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gLAWcal #293

Comment

TRANSITIONAL REVIEW MECHANISM AND CHINA

Based on

Paolo D. Farah “Five Years of China WTO Membership: EU and US Perspectives About China’s Compliance With Transparency Commitments and the Transitional Review Mechanism” Legal Issues of Economic Integration, Kluwer Law International, Vol. 33, No. 3, pp. 263-304, August 2006.



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A gLAWcal comment on Paolo Davide Farah "Five Years of China WTO Membership: EU and US Perspectives About China's Compliance With Transparency Commitments and the Transitional Review Mechanism" Legal Issues of Economic Integration, Kluwer Law International, Vol. 33, No. 3, pp. 263-304, August 2006.

What is termed the Transitional Review Mechanism, is a particular provision in the Protocol of China's Accession to the WTO. As noted, it was asked for and inserted at the behest of the US and concurred by the EU. While this particular framing of the TRM seems adversarial in nature, the outcome does not necessarily have to be confrontational. Simply, the TRM provides a review mechanism ensuring that China makes due progress on adopting all of the necessary provisions that are required of any WTO partner. An often sticking point in negotiations between China and the EU, and China and the US is the quite different expectation of state-level protection of privately held intellectual property rights. This issue was of specific concern in the Trans-Pacific Partnership negotiations of the mid-2010s, and continues to be a large point of debate into the present-day. Without hesitation, the WTO is recognized as a liberalizing force, and it would not be effective in this goal if there were not mechanism in place to ensure that the partners made good on their promises as they said they would when admitted mem-

bership into the organization. However, it is important to note that not every nation has a similar TRM attached to their membership provisions. It is understandable that from the Chinese perspective, this additional lens of review may not show that others believe that they are operating in good faith.



GLOBAL DEVELOPMENT

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