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Abstract of Graduation Thesis for the Degree of Doctor

Accession to WTO and Function Transformation of Chinese Government

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----Abstract----

Introduction

China's accession to World Trade Organization (WTO) means that China will experience the proof of world economy marketization and globalization. China's accession to WTO first means Chinese government's accession to WTO and the first step for China to join WTO is to join WTO by Chinese government because the impacts caused by the new rules of WTO are against government first. Our government directly faces tide of world economy marketization and globalization.

Serious challenges are faced by government after accession to WTO in respect of administration idea, system, function, and behavior and management mode. China's accession to WTO means that China will be integrated into world economy tide to behave in accordance with international practices as an observer of market rules. However, our government still hesitates to go ahead in some respects. Briefly speaking, our government doesn't adapt to the requirements put forward by new rules after accession to WTO and it has become a very urgent task to execute government reform. Our government should not only replace traditional controlled administration with service administration but also take limited government and effective government as the objective mode of government reform. New reforms are needed on the main functional government bodies after China's accession to WTO. Reform is also needed for the relation mode between the main functional government bodies. Contents of government functions are to be renewed.

Chapter One New Challenges Faced By Chinese Government after

Accession to WTO

To certain degree, China's Accession to WTO will bring China with an extremely profound revolution and the administrative system of Chinese government will be faced with serious challenges.

1. Accession to WTO will bring Chinese Society with profound reforms

Great changes have taken place in Chinese Society during its reform and opening process which has lasted for more than 20 years beginning from the 1970s in the twentieth century. China's Accession to WTO will promote the process of such social transformation, namely from planned economy system to market economy system, from agricultural society to industrial society and from closed society to opened society. The coexistence and alteration of old and new system, criterion and mechanism will last for quite a long time period during such social

transformation process. Consequent frictions, contradictions and conflicts may even become extremely furious. All such anfractuosity will constitute huge pressure for government. It is a tough task for government to effectively deal with such contradictions.

2. Accession to WTO will lead Chinese reform to a new stage

At least two kinds of effects, namely driving effect, can be produced from accession to WTO in terms of improvement of socialist market economy system. Fundamentally speaking, globalization is the globalization of freely competitive market economy system which also constitutes challenges for the low development level and weak competitiveness of developing countries. Globalization also changes the position of government, especially the governments of developing countries. The impacts produced by China's accession to WTO are essentially the impacts on system. Therefore it is required to conduct a new round of reform on the government development oriented system already formed in China to conform to international rules.

3. Accession to WTO will lead Chinese opening to a new stage

The first surpassing implied in China's accession to WTO is to realize the transformation from policy type opening to system type opening for Chinese opening to the outside. As a new development stage of opening to the outside and beginning of full construction of opened economy, this surpassing indicates that China will get involved in the process of economy globalization more extensively and more thoroughly.

The development for the last twenty years has proven that the historical progress of policy type opening cannot be denied. However, the policy type opening can only be a transitional choice as kind of special arrangement in the transformation between old and new system in view of development. Accession to WTO has provided a good opportunity to realize the shifting from policy type opening to system type opening. Since accession to WTO has pushed China to system integration stage, namely system type opening stage, it is required to essentially solve all problems encountered under policy type opening environment.

4. Accession to WTO will direct Chinese economy to privatization

Privatization is first needed for the purpose of enhancing economic competitiveness. There is no doubt that accession to WTO has strengthened competitiveness. Neither government nor private enterprises are not worried about competitive power.

So called "forced reform" effect constitutes the second cause of privatization. Western countries generally hold opinion that state owned trade enterprises enjoy monopoly privilege which definitely causes restrictions to free competition. Therefore it is required to impose restrictions on the behaviors of state owned trade enterprises so that they are governed under market mechanism. It is necessary to impose restrictions on monopolies and privileges easily formed in state owned enterprises in order to maintain fair competition. Private economy must be developed under such restriction environment in order to keep state competitive power.

Investment liberalization is also a process of reform. Since the foreign investments from advanced countries are from private capitals, establishment of enterprises or holding of shares in developing countries by these private capitals will definitely increase the proportion of private capital in the developing countries.

5. Accession to WTO requires governance by law in China

Spirit of governance by law is clearly seen in WTO rules from legal foundation of WTO to be its legal system framework until to its dispute settlement mechanism. As an international organization governed bylaw, WTO certainly requires that the governments of its members must be governed by law. First WTO requires that the economic and trade laws and regulations established by its members must have a complete and consistent legal system which shall not be in contradiction with WTO system. Secondly, the behavior mode and operation mechanism of the governments of WTO members must be governed by law, not by man.

6. Accession to WTO will lead transparency of public affairs in China

Highly specialization of most WTO agreements doesn't affect their transparency at all. As a highly transparent international legal entity, WTO has put great effects to realize the transparency among its members in respect of trade policies, laws, regulations and measures. Someone even says that promotion of transparency, trade liberalization and stabilization are three major objectives of WTO. The transparency of public affairs in china will definitely be due to the WTO's idea of promoting transparency, demonstration by WTO itself and transparency increase of Chinese trade policies and measures as a result of directly driving from WTO.

Chapter Two General practice of other members to meet

Government challenges under WTO Environment

Since the foundation of GATT in1974 especially for the last twenty years, all government of either developing countries or developed countries have actively been conducting their reforms or adjustments to the worldwide historic trend of politics economization, economy globalization and trade liberalization in order to adapt multilateral and free trade system and rules formed by GATT/WTO worldwide.

1. Relationship adjustment between government and market

There is a fixed pattern thinking mode concerning the relationship between government and market which thinks that mutual repellency and mutual antinomy always exists between government and market. With full implementation of economic system reforms in socialist countries, people have finally realized that "planning" is not omnipotent and "market" is not the origin of all evils. Some countries have abandoned highly concentrated planned economy system and some other countries have abandoned traditional uncontrolled free market economy to play more roles of governments in market economy systems. WTO has successfully established the economy globalization on the basis of new type economy system on the basis of such common understanding.

2. Exploitation on the diversified market economy modes

In order to better adapt to the times trend of economy globalization under GATT/WTO framework to effectively achieve organic integration of government and market, all governments have been actively exploiting the system mode of market economy so that international market and global resources can be utilized to mode of market economy is thus formed, mainly including (1) market dominated mode represented by U.S.A, France and Germany in Euramerican region and (2) government dominated mode represented by East Asian countries

such as Japan and Korea in East Asian region.

3. Reform on governmental administration system

Trade liberalization and economy liberalization all require that reforms should be conducted on the administration system, management system for all of the governments in the world. All governments have also paid their attention to and push forward administration reforms to adapt new situation and requirements of GATT/WTO in the following respects: (1) reform on the relationship between government and enterprise to weaken direct governmental management on economy; (2) reform on the governmental objective mode to reinforce governmental management on public social affairs and (3) reform on governmental administration system to promote government self-improvement mechanism.

4. Active intervention by government to weaken from GATT/WTO

Active intervention and roles of macro adjustment by government places non-substituted roles in weakening the impacts caused by accession to WTO. For example, Japanese government fully played its macro adjustment functions in the process of trade liberalization and capital liberalization after Japan's accession to GATT. Concerning external environment, Japanese government took series of tariff and non-tariff measures to provide active protection for the domestic industries, which will become pillar industries in the future, so that external impacts can be weakened.

5. Experiences and lessons to be learned

(1) Experiences to be learned.

Market economics have realized the limitations and defects existing in market mechanism itself in the historic development process of their own. Therefore, defects of market mechanism can be avoided by means of governmental intervention while paying much attention to market mechanism and paying the roles of market rules.

(2) Lessons to be drawn

a. Instinctive resistance exists while governments attempts to intervene economy by means of planning; b. The relationship between government, labors and enterprises is loose; c. Economic structure becomes deformed under external pressure.

Chapter Three Function Transformation of Chinese Government

As kernel content of governmental administration system, government functions reveal the fundamental direction and fundamental role of government by answering the question of "what should be done and what should not be done by government". Great changes have taken place in its economic system and social development since China's reform and opening. Political system reforms have also been being carried out in a stable and active way under such environment so that political system reforms can be pushed and promoted by economic system reforms to make political system reforms adapt to economic system reforms. As important content of political system reforms, the transformation and adjustment of government functions is not only the objective results of economic system reforms but also inevitable requirements of deepening economic system reforms economic development.

1. Transformation course of government function

Although government function transformation exists in whole process of economic system

reform, the concept “government function transformation” was not clearly put forward when State Council began its organization reform in 1988. Although the importance of government function transformation was repeatedly stressed in all organization reforms, the connotation of this concept has essentially changed with continued deepening of economic system reform.

It was clearly pointed out in the organization reform of State Council in 1988 that whether government function transformation is a key for the success of organization reform. The organization reform in 1993 was aimed at adapting to the requirements of socialist market economy developments and focused on the transformation of government function essentially by means of separation of government and enterprise. The organization reform in 1988 emphasized that government function must be transformed to achieve separation of government and enterprise according to the requirements of developing socialist market economy, that government function shall be really transformed to macro adjustment and control, social administration and public services and that the right of production and operation shall be really transferred to enterprises.

2. Major objectives of government function transformation

Notes on Organization Reform Plan for State Council proposed at the first meeting of the Ninth National People’s Congress clearly put forward the principles to be followed in current organization reform, one of which is that government function must be transformed to achieve separation of government and enterprise according to the requirements of developing socialist market economy, that government function shall be really transformed to macro adjustment and control, social administration and public services and that the right of production and operation shall be really transferred to enterprises. This principle also indicates that the targets of current organization reform shall be positioned as macro adjustment and control, social administration and public services.

3. Transformation of government management mode

With the transformation of government function, reform on government management mode also comes stage of system innovation with the following characteristic:

(1) From direct management to indirect management (this transformation is the greatest nuclear part of system innovation).

(2) From department management to sector management.

(3) From order type management to service type management.

(4) From static management to dynamic management.

(5) From individual management to general management.

4. Transformation of government image

Five items of transformation should try to be realized for Chinese government in order to meet the requirements of WTO and fulfill commitments made by Chinese government in respect of administrative permission. 1) From omnipotent government to limited government; 2) From mysterious government to transparent government; 3) From self-willed government to honest government; 4) From power government to responsibility government; 5) From interest government to neutral government.

Chapter Four Construction Reinforcement of Administrative legal system to Promote

Government Administration by Law

Market economy is governed by law. The system established by WTO is also an economy governed by law on the basis of International Law. Governance by law must be followed to the requirements of WTO. Market economy legal system and its operation mechanism must be established and improved in China as early as possible to adapt the requirements of not only Chinese market economy system but also legal system of WTO so that social and economic administration by law can be achieved by government.

1. Actively handling of direct legal challenges from WTO

Accession to WTO means that we not only enjoy corresponding powers and interests but also undertake corresponding responsibilities. On one hand, China should improve related legal system according to WTO rules and its commitments after China's accession to WTO. We should not only design and improve the laws, relation, institutions, polices and measures to promote and protect Chinese enterprises to improve our capabilities to adjust and control market by law but also sort, modify or abolish laws, regulations, polices and measures which are not consistent with WTO rules and commitments made by Chinese government. On the other hand, measures should be taken to assure smooth implementation of government orders, to firmly correct chauvinism and local protectionism which don't consider overall interests of state and fundamental benefits of people and to break sector monopoly and region blockage.

2. Important significance of enhancing the construction of administrative legal system

Extensionally speaking, the socialist market economy we are constructing with greatest efforts is essentially a legal economy while government plays an extremely important role in the construction of a legally governed country. The proposition "market economy is a legal economy" consequentially requires reinforced construction of administrative legal system to promote the legalization of government administration. Market economy is neither the economy based of administrative power nor purely free competition economy. Market economy is an ordered and institutional process whose realization id achieved by a series of specific legal institutions. The proposition "market economy is a legal economy" is not only necessary requirement of market economy but also a fundamental conclusion we have concluded from our practices since it was determined that construction of socialist market economy is the objective of economic system reform in China.

3. Fundamental principles for the construction of administrative legal system

The following principles should be followed and executed to enhance administrative legal system in China:

(1) Principle of constitution foremost. One of the kernel issues of executing legal administration is to establish highest position of constitution and laws in political and social life as well as their absolute authority.

(2) Principles of legal administration. An administration agency should neither don't behave freely. An administration should neither breach its duties nor exceed its authorities.

(3) Principles of unified legal system. Principle of unified legal system should be implemented as an important political principle to construct government administration system.

(4) Principle of impartial administration. Being an extremely important fundamental

principle in government administration, this principle requires administration agencies to treat all concerned people in an impartial way with public government affairs.

(5) Principle of open administration. Information opening and information freedom is not only a fundamental requirement of WTO rules but also a dominated direction of system reform for WTO member governments.

(6) Principle of effective administration. This principle requires establishment of concerned legal procedures for the execution of administrative powers to assure effective execution of administrative powers to meet the requirements of modern social development.

4. Execution of state governance by law to promote government administration by law

WTO is an international economic organization on the basis of legal system and the implementation of WTO rules, as an internal legal system of international law of economy and trade, needs the supporting of domestic laws of WTO members as well as complete legal institutions and good legal order of members. In view of government, a government system being consistent with WTO spirit of legal governance must be established starting from legal administration in order to reduce system fictions. Government administration legalization must be realized to achieve smooth system transition to WTO, including improvement of administrative law and regulation system, realization of organization and function legalization for administration agencies, realization of establishment legalization for administrative agencies of work procure legalization for government agencies, standardization of administration behaviors to strictly execute administration by law, improvement of administrative legal supervision system, management on market economy by legal means.

In summary, accession to WTO requires a legally governed society. Government shall realize transition not only from administration on the basis of administrative power to the administration on the basis of laws and regulations but also from administration for the purpose of carrying out powers and wills to the administration for the purpose of serving social members.