打击，但其反应是强烈的抗议反倾销制度，总体而言也不愿意提出对其它国家的诉讼。我们希望，美国和中国在提出贸易救济案件的时候都能够更加克制，中国的贸易伙伴，尤其是美国，应该在2016年之前承认中国的市场经济地位，这样才能减少不确定性，不至于让大家失去对全球贸易体制的信心。

我们也很担忧，在国际贸易中会出现更多的基于短期利益的考虑，对贸易伙伴采取“以眼还眼、以牙还牙”的措施，以惩罚其它国家。这些措施很难通过双边或多边的贸易救济机制有效的解决，因为相关的法律程序费时费力。中国在这一方面并非表现最差，但是我们还是想指出，2010年中国禁止对日本出口稀土的做法，在国际上引起了强烈的反响。这样的做法将损害对整个国际贸易体系的信心。世界各国均应更加克制、更加尊重全球贸易体制、并真正意识到，如果滥用保护主义政策，每一个国家最终都可能会成为受害者。

### WTO: 保护最佳国际组织 (World's Top Organization)

在中国加入WTO之前，很多人担心中国会“破坏”这一体系，因为中国可能在各个方面犯规。但事实根本不是这样。就以贸易争端而论，中国已经成为一个“规规矩矩”的成员。中国的行为并非尽善尽美，但足以被称为一个“正常”的国家。

截至2013年，中国在17个案件中是应诉方，在11个案件中是上诉方，在97个案件中是第三方。这一得分和大多数其它WTO成员国不相上下。当做为应诉方时，中国输掉了大多数案件，当做为上诉方时，中国赢了大多数案件。在所有的败诉案件中，除了一个案件，中国均在规定的时间内，按照WTO的要求，改变了相关的国内法律和监管措施。这唯一的案件是关于宣传物传播的，最后，中国对好莱坞提供了贸易补偿。

中国在WTO的得分表  
(截至2013年3月)

	中国做为应诉方	中国做为上诉方
案件总数	17	11
结案总数	8	8
中国胜诉	1	6
中国败诉	6	2
非一致性决定	1	0

数据来源: WTO

备注: 平均而言, 上诉方赢得案件的概率为90%。这一得分表是基于我们自己对WTO判决的理解, 当然, 很多判决是较为模糊的, 需要加以解释, 才能区分谁赢谁输。

这些案件对治理机制的影响可能超过了大多数人的想象。大多数针对中国的案件是关于其产业政策, 包括产业补贴, 或是关于知识产品保护和贸易限制的。WTO的裁决有助于判定哪些措施是可以做的, 哪些是不可以做的。中国针对其它国家的案例, 包括针对美国的案例, 主要是关于对贸易救济措施的滥用。这些案件涉及的贸易金额占中国总贸易额的比例很低, 但它们表达了中国贸易救济被普遍滥用、对市场进入的不可预见性的担忧。我们预期相关的案件数量还会增加, 而且, 坦率的讲, 我们并不认为这是一个严重的问题。我们相信, WTO的贸易争端解决机制能够较好的应对这些问题。

尽管我们对WTO的贸易争端解决机制相对乐观, 但对WTO推动多边贸易谈判的前景却充满了忧虑。多哈发展回合是一个值得追求的目标, 各国完成谈判的政治意愿却已一落千丈。随着发展中国家数量的增加, 多边谈判越来越“多边”, 很难形成共识, 达成“一揽子承诺”的难度极大, 因为除非在所有的问题上都一致通过, 否则任何问题都无法通过。2008年WTO谈判破裂, 可能首先应归咎于印度, 但中国和美国也没有尽其全力。中国本应像巴西一样, 想法孤立印度, 美国本应更宽宏大度, 在农产品补贴上做出更多让步<sup>15</sup>。更严峻的挑战是, 谈判的格局已经大不相同。

我们认为, 应该考虑采取何种措施, 才能重启多哈回合谈判。有人建议把谈判的范围扩大, 包括服务、特殊产业领域、国有企业和竞争

<sup>15</sup> Paul Blustein, *Misadventures of the Most Favored Nations: Clashing Egos, Inflated Ambitions, and the Great Shambles of the World Trade System* (New York: PublicAffairs, 2009).



政策，有人建议把谈判的范围缩小，回到容易达成共识的传统议题。第三种观点是改革WTO谈判规则，摒弃“一揽子承诺”的做法。有的学者将此做法称为给WTO穿上了“紧身衣”<sup>16</sup>。每一种观点都有其优点和缺点。缩小谈判范围的建议或许最具操作性。如果缩小谈判范围，我们可能所得甚少，但是最容易赢得谈判。WTO迫切地需要完成一轮新的谈判，这样才能重振士气，全面提高其能力。不管WTO会采取哪种路径，但挑选新的总干事，能提供一个讨论其未来发展的绝好机会。中国和美国应紧密合作，从七个候选人中挑选出WTO的新领导人，并将这一选择和对WTO未来的改革联系起来。

### 区域主义：小心慎行！

在一个完美的世界里，我们更希望看到完整的全球贸易体系，而不是割裂的区域贸易协定。我们同意Jagdish Bhagwati的看法，区域贸易协定的兴起，使得贸易规则复杂而混乱，就像一盘“意大利面”，这些规则很可能不是创造贸易机会，而是毁掉贸易机会<sup>17</sup>。但我们并非生活在一个完美的世界里。目前，全球共有354个生效的自由贸易协定，大部分国际贸易都会被包括在一个或多个这样的自由贸易协定之中。考虑到多哈回合谈判受阻，以及存在如此多的区域贸易协定（我们也很难分清这两者之间的因果关系），使我们难以判断，TPP、区域全面经济伙伴关系（Regional Comprehensive Economic Partnership, 简称RCEP），或是中日韩自由贸易协定，究竟是否会有效。目前，这三个重要的区域自由贸易协定都正在向前推进，而其对贸易、投资和其他经济活动的影响将是巨大的。

或许，TPP会比WTO走得更远，并在很多领域，如服务业、国有企业、知识产权保护、环境保护或其它问题上有所创新。或许，这就是美国国家安全顾问Tom Donilon 为什么会说，TPP是美国当前参与的最重要的贸易谈判。然而，TPP也可能带来巨大的负面影响。或许，有些条款未必会有利于大众的利益。比如，是否要对制药公司提高知识产权保护的水平，一直都是一个很有争议的问题。整个TPP的谈判充满了神秘色彩，使得置身其外者很难不去猜测这里面是否有密谋。最后，如果中国难以进入谈判，就会变成局外人。是的，中国也可以自己提出，全盘接受参加的条件，但这是一个政治上非常敏感的问题。或许，即使中国不参加TPP，最终可能也会

被动的向新规则靠拢。但是，这种做法也会带来报复，最终在这一地区会出现自由贸易谈判之间的“军备竞赛”，结果是加剧了亚洲的政治经济紧张。

因此，我们觉得问题不在于“加入还是不加入TPP”，而是如何推进TPP谈判。换言之，TPP及其它自由贸易协定的谈判过程，和其内容是同等重要的。我们在此想提出若干具体建议。

1. 谈判的内容应更具有透明度。如果谈判对外部越是开放，最终的结果就越有合法性。如果说对公众或国会透露谈判内容会有不妥之处，那么TPP谈判可以仿照在WTO争端解决机制中所采取的办法，美国和其它TPP参加国可以设计一个机制，定期对“有兴趣的第三方”报告谈判的内容，但要求对方必须信守保密的承诺。
2. 所有的自由贸易协定都应该以WTO规则为依据。
3. 应该在谈判一开始就想好，将来如何实现规则的统一。这包括：未来的后加入者应采取何种步骤参加谈判，以及如何合并现有的多种自由贸易协定，以及如何主讲将一些谈判的主要内容多边化。
4. 当遇到规则如何适用于企业或产品尚不清晰时，有必要启动“快车道”授权（fast-track），以便尽快达成决议。当谈判各方难以达成一致意见时，应该允许企业能够得到自由贸易协定规定的利益。

我们同意在采访中一位专家说的话：“我们应该两条腿走路”。一方面推进多边贸易体系，另一方面突进区域贸易协议。我们主张这两种办法齐头并进。我们也反对过于匆忙的达成任何协议，要全面分析其积极和消极的结果。

<sup>16</sup> Kent Jones, *The Doha Blues: Institutional Crisis and Reform in the WTO* (Oxford: Oxford University Press, 2010).

<sup>17</sup> Jagdish Bhagwati, *Termites in the Trading System: How Preferential Agreements Undermine Free Trade* (New York: Oxford University Press, 2008).

## 创建国际投资治理框架

从第一代经济增长模型开始，经济学家就认识到投资对促进增长的重要性。过去三十年发生的“中国奇迹”，更是显示出投资的重要意义。在中国各地旅行的时候，人们会看到到处都是新修的高速公路、高速铁路、机场和现代化建筑。在全球金融危机爆发之前，当讨论全球失衡的时候，有些专家指责顺差国储蓄太高，逆差国消费太多，但问题的关键其实是投资不足。全球金融危机之后，发达国家减少了对发展中国家的投资，使得发展中国家陷入更加困难的地步。促进全球增长的关键是更多的投资、更好的投资。

在这一背景下，建立关于国际投资的全球治理体系，显得空前重要。在这一领域，中美之间的角色有时是互相转换的。中国过去一直是吸引外国投资的东道国，如今也对对外投资表现出浓厚的兴趣。中国对外投资的一个热点就是美国。中国的企业也在非洲、拉丁美洲和中东等地和美国企业相互竞争。这个舞台是否足够之大，能容得下中美两个大国？中国和美国能共同携手，为全球投资的大厦铺下奠基石吗？

### 各执一词

美国一度在中国引进的外国直接投资中占据绝对重要的地位。1983-1986年间，在中国引进的外商直接投资中，来自美国的投资占20%左右，仅次于香港。但这一比例逐渐降低。2000年，中国引进的外商直接投资中，尚有10%左右来自美国，到2012年，这一比例已经跌至2.0%。从美国的角度来看，在2010-2011年间，中国仅占美国海外直接投资总额的0.77%，比2000-2001年的1.73%更低。到2011年底，美国在华直

接投资的存量为542.3亿美元<sup>18</sup>。主要集中于制造业（尤其是化工行业、计算机与电子产品）和银行业。与来自香港或台湾的外商投资不同，美国在华投资企业的兴趣并非利用中国内地廉价劳动力的优势，加工生产出口产品，相反，90%的美国企业在中国投资的主要动机是瞄准中国日益繁荣的国内市场。

中国已经成为美国国债的最大的海外持有者。到2012年底，中国持有12028亿美元的美国国债，占美国国债海外持有量的21.7%。与之相比，中国在美国的直接投资几乎微不足道，但2000年之后增长较快，到2011年底，已达到89.9亿美元的规模<sup>19</sup>。

尽管不管从存量和流量来看，中美两国都不是对方的主要投资来源国（中国持有的美国国债除外），但是，在中美两国之间的谈判中，投资已经成为最重要的问题之一。但在这一问题上，中美两国各执一词<sup>20</sup>。

中国在美国的投资增长迅猛，在美国国内引起了一些担忧。美国对中海油收购优尼科（Unocal）一案所持的激烈的反对态度，至今仍为中美经济合作蒙上了一层阴影<sup>21</sup>。在此之后，中国在美国的主要投资项目经常受到各种阻碍。倍受关注的事件包括：2009年华为联合贝恩资本（Bain Capital）收购美国通讯设备商3Com公司；2009年西北有色收购美国金矿公司优金（Firstgold）；唐山曹妃甸投资公司与美国光导纤维制造企业Emcore建立合资企业；以及华为从已经破产的加州企业3Leaf手中收购部分资产等。在这些案件中，由于受到美国外商投资委员会（CFIUS）的反对，中方企业均撤回了投

<sup>18</sup> 数据来源：中国商务部；美国商务部经济分析局（BEA）。

<sup>19</sup> 数据来源：中国商务部。

<sup>20</sup> 关于中国对美国的直接投资，可以参见 Daniel H. Rosen and Thilo Hanemann, *An American Open Door? Maximizing the Benefits of Chinese Foreign Direct Investment*, Special Report for the Center on US-China Relations of the Asia Society and the Kissinger Institute on China and the United States of the Woodrow Wilson International Center for Scholars, May 2011.

<sup>21</sup> 直到2013年2月，美国政府批准中海油收购加拿大石油公司尼克森（Nexen），才使得这一事件的负面影响有所缓解。



资。一个比较新的动向是，2012年，美国总统奥巴马签发总统令，以涉嫌威胁国家安全为理由，中止三一集团关联公司及其美方合作者Ralls公司在俄勒冈州一家军事基地附近的风场发电项目。CFIUS裁决Ralls公司停建这一风电项目，也不能出售风电场及有关设备。三一集团及Ralls公司对奥巴马总统和CFIUS提出了上诉。

事实上，即使是那些最终实现了在美投资的企业，也仍然遇到重重困难。比如，联想集团在2005年收购了IBM的个人电脑部，鞍钢和美国钢发展公司合作在密西西比州建立螺纹钢企业，但之后都遇到美国利益集团、国防部门和国会的不断阻挠。只要有中国企业提出投资计划，媒体的第一反应就是猜测这一计划在华盛顿被否决的可能性会有多大。这些事件使得中国逐渐形成一种印象，即美国并不欢迎中方的投资。

美国则感到，中国企业对美国政府的负面印象并不准确。美国一向标榜为一个开放而平等的投资地，美国各地的地方政府也在积极吸引来自中国的投资。很多美国人已经意识到，中国的投资对美国是有益的，尤其是能提供更多的就业岗位。据报道，中国在美投资的企业所创造的就业岗位在2000年之前不到2000个，到如今已经增长到2.7万个<sup>22</sup>。如果中国参股的企业，以及中方投资间接创造出来的就业岗位都包括进来，那么中国提供的就业岗位是相当可观的。如果这一趋势能够保持下去，到2020年，中国企业能够为美国提供大约20-40万个就业岗位。中国的投资也能刺激美国的创新。甚至在美国最近的页岩气革命中，也有中国企业的身影。中石化（Sinopec）向俄克拉荷马州的一家企业Devon Energy投资了25亿美元，以支持其发展油气开发。一家刚刚在深交所创业板上市的民营企业兰州海默科技斥资275万美元，收购了美国Carrizo Oil & Gas公司在科罗拉多州丹佛盆地奥布拉拉页岩油气开发项目14.29%的权益。

美国企业对中国的投资环境也多有抱怨。它们希望中国政府能够加强对外国投资者的保护，尤其是希望重视对知识产权的保护以及完善法治。它们也抱怨中国政府要求加快技术转移的要求，美国企业更希望将核心技术保留在其国内。他们认为，这一做法违反了与WTO规则中的贸易有关的投资措施（Trade-Related Investment Measures，简称TRIMs）<sup>23</sup>。

此外，美国企业，以及其它发达国家的在华企业，迫切希望中国能够开放其国内市场。中国对资本流动仍然保持较为严格的管制。中国通

过发布外商投资产业指导目录，规定哪些行业受到鼓励，哪些行业受到限制，哪些行业禁止进入。除了这些明确的指导意见，还有一些其他的管制，使得外国投资者举步维艰。尤其是一些服务业和垄断性行业，基本上对外国投资者紧闭大门。美国企业对进入政府采购市场具有极大的兴趣，也对来自中国国有企业和其他国家的企业的竞争忧心忡忡。

中国政府并不认为对美国企业有歧视政策。尽管有些行业存在进入障碍，但这并不单独针对美国企业，对其它国家的企业也是一样的，甚至对中国国内的私人资本也是有限制的。中国的经济改革始终重视引进外商直接投资，中国经济的成功在很大程度上依赖于外向型经济和引进外国资本。但无可置疑的是，中国的引进外资政策也出现了变化，变得越来越具有挑选性，更加强调外商投资的质量，而非数量，在挑选外商投资的时候，更强调技术先进性和环保标准。除了政策的变化之外，中国的市场环境也发生了变化。在中国市场上的竞争对手越来越多，其它国家的企业蜂拥而至，中国的国内企业也有了长足的发展，中国的劳动力成本不断上涨，资源成本日益上升，这都给在华投资的一些美国企业带来了压力。

## 双边谈判和投资协议

中国和美国在双边投资谈判中均有需要改进之处。美国外商投资委员会涉及国家安全的审查变得越来越容易受到政治因素的影响。尽管可以理解的是，这一审查程序必须保密，但审查程序中的暗箱操作，使得人们很难不怀疑，这一程序没有受到中国企业在美国的竞争对手的操纵。所谓的安全问题，也经常是戴着有色眼镜去审查中国企业的在美投资。对中国投资的风险和收益评估，应基于事实，而非恐惧。除了指责美国的保护主义政策，中国的投资者也需要有所自省。中国的国有企业仍然受到各种政府决策的影响。中国的私营企业治理机制缺乏透明度。改善公司治理机制、提高透明度，在监管部门和国有企业之间设立更清晰的界线，都有助于帮助中国企业更好的进入美国市场。

在双边层面，中国和美国仍然在继续推动双边投资协议（BIT）谈判。中美关于双边投资协议的第一轮谈判于2008年9月在北京召开，之后的14个月内分别在北京和华盛顿进行了五轮磋商。双方的谈判在2009年受到美国对其2004年版BIT模板修订的影响，但第七轮谈判于2012年10月在北京举行。

<sup>22</sup> Thilo Hanemann, "The employment impacts of Chinese investment in the United States," East Asia Forum, October 30, 2012.

<sup>23</sup> 美中商会，《美国在华企业白皮书2012》，北京：2012。亦可参见：欧洲商会：《欧洲在华企业建议书 2012/2013》，北京：2012。

中美双边投资协议谈判中的分歧主要涉及以下议题：

1. 市场准入：是否需要遵循准入前国民待遇原则，从而将产业政策范围缩小？如何改进安全审查机制？
2. 公平竞争：需要为国有企业单独制定标准吗？如果有，应该是什么样的标准？如何对待劳工标准和环境标准？
3. 国民待遇：金融服务业开放，履行要求（performance requirements），税收，法律和监管的透明性。
4. 投资者保护：资本流动自由化，征收赔偿，国家授权投资，习惯国际法。
5. 争端的解决：如何解决东道国和外国投资者之间的争端，是采用《华盛顿公约》（或称《ICSID公约》），还是采用《纽约公约》？

质言之，美国推动双边投资协议的主要目的是希望通过降低投资的障碍，方便本国投资者进入外国市场，而中国推动双边投资协议的主要目的是保护海外资产，同时中国对争端解决机制也非常关注<sup>24</sup>。要达成双边投资协议，并非要求在所有这些问题上都完成谈判，有些议题可以有例外安排，或用其它法律手段解决，但中美双方都要做出较大的妥协<sup>25</sup>。然而，无论如何，中美双边投资协议将会是全面而广泛的。中国花了18年的时间才完成和加拿大的双边投资协议谈判，中美之间的双边投资协议也不会很快就完成谈判。但谈判本身就有助于建立一个健康的中美投资环境。

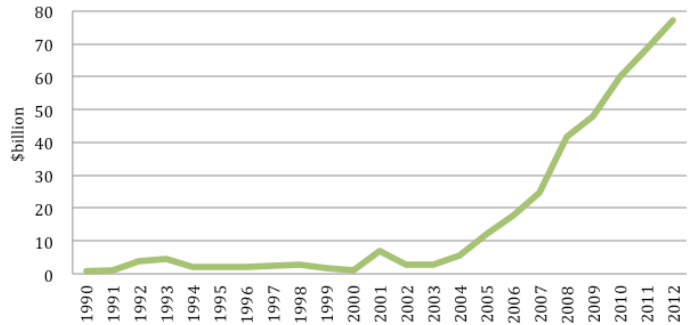
从双边的层面来看，中美不仅要继续推进双边投资协议，并在市场准入、安全审查、履行要求和透明度等问题上达成一致，而且要进一步简化与投资有关的手续。比如，简化签证审批程序，鼓励两国间地方政府、企业界和智库之间的交流和合作。

### 全球层面的合作与竞争

中美双方关于国际投资的合作和竞争并非仅局限于双边之间。全球金融危机之后，中国的对外直接投资出现了快速增长。2007年中国的对外直接投资（ODI）为248亿美元，2008年为419亿美元，到2012年已经提高到772亿美元。中国

企业对外投资的动因是多方面的，比如：稳定能源和原材料的供应；在供应链上进一步扩张，获得战略性资产；提高跨国经营的能力和效率等。

中国的对外直接投资，1982 - 2012年



来源：1982—2001年的数据来自联合国贸易和发展会议，2002—2012年的数据来自中国商务部的 Bulletin of China's Outward Foreign Direct Investment.

注意：2002—2012年的数据都为来自中国的非金融对外直接投资。

中国的对外直接投资为刺激全球经济增长起到了积极作用。全球金融危机之后，发达国家对发展中国家的对外直接投资出现退潮，而中国的投资却不断增加。从2007年到2011年，发达国家的对外直接投资下降了32%，但中国的对外直接投资却增长了189%<sup>26</sup>。中国的对外直接投资为世界经济稳定和繁荣做出了贡献。一方面，中国的投资抵消了发达国家对外投资下降的负面影响，帮助发展中国家改善了基础设施的建设，另一方面，中国的对外直接投资也给发展中国家带去了中国的发展经验，以及实现经济繁荣的希望。

但是，中国对外直接投资遇到的潜在风险也是不容忽视的。中国在一些政治风险较高的国家，如利比亚、委内瑞拉、北朝鲜和苏丹进行了大量投资。数据显示，截至2011年，中国的对外直接投资存量中有11.37%是在“非稳定国家”<sup>27</sup>。中国企业自身在海外的投资中存在激烈的互相竞争，某些中国企业在海外的投资给当地的环境保护和劳工保护带来了负面影响，这些都是中国必须正视的挑战。

中国正在积极参与区域范围内的投资合作。2011年，中国的对外直接投资中有61%是在亚洲地区<sup>28</sup>。中国一直支持亚洲开发银行提出

<sup>24</sup> 中国对待双边投资协议的态度和欧洲国家较为接近，被称为“允许模式”（admission model），而美国的模式被称为“准入前模式”（preestablishment model）。参见：Axel Berger, “The Politics of China's Investment Treaty-Making Program,” in Tomer Broude, March L. Busch, and Amelia Porges, eds., *The Politics of International Economic Law* (Cambridge University Press, 2011), pp. 162-185. 截至2011年底，世界范围内共有2,833个双边投资协定。参见：UNCTAD, *World Investment Report 2012*, p. xx.

<sup>25</sup> 美国国务院在网上公布了一份双边投资协定的模板，从中可以看出美国在各个问题上的立场。参见：<http://www.state.gov/documents/organization/188371.pdf>.

<sup>26</sup> 数据来源：联合国贸易和发展会议（UNCTAD）。

<sup>27</sup> “非稳定国家”主要是指：阿富汗、苏丹、委内瑞拉、伊朗、北朝鲜、伊拉克和利比亚等国。数据来源：中国商务部。

<sup>28</sup> 中国对外直接投资的最大去向是香港特区，占中国对外直接投资总额的48%。数据来源：中国商务部。



的“互联互通”计划，该计划主要关注亚洲国家之间通过基础设施建设相互联系、沟通。最近，中国和其他BRICS国家一起倡议成立一家新的国际开发银行，即BRICS投资银行，以支持在新兴经济体内部的基础设施投资。中国和美国在投资亚洲这一问题上，究竟会成为合作伙伴还是竞争对手尚不清楚。但为了避免这两个大国出现利益的冲突，有必要在现有的区域合作框架，如APEC内加强双方的合作。TPP也有可能成为在投资问题上的新的合作平台，但如前所述，为了吸引中国参与谈判的兴趣，TPP谈判必须更加开放、透明，美国应让中国更多的了解谈判的进程。

在全球平台上，中国对外直接投资的崛起，对美国而言既是挑战，也是机遇。中国的跨国公司的兴起，使得全球范围内对有限的自然资源、先进技术、著名品牌、市场渠道和其它战略资源的竞争更加激烈。如果中国的企业能够有效利用这些资源，将使它们在国内市场上更有竞争力，并改变全球市场上的竞争格局。另一个可能遇到的问题是外交上的竞争。中国可能会在一些美国并不支持的国家投资，而且中国的对外直接投资也会在一定程度上削弱美国在海外的影响力。

但是，中国企业走出去也会对美国的企业带来红利。中国的企业愿意接手美国企业在转型和升级过程中试图脱手的资产。它们也愿意在一些高风险的地区和美国的企业合作，共同承担风险。中国的企业也很可能会邀请其在海外的投资伙伴，共同在中国的国内市场上发展。

国际投资规则的未来演进方向是建立一个高度开放的国际投资环境，并进一步完善对企业海外投资的保护。中国和美国均应在构建国际投资体系这一挑战中承担更多的责任。国际贸易有WTO，国际金融有IMF，但至今为止，尚未形成一套全面、有效的国际投资规则体系。一个可能的原因在于，传统的国际投资者大多来自发达国家，现有的国际投资惯例给予发达国家极大的灵活性，而且更倾向于保护发达国家的利益。但最近，国际投资出现了巨大的变化，包括中国在内的新兴发展中大国对外直接投资的增长势头甚猛。为了建立新的国际投资规则，新兴经济体的利益必须得到应得的关注。它们不仅代表着传统的引进外资的东道国，也代表着新兴的对外投资国的利益。

因此，遏制投资保护主义、规范投资行为应成为全球经济治理的重要议题。联合国贸发会议（UNCTAD）、WTO和经合组织（OECD）均试图推动国际投资规则的谈判，但进展甚缓。在规范主权财富基金行为方面，IMF提出的“普遍接受的原则和做法”（Generally Accepted Principles and Practices，简称GAPP，又被称为“

圣地亚哥原则”），因缺乏可操作性和透明性受到广泛质疑。而且，如何就外国投资涉及的国家安全问题进行审查，在国际上缺乏统一而清晰的标准和程序，这使得单个投资案例极易受到巨大政治压力的影响，而且在司法裁决上也容易受到前后不一致的对待。中国和美国应共同应对这些挑战，做出相互让步，照顾各方利益，共同推动国际投资领域的全球治理机制改革。

做为推动中美在国际投资领域方面合作的起步，可考虑由中美共同投资一些重大项目，以显示双方合作的诚意，并逐步增加合作的经验。与此同时，中美两国既要关注在双边投资中遇到的阻碍和困难，也要强调双边投资给彼此带来的收益，总结双边投资中成功案例的经验。中美两国还可以在一些与投资相关的其它领域加强合作，比如改革信用评级机构，制定规范主权财富基金的规则等。更有雄心的目标也不可忽视。在全球平台上，中美应合作推动国际投资规则的建立，改革投资者与国家间的争端解决机制（Investor-State Dispute Settlement Mechanism，简称ISDSM），甚至成立一个世界投资组织（World Investment Organization）。



## 保障全球金融开放与稳定

金融是一国经济，也是世界经济的血液。因此，维护全球金融体系的正常运转，是推动发展中国家经济增长、维持发达国家经济稳定的前提条件。全球金融体系的治理需要同时解决两个问题，一是保障资本的自由流动，并使资本可以更好的为实体经济服务，二是维护金融市场的稳定，防范金融危机或减少其危害性。在过去十五年内，全球经济目睹了数次金融危机，而且每一次危机都比之前的危机破坏性更大。在金融问题上，美国和中国需要面对多重挑战，其中包括：汇率问题、资本管制、市场准入、审慎监管、债务管理等。全球货币金融领域的全球治理机制不如贸易领域完善，但比投资领域略胜一筹。克服全球货币体系中的内在缺陷，是未来一段时间，中国、美国、其它国家和全球金融界共同面对的难题。

### 从汇率之争，到何处去？

有些美国政客一直热衷于指责中国操纵了货币。对中国的批评者们认为，人民币汇率被人为的低估，以便获得出口竞争力。他们还认为，人民币汇率低估导致了美国的就业减少及全球需求萎缩。保罗·克鲁格曼告诉公众，根据他的粗略估算，由于中国的“重商主义”政策，美国在短短几年时间里就失去了140万个就业岗位<sup>29</sup>。在国会作证时，伯格斯坦（Fred Bergstein）给出了他的估计。他的数字只有克鲁格曼的三分之一。但是，他也指出，人民币升值有助于美国减少大约500亿到1200亿美元的经常账

户赤字<sup>30</sup>。

但中国并不这么认为。在人民币汇率和贸易顺差之间，难以找到确凿的因果关系。从2005年中到2008年，人民币兑美元升值了17%，但2008年的贸易顺差比2005年的贸易顺差反而增加了50%。全球金融危机爆发之后，人民币停止了升值，在2008年到2009年重回事实上的盯住美元汇率制度，但2009年中国的贸易差额反而减少了12%。中国社会科学院世界经济与政治研究所的一项研究表明，中国出口的收入弹性远大于其价格弹性，这意味着中国能够出口多少，更多的取决于美国人的收入增长速度，而非中国产品的价格有多便宜<sup>31</sup>。贸易统计数据也存在着巨大的缺陷。如今，加工贸易占中国总出口的40%以上，几乎全部的中国贸易顺差都来自于加工贸易。越来越多的研究指出，中国在账面上存在巨额贸易顺差，无非是因为中国越来越深的加入了全球生产网络，而汇率调整对减少加工贸易导致的贸易顺差影响不大<sup>32</sup>。

自2005年以来，人民币兑美元的汇率上涨了30%以上，如果考虑到在这一时期中国的通货膨胀率高于美国，那么实际汇率上涨的幅度更大。如今，人民币汇率已经更接近于其均衡水平。与此同时，由于中国经济基本面因素的变化，如人口因素（中国的劳动力逐渐老龄化、劳动力成本上升），城市化加速（这将有助于刺激国内需求），中国的经常账户顺差明显下降。2007年，中国的经常账户顺差一度占GDP的10%，到2012年已经仅占2.6%。

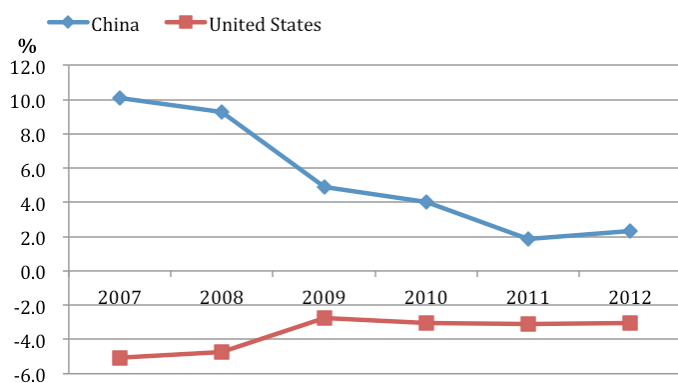
<sup>29</sup> Paul Krugman, "Chinese New Year," *New York Times*, December 31, 2009.

<sup>30</sup> C. Fred Bergsten, "Correcting the Chinese Exchange Rate," Testimony for the Hearing on China's Exchange Rate Policy, Committee on Ways and Means, US House of Representatives, September 15, 2010.

<sup>31</sup> 姚枝仲、田丰与苏庆义，《出口的收入弹性与价格弹性》，《世界经济》，2010年第4期。

<sup>32</sup> Hong P, Vos R and Yao K, "How China Could Contribute to a Benign Global Rebalancing," *China & World Economy*, Vol. 16, No. 5, (2008), pp. 35-50; and Yuqing Xing, "Processing Trade, Exchange Rates and China's Bilateral Trade Balances," GRIPS Discussion Paper 10-30, January 2011.

经常项目帐户余额 (% of GDP)



美国方面也开始逐渐更多的考虑实际问题，而非已经被高度政治化的汇率之争。中国美国商会 (American Chamber of Commerce in China) 甚至后悔美国国会通过的货币汇率监管改革法 (the Currency Exchange Rate Oversight Reform Act)，要求国会更多的把精力放在敦促中国开放金融服务业方面。按照中国加入WTO时的承诺，到2006年，中国应全面开放其金融服务业。但在银行、保险、证券、养老金和其他相关行业，中国仍然有较为严格的管制政策。美国一直抱怨中国对银行、保险公司的外国股权有限制，而且非常希望能够参与中国庞大的企业年金市场。然而，考虑到全球金融危机之后，发达国家的金融机构仍然在经历痛苦的去杠杆化过程，其海外扩张速度也大大放慢，我们还难以判断，美国的金融机构是否已确实做好准备，到中国这样一个完全不同的市场谋求发展。从长期来看，由于中国中产阶层的不断壮大，对投资理财和金融保险的需求会非常有潜力，也能给美国的金融企业提供巨大的商机。

在汇率之争中，中国一直处于防守的角色。最近，中国也开始抱怨美国货币政策的溢出效应。美国的非传统货币政策，即所谓的量化宽松政策，释放出巨额的流动性，这些流动性进入国际金融市场后，引发了一系列的风险。由于短期利率和长期利率一直保持在非常低的水平，投资者急于寻找更有利的投资机会，大量热钱涌入商品市场和新兴市场。中国进口的能源和矿产品

越来越多，所以非常担心美国和日本的数量宽松政策会导致大宗商品价格攀升，并由此输入通货膨胀压力。中国也很担心量化宽松政策对国际资本流动的影响。有证据表明，中国资本管制的有效性正在下降<sup>33</sup>。全球金融危机之后，中国经历了国际短期资本的大进大出。国际短期资本的规模与GDP规模之比例大大提高。中国人民银行对此很警惕，已经发出了要关注短期资本流动和汇率风险的要求。过于频繁的短期国际资本流动，给央行的货币政策操作带来了困难，因为中国的货币政策主要依靠控制数量目标而非价格手段。因此，在未来的双边磋商中，汇率问题应让位于对更广泛的宏观经济政策的讨论，这些宏观经济政策会对汇率、通货膨胀和贸易等多个变量带来巨大的影响。

### 人民币国际化

2009年之后，人民币国际化的速度加快，但最近又有所放缓。其最初的快速发展在很大程度上是受到人民币升值预期的影响。因此，当升值预期消失之后，人民币国际化的动力有所减弱。

由于人民币国际化尚处在最初阶段，因此出现了一些意想不到的问题：第一，人民币国际化不仅没有减少外汇储备，反而导致了外汇储备的增加。导致这一现象的原因是，在人民币用于外贸结算时，用人民币结算的进口大于用人民币结算的出口，而中国又是一个贸易顺差国，所以在国际贸易结算中使用人民币越多，外汇储备增加越多。第二，考虑到人民币在长期内将继续升值，从经济含义来讲，中国应增加其人民币资产，减少其人民币负债。但现有的人民币国际化实践并未注意这一区别，有些做法，如中方企业在香港发行“点心债券”，实际上增加了人民币负债<sup>34</sup>。第三，人民币回流机制如何解决，是一个难题。人民币国际化的进一步发展需要放开回流渠道，而这意味着中国必须开放资本账户。但中国国内的汇率和利率改革仍然不到位，国际金融市场上又动荡不安，快速的资本账户自由化政策会加剧金融不稳定性，并给中国带来巨大的福利损失<sup>35</sup>。

有些美国学者对人民币国际化的前景持非

<sup>33</sup> Guonan Ma and R. McCauley, "Do China's Capital Controls still Bind? Implications for Monetary Autonomy and Capital Liberalization," BIS Working Papers No. 233 (August 2007); Yongding Yu, "Managing Capital Flows: The Case of China," Research Center for International Finance, Institute of World Economics and Politics, CASS, Working Paper No. 0816, September 2008; Yongzhong Wang, "An Estimation of the Effectiveness of China's Capital Controls and Sterilizations," Institute of World Economics and Politics, International Trade and Investment Series, Working Paper No. 09008, November 10, 2009.

<sup>34</sup> 何帆、张斌、张明、徐奇渊、郑联盛，《香港离岸人民币金融市场的现状、前景、问题和风险》，《国际经济评论》，2011年第3期。

<sup>35</sup> Yongding Yu, "Roadmap of RMB Internationalization Revisited," Institute of World Economics and Politics, CASS, *Financial Review Series*, No. 2011036 (June 21, 2011); and 张明：《人民币国际化：基于在岸和离岸两个视角》，中国社会科学院世界经济与政治研究所国际金融研究中心工作论文 No. 2011-W09 (2011年6月29日)；张斌：《中国对外金融的政策排序：基于对国家对外资产负债表的分析》，《国际经济评论》，2011年第2期。

常乐观的看法<sup>36</sup>。他们研究了美元和其他货币国际化的历史经验之后认为，人民币国际化的速度会非常快。美国政府对人民币国际化的态度仍然是“善意的忽视”。在可以预见的未来，人民币无法取代美国在国际货币体系中的核心地位，因为人民币在成为国际货币之前，必须首先开放其资本账户。但是，由于中国的改革仍然在往前推进，金融体系也将出现重大的变化，因此人民币国际化在未来一定会对中国，以及全球货币体系带来深远的影响。

## 东亚货币合作

东亚金融危机之后，亚洲货币合作发展速度加快。但在全球金融危机爆发之后，尤其是在欧元区出现了危机之后，东亚货币合作的步伐也随之放慢。中国一直积极参与东亚货币合作。中国最早提出清迈倡议多边化的建议。但东亚货币合作下一步如何发展，尚未取得共识。为了进一步推动区域货币金融合作，可以考虑的领域包括：促进区域内的基础设施投资，建立区域汇率协调机制等。东亚各国间出现的紧张局势，尤其是中国和日本在钓鱼岛问题上的领土争端，中国和东南亚国家关于南海的领土争端，使得未来的东亚货币合作前景更加暗淡。但是，借助于已经存在的机制（包括清迈倡议、储备库，亚洲债券市场倡议）和平台（如AMRO），亚洲各国完全可以构想更有创意的全面合作。

美国对东亚货币合作的态度是复杂的。当年，东亚金融危机刚刚结束，日本曾提出建立东亚货币基金的倡议，但遭到了美国的反对。如今，美国感觉东亚货币合作对美国没有任何实质威胁，因此态度更加缓和。只要东亚货币合作不影响到美国的利益，美国就不会出面反对。

中国也在寻找和发展中国家之间的货币金融合作。正在酝酿之中的BRICS银行，提供了新兴国家之间加强合作的一个新思路。美国对这一新倡议充满了疑虑。正如和人民币国际化、东亚货币合作等问题一样，中国和美国在这个方面也应更多的加快沟通和交流，增加互信。

## 改革国际金融体系

在全球层面上，中国力求推动国际货币基金组织（IMF）改革。2010年的IMF配额和治理机制改革，不仅史无前例的将配额总数扩大了一

倍，而且对配额的分配进行了改革，以期更好的反映全球经济格局的变化。如果改革措施顺利落实，中国将成为IMF中的第三大成员国，BRIC四国都将进入前十位最大的成员国。因此，中国和其它新兴大国有共同的利益，一致支持IMF改革。美国也支持改革，但至今仍未在国内通过国会对改革方案的批准。IMF改革尽管有进展，但远未到改变国际货币体系的程度。

当前国际货币体系的阿喀琉斯之踵在于国际规则的缺乏。尽管并非完美，但WTO在制定国际贸易规则中发挥了重要作用。当谈到国际货币体系的时候，不仅缺乏一套共同的规则，甚至缺乏对议题的共识。在全球金融危机之后，国际金融监管改革成了一个热门话题，但主要是发达国家对此感兴趣，因为只有它们才拥有高度复杂的金融体系。大部分发展中国家感到这些改革与其无关。尽管美元扮演着唯一的世界货币的角色，但对美元几乎没有任何约束，这使得美元能够凌驾于其它货币之上。国际资本流动汹涌澎湃，但对资本流动的监管却仍付诸阙如。这些才是发展中国家更感兴趣的议题。

随着全球经济和金融一体化的发展，在国际货币和金融体系缺乏公共产品，将带来巨大的系统性风险。最近出现的全球金融危机就暴露出这些潜在的风险。美国和中国可以在一些关键的领域加强合作，这不仅符合两国的利益，而且有助于保障全球金融体系的开放与稳定。

**1. 谁来提供公共产品？** 在当前框架下，国际货币基金组织可被视为全球金融市场上的最终贷款人。通过进一步的改革，IMF可以成为全球货币体系中公共产品的重要提供者。中国和美国之间对IMF改革存在一些共识，但仍然有很长的路要走。

**2. 明确经常账户调整的规则。** 全球国际收支的严重失衡意味着资源的错误配置和潜在不稳定性。G20曾经提出以4%为经常账户失衡的门槛。不管这一建议是否会被采纳，但中国和美国都应共同努力，纠正全球国际收支失衡。中国内需的增加有助于减少美国的贸易逆差，但这也需要美国做出努力，加强和中国的贸易联系。美国也正在努力说服中国开放其服务业，比如教育、医疗和金融服务业。

<sup>36</sup> Barry Eichengreen, "The Renminbi as an International Currency," January 2010, available online at: [http://emlab.berkeley.edu/~eichengr/renminbi\\_international\\_1-2011.pdf](http://emlab.berkeley.edu/~eichengr/renminbi_international_1-2011.pdf); Jeffrey Frankel, "Historical Precedents for Internationalization of the RMB," Council on Foreign Relations, November 2011; and Arvind Subramanian, "Renminbi Rules: The Conditional Imminence of the Reserve Currency Transition," Peterson Institute for International Economics, September 2011.



3. 实施更严格的短期资本监管。2012年12月，IMF提出了进一步加强资本流动监管的建议，承认全面的资本账户开放并非适用于所有时间、所有国家。各国已经形成了共识，但进一步的细节尚需斟酌。对中国和美国来说，一个棘手的问题是，如果中美之间进一步纠正失衡，将会有更多的热钱流出美国，流入中国，这一新的国际资本流动将会如何发展？在这一情景下，应采取何种适宜的资本管制措施？

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