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# Bracing for the Hidden Fallout: Systemic Implications of the Sino-US Trade Disputes at a Time of Changing International Trade Paradigms

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*Global trading regimes are currently undergoing significant changes. It is most vividly shown in the recent spread of FTAs and the surge of protectionism. These fast changes pose new challenges to many countries in terms of formulating and implementing their respective trade policies. The increasing confrontation between the United States and China in trade sectors now operates as a multiplier and accelerator of this fast-changing global trade landscape. Recent disputes between the two have underscored fundamental differences in understandings of the legal framework of the WTO Agreements and the nature of the obligations as Members, thereby further raising questions about the reinvigoration of multilateralism. The two countries' retaliatory initiation of trade disputes against each other also involves third countries because of legal requirements and other considerations. The Sino-US trade disputes are thus not merely confrontation between the two largest trading partners; instead they carry wider systemic implications for both other countries and global trading regimes in transition.*

## **Keywords**

Sino-US Trade Dispute, Doha Development Agenda, FTA, Trade Paradigm, WTO DSU.

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## I. Introduction

The United States and China are engaged in trade disputes on many fronts.<sup>1</sup> Some of the disputes are pending at the dispute settlement proceedings of the World Trade Organization (“WTO”), while others are addressed bilaterally through respective domestic proceedings. Trade restriction measures adopted by the United States or China are readily counterweighted by comparable or similar measures by the other side. The vicious cycle of measures and countermeasures does not show any sign of slowing down at the moment and the growing consensus among trade watchers seems to be that this is just the beginning. In addition, more intense trade disputes, both quantitatively and qualitatively, are looming on the horizon on almost all trade fronts.<sup>2</sup>

The timing of the Sino-US disputes is particularly noteworthy. The bilateral disputes are taking place amid the changing paradigm of global trade. The multilateralism enshrined in the WTO regime is currently at a crossroads with the impasse of the Doha Development Agenda (“DDA”), while the WTO Members are actively pursuing various FTAs as an alternative. The surge of trade blocs and fragmentation of trade regimes are an ominous sign for the continuation and re-invigoration of multilateralism.

The increase of the Sino-US trade dispute combined with many regional trade agreements also poses new issues and difficult challenges for other countries in the world as it operates as a facilitator for the rapid fragmentation of the global trade regime. As the United States and China are usually the largest trading partners for many countries, it is not surprising that the trade friction between the two trade giants affects, for better or worse, the overall trade interests of other countries. If, however, the Sino-US bilateral disputes somehow create a new global trade environment in which these other countries are forced to encounter more disputes of their own and

<sup>1</sup> See 2010 International Trade Update Proc, available at <https://www.law.georgetown.edu/cle/pdfs/227.pdf> (last visited on Mar. 1, 2013); M. Pettis, US-China Trade Relations - The Next Dispute?, Carnegie Endowment for International Peace, Feb. 17, 2010, available at <http://www.carnegieendowment.org/publications/index.cfm?fa=view&id=30975> (last visited on Mar. 1, 2013); A. Mason, *US-China Trade Dispute Key Issue at G-20*, CBS EVENING NEWS, Sept. 24, 2009, available at [http://www.cbsnews.com/8301-18563\\_162-5337960.html](http://www.cbsnews.com/8301-18563_162-5337960.html) (last visited on Mar. 26, 2013).

<sup>2</sup> *Id.* See also Ariana Eunjung Cha, *US, China Locked in Trade Disputes*, WASH. POST, Jan. 4, 2010, available at <http://www.washingtonpost.com/wp-dyn/content/article/2010/01/03/AR2010010301961.html> (last visited on Mar. 1, 2013). As for the increasing intensity of disputes between the United States and China through the WTO dispute settlement system and the relevant background, see C. Bown, *US-China Trade Conflicts and Future of the WTO*, 33 (1) FLETCHER FORUM WORLD AFF. 28-32 (2009).