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Keeping China's WTO Commitments Clear^①

In terms of fulfillment of WTO (World Trade Organization) commitments, all members of the organization should be treated equally. First of all, China's WTO accession commitments, which were made when the country was admitted to the organization in 2001, were recorded in three documents, Protocol on the Accession of the People's Republic of China to the WTO and two reports from the working party on the accession of China to the WTO. The two reports specified China's promises to open up its services market. And the protocol defined the country's other promises outside the realm of the services market. Second, after years of China's accession to the WTO, WTO members should be very clear of China's compliance with its WTO commitments. For questions as to whether China has opened up in compliance with its commitments, whether it met targets on the time table and whether reforms have

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been carried out in some areas, the results should be clear. Third, since 2006, WTO has been performing a trade policy review on China every two years. Every WTO member can supervise China's fulfillment of its WTO commitments within the WTO framework. If any have complaints about China, the two sides can solve the problem within the WTO review mechanism. In fact, the WTO's dispute settlement mechanism can be employed to force China to make readjustments.

However, major disagreements exist between China and a certain developed WTO member on China's fulfillment of its WTO commitments. In reports submitted by the members' trade representative office to its Congress in the past a few years, this country expressed disappointments about China, claiming China was not meeting certain key commitments it made when it joined the WTO and that supporting China's admission to the WTO was a mistake. China, of course, strongly disagreed. Since its admission to the WTO, China has strictly abided by WTO rules and implemented its WTO commitments. As early as 2011, China has issued a white paper, stating it had comprehensively fulfilled its commitments to the WTO. On June 28, 2018, China released another white paper titled "China and the World Trade Organization," which provides a detailed account of China's fulfillment of its WTO commitments.



China's account of its fulfillment of WTO commitments mainly consists of the comparisons between China's WTO accession promises and its current implementation. This method is falsifiable—if China were to lie, other WTO members could easily claim. Consequently, China can state firmly and confidently that it has fulfilled its WTO compliance. In fact, using this method solely, the international community has reached consensus that China has fulfilled its WTO commitments. The international community at large recognizes and appreciates China's efforts.

However, the aforementioned WTO member has a different understanding of this issue. In general, on whether China has obeyed WTO rules, the country reached its conclusion primarily based on China's status quo. As for whether China has broken any WTO rules and which specific WTO rules China has violated, the country cannot provide any clear answers. The 2018 report on China's WTO compliance about intellectual property (IP) submitted by this member's trade representative office to its Congress is a prime example.

First of all, the report admitted that China has changed its laws and regulations on IP rights according to WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). However, the report went on to declare that it found China's acts, policies, and practices related to IP still discriminatory and burden on



the country's exports and investments. Thus, this member identified China on the Priority Watch List in its 2017 Special 301 Report. Under WTO framework, IP related rules are stipulated in the TRIPS agreement. Since this member already admitted that China has abided by the TRIPS agreement, it has no standing to attack China in the IP realm. It is typical "my country first" theory: It blames China only because it believes China's IP protection exerts a negative impact on its own interests. According to this logic, any WTO member can blame another one for not following WTO rules, regardless of whether the other party has abided WTO rules or not, as long as it feels the other party presents a burden.

A direct reason for China and this country's fundamental differences on China's WTO compliance can also be found within official statements and documents issued by each side. Actually, the two sides have little dispute on China's status quo. Although this member lacked objectivity when discussing some of China's reforms and policies, the factual descriptions on China could hardly be distorted. The major divergence is that China believes it has fulfilled its WTO compliance based on its WTO accession promises while this developed member state moved the goalposts on China's WTO accession promises and has deliberately set new standards based on its own interests. It believed that these new standards should be China's promises or the level China should reach. This country doesn't care whether China fulfilled the



commitments that were made to the WTO. In its eyes, only when China reaches the opening and market operation levels it wants will China fulfill its WTO compliance.

Other reasons for this country refusing to admit China's WTO compliance can be found in its reports issued by its trade representative office. It believes that China's operation system hasn't been market-oriented enough, and WTO rules cannot constrain China's twisted market behavior. It argues this harms this member's interests and causes losses to its domestic manufacturers, farmers, service enterprises, innovators, workers and consumers. This WTO member believes that although much of China's "improper" behavior can be managed by WTO rules, substantial loopholes exist to circumvent WTO direct supervision that were omissions from China's WTO accession promises. The country vows to take any necessary measures to "correct" China and make China yield. It believes that only by doing so will China become a responsible WTO member.

China should take active measures to clearly exhibit how it has fulfilled its WTO commitments. China should also become more aware of the challenges it will face in future development. It should inspire more WTO members realize that this specific member's reports on China's WTO compliance are inaccurate and biased.



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