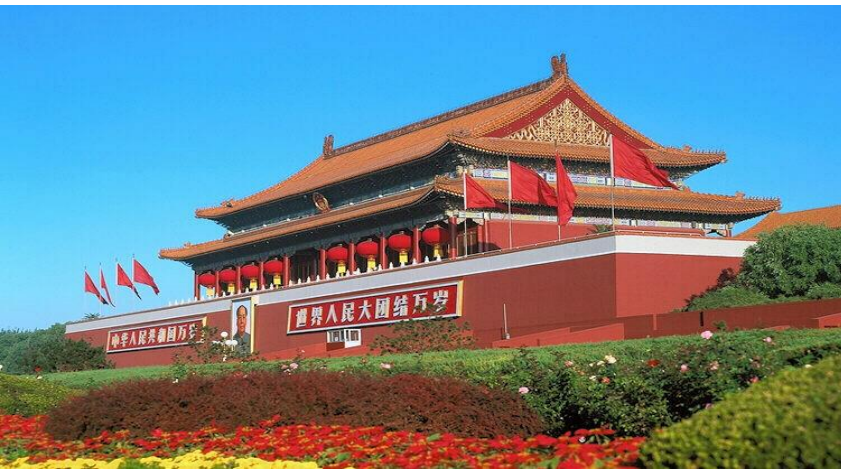


# China and WTO: From Rule Taker to Rule Maker?

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# 中国加入世界贸易组织签字仪式

SIGNING CEREMONY ON CHINA'S ACCESSION TO THE WTO

11 November 2001, Doha



# China and the GATT

- 1948: original contracting party (CP) to the GATT
- 1949: PRC established
- 1950: Taiwan withdrew from the GATT: validity?
- 1971: China resumed UN membership 
- 1982: participated in GATT CP Conference as observer
- 1986: applied to resume GATT membership

# Three Principles on Resumption of CP status

- Resumption, not accession
  - Validity of Taiwan's withdrawal
  - Can't invoke Art. XXXV.
- Developing country status
  - S&D treatment
- Tariff concessions, not quantitative import commitments
  - Designed for planned economy w/o tariff regime: first introduced during the Polish accession in 1967

# The Long Road to Geneva

- 1987: Working Party on China's Accession established
  - Bilateral negotiations: 37 CPs
  - Multilateral negotiations:
- 1989.....
- 1992: 14<sup>th</sup> Party Congress made “Socialist Market Economy” goal of the reform
  - What is Socialist Market Economy? D. Newkirk
  - Is it law? (1993 Constitutional amendment)
- 1995: WTO established

# China's Accession to the WTO

- Three Principles:
  - Developing country status
  - Uruguay Round Agreements
  - Balance of rights and obligations
- 1999: Bilateral deal reached with the US
- 2000: Bilateral deal reached with the EC





# 2001 -- China in the WTO



# WTO Accession Package

- Heavy obligations in market access
  - Goods
  - Services
- Many discriminatory terms:
  - WTO+ obligations
  - WTO- rights



# How will the “new kid on the block”

- implement its WTO commitments?
- behave in the WTO?

# What does the WTO do?

- Three key areas:
  - WTO Negotiations
  - WTO Dispute Settlement
  - Trade Policy Review & FTAs
- China: Rule Taker → Rule Shaker → Rule Maker

# WTO Negotiations

- Will China's accession
  - strengthen the developing country coalition and better balance the World Trading System?

OR

- upset the *status quo* and make it more difficult to reach deals?

# Rule Taker: 2001 - 2005

- Main task: understand what's going on
  - 2001-2005: only 10 submissions
- Reasons:
  - RAM argument
  - Implementation of WTO commitments
  - Lack of expertise
  - Agriculture: of little interest to China
  - China-specific issues

# China pushed onto the center stage

- 2006: major breakthrough in agriculture → NAMA
- 2007: G-4 meeting in Potsdam: “policy space” against “de-industrialization” by China
- Calling China to take on “more responsibility”
  - Biggest beneficiary
  - Sectorals: machinery, chemicals, and electronics



# Rule Shaker: 2007 – 2016

- New approach by China
  - Active participation as a normal Member
    - As of 2012: 100+ submissions, but mainly focus on S&D & technical issues
  - Practical positions with flexibility
    - Trade facilitation
  - No leader, but no 2<sup>nd</sup> class citizen either
    - Conflicting interests with other developing countries

# Rule-Maker: 2017 -

- Xi's speech at WEF 2017
- Amb. Zhang's speech in May 2017
- New proposals on e-commerce, investment facilitation, trade remedies etc.

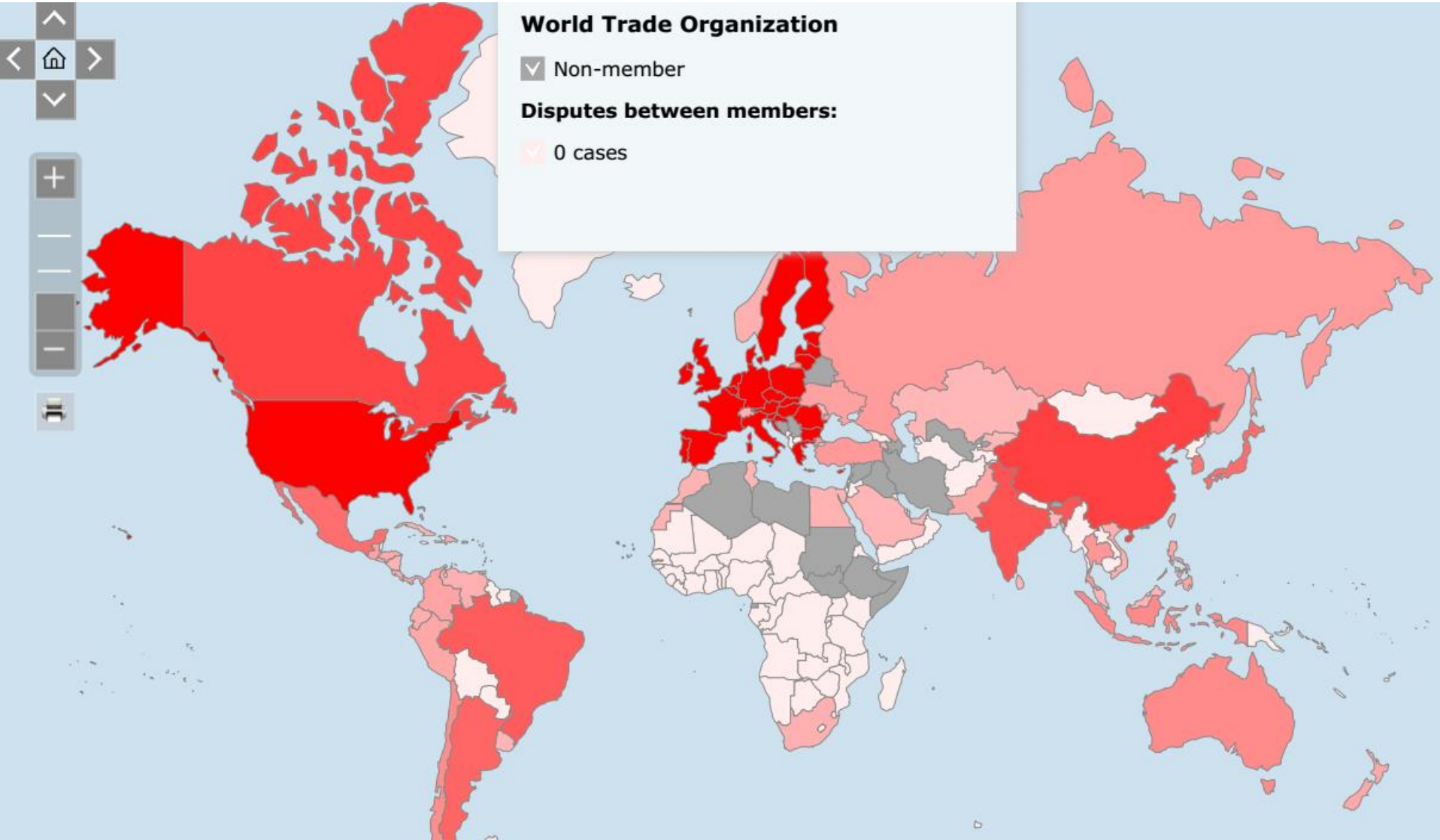
# WTO Dispute Settlement

- No restrictions on the usage of dispute settlement system
- Will this open the floodgate of cases against/by China?

# WTO Disputes against/by China



# Most frequent dispute settlement participants





# Rule Taker: Dec 2001 - Mar 2006

- Mar 2004:
  - VAT on IC –4 months
  - Coke dispute with EU –2 months
- Jan 2006:
  - Kraft Linerboard – 1 working day

# Reasons?

- Cultural
- Wrong perception of the WTO DSS
- Lack of experience

# Building the capacity

- Learning through practicing:
  - Aug 2003-2006: 3<sup>rd</sup> party in every case
- Helped to boost confidence in capacity and fairness in the DSS

# Rule Shaker: Mar 2006 - Sept 2008

- March 2006: Auto parts – put on a good fight
- Strategy: “shaking” existing rules
  - TRIPS, Publications: procedural arguments

# Rule Maker: Sept 2008 - Present

- US - Anti-Dumping and Countervailing Duties:
  - Are SOEs public body?
    - Ownership or Control; or
    - Governmental authority?
  - Double remedy:
    - No explicit prohibition = allowed?
- EC – Steel Fasteners:
  - Country-wide margins in EU Basic Anti-Dumping Regulation
- Two NME cases against EU & US



# Reasons

- More expertise and more confidence
- Better understanding of the DSS
- More balanced trade profile

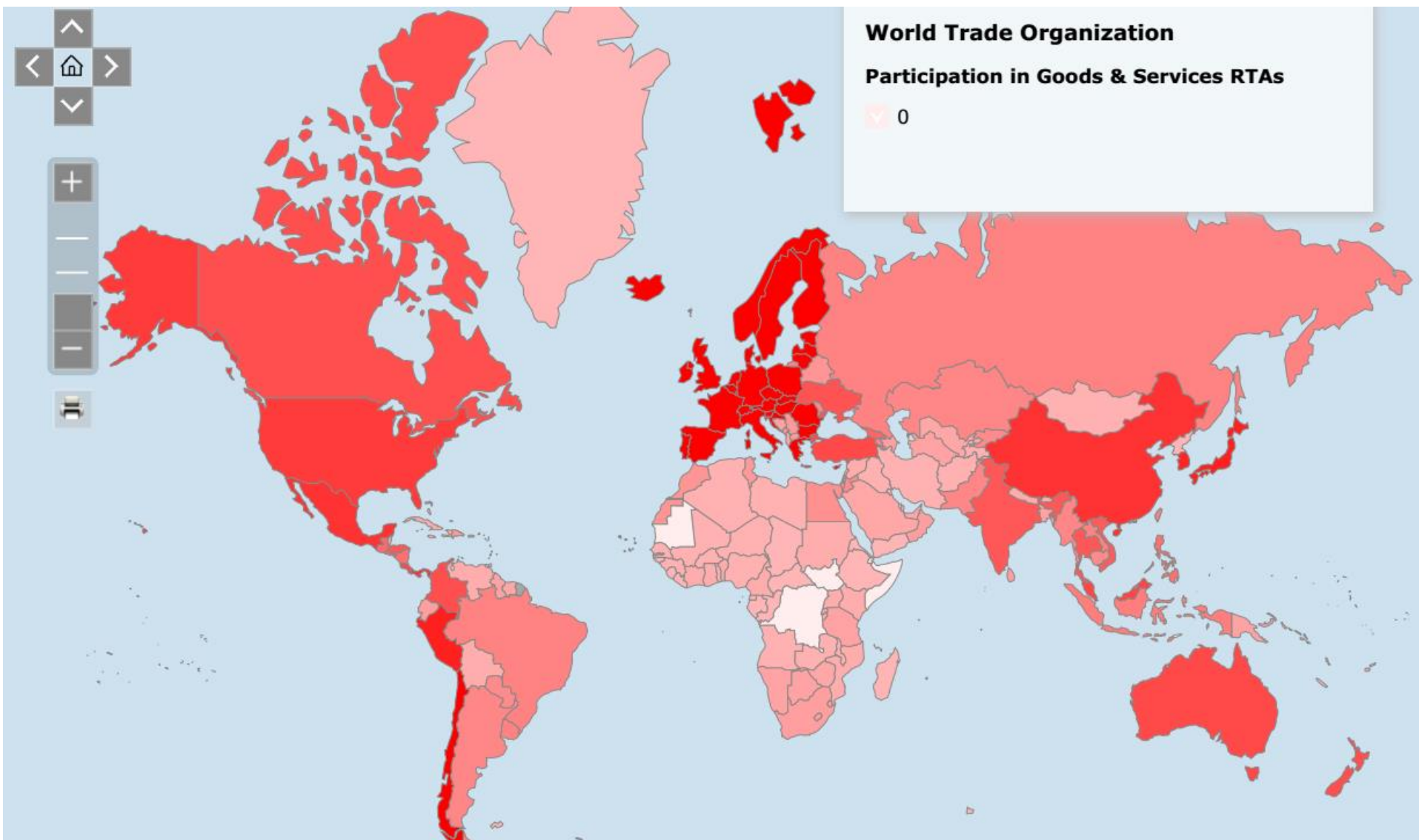
# Free Trade Agreements

- Pre-accession: no FTA
  - Resource constraint
  - Strategic reason
- 2002: Framework Agreement with ASEAN signed
- Very active player since then
  - 17 FTAs; more in the pipeline

# China's existing FTAs



# Most active FTA countries



# Rule Shaker: 2002 - 2014

- Structure:
  - Narrower focus: traditional issues only
- Substance:
  - Market economy status

# Rule Maker: 2015 - present

- Challenge of the TPP
- Try to include new issues in its new FTAs:
  - Korea, Australia: inclusion of e-commerce & competition; possibility for negative listing approach, pre-establishment rights etc.

# Recap

- WTO Negotiation: taker → shaker (-- maker?)
- Dispute Settlement: taker → shaker → maker
- FTA: shaker → maker?

# The Future?

- WTO Reform: a “China Round”?
- WTO Dispute Settlement:
  - Hot areas:
    - Defensive interests: industrial policy
    - Offensive interests: trade barriers in foreign markets
- FTA & BRI: an alternative global trade order?



# Thank You!

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