



Revitalizing Multilateral Governance at the WTO

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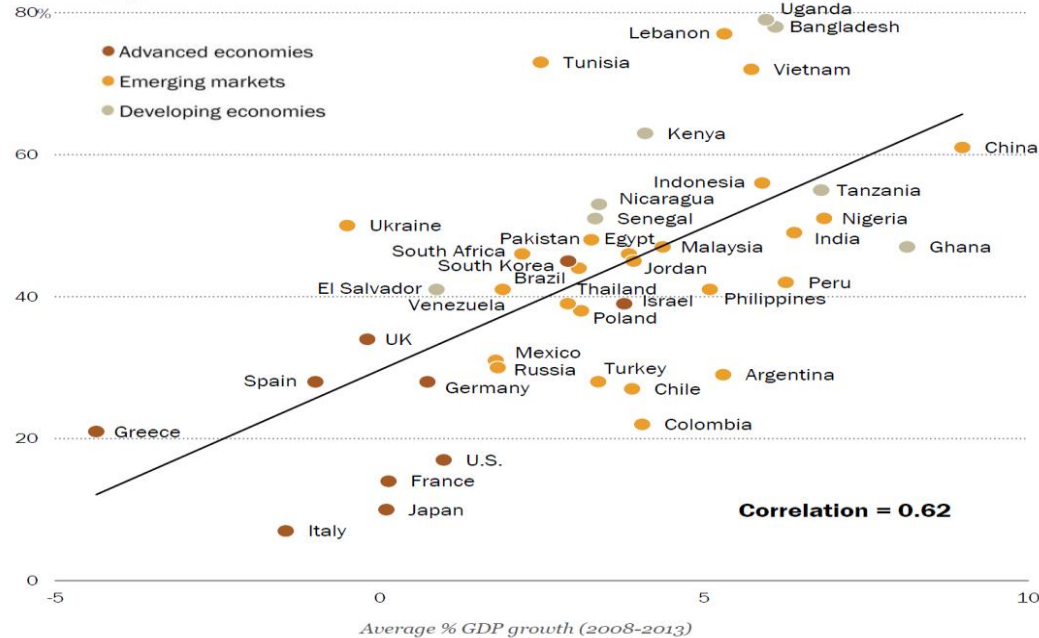
Background

- Increasing use of trade distorting policy measures
 - “Make it here!” as opposed to “made in the world”
 - Focus on (re-) attracting FDI as much (more?) than on trade
 - Not just US – China, other emerging economies (e.g., India...)
- Calls for “fair trade” and action against “unfair” competition
 - At industry/firm level: subsidies; SOEs; IPRs
 - At individual/community level: labor standards, product regulation, etc.
- Technological change; structural transformation: servicification; digital economy
- Geopolitical/geo-economic systemic competition/conflict
 - China Inc. – technology; IPRs
 - Potential mutual assured destruction/nuclear option....if national security \equiv “economic security” => undercuts foundation of trust underpinning rule-based trade system

Contrasting attitudes to trade in the (stagnant) North and the (more dynamic) South: A growing pie dilutes inequality aversion?

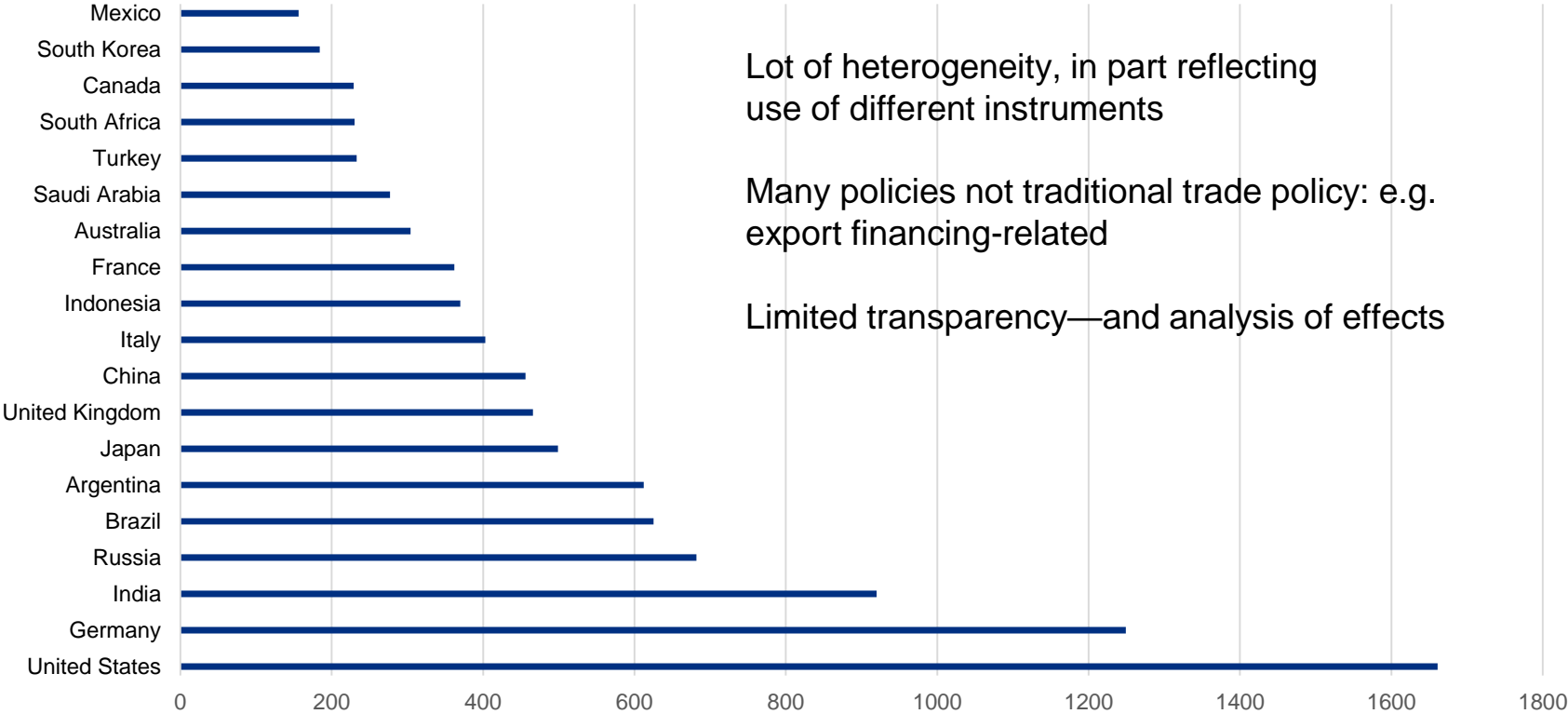
GDP Growth & Views of Trade's Impact on Wages

Percent who say trade increases wages



Source: Spring 2014 Global Attitudes survey, Q28. GDP annual growth from IMF, World Economic Outlook Database, April 2014, accessed 4 September 2014. Data not available for Palestinian territories.

Increasing use of potentially trade-distorting policies (number, 2009-18)

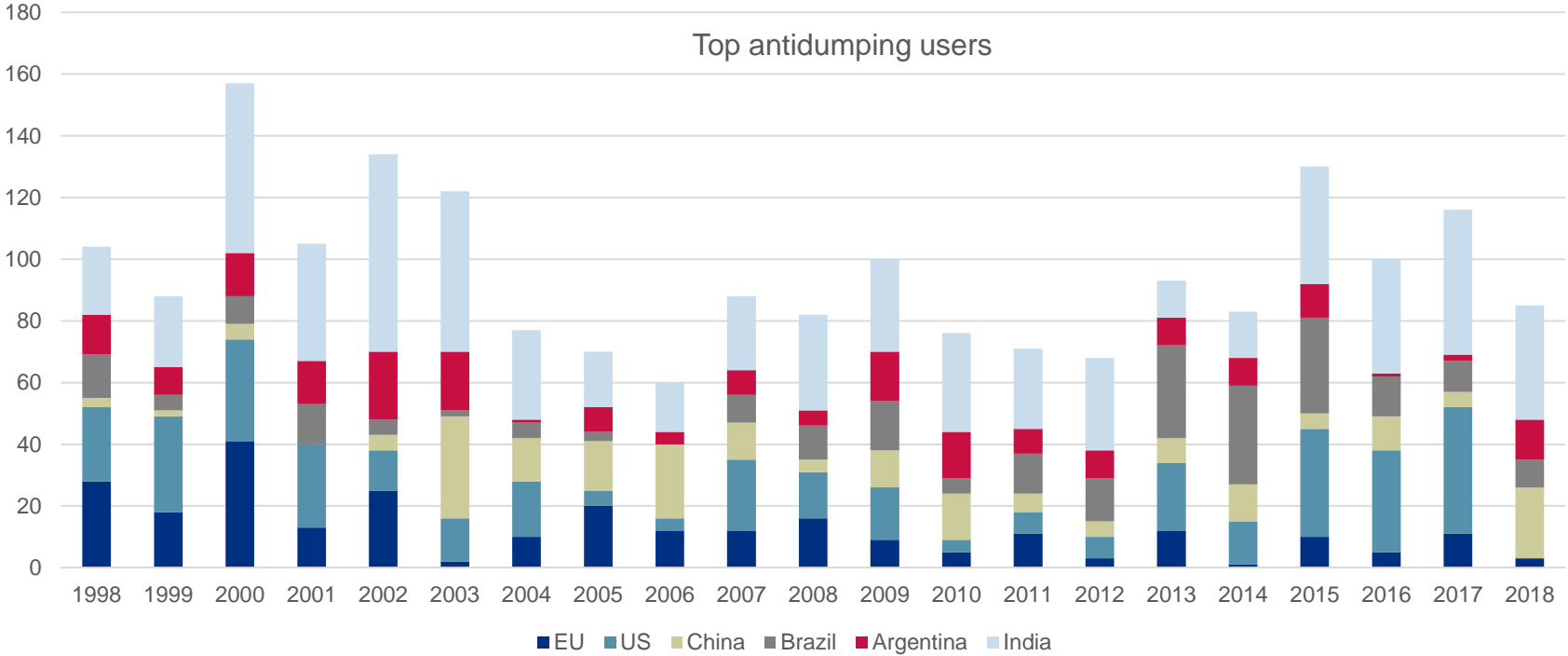


Lot of heterogeneity, in part reflecting use of different instruments

Many policies not traditional trade policy: e.g. export financing-related

Limited transparency—and analysis of effects

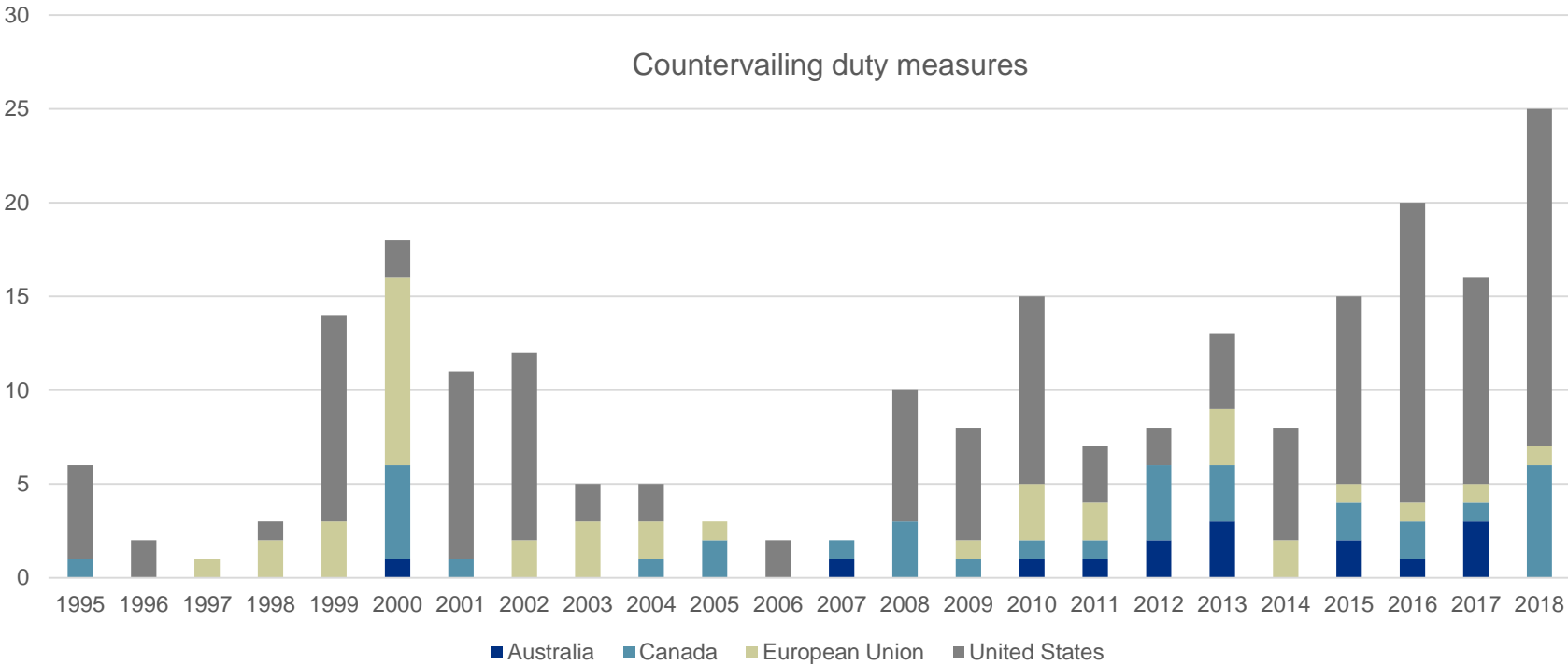
Antidumping – EMs and US are leading users; EU use down substantially (new measures imposed, 1998-2018)



Source: WTO

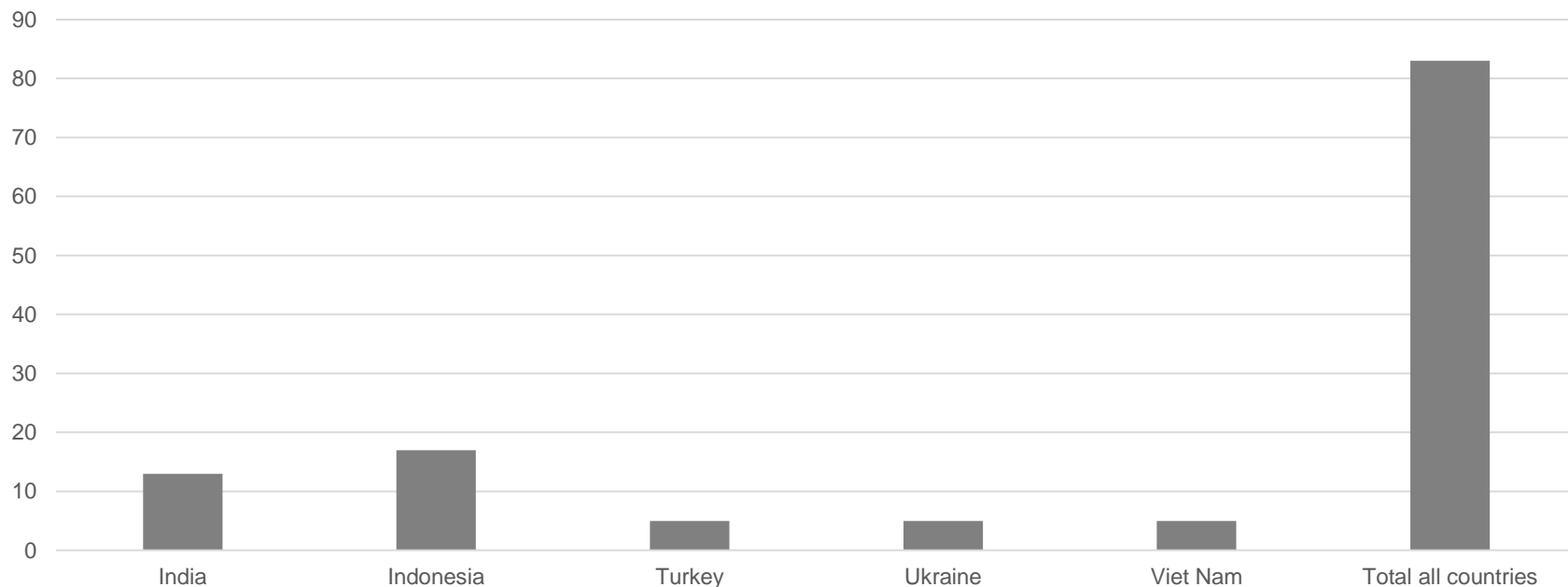
US is the dominant user of countervailing duties—EU largely MIA

(main users of CVDs, 1995-2018)

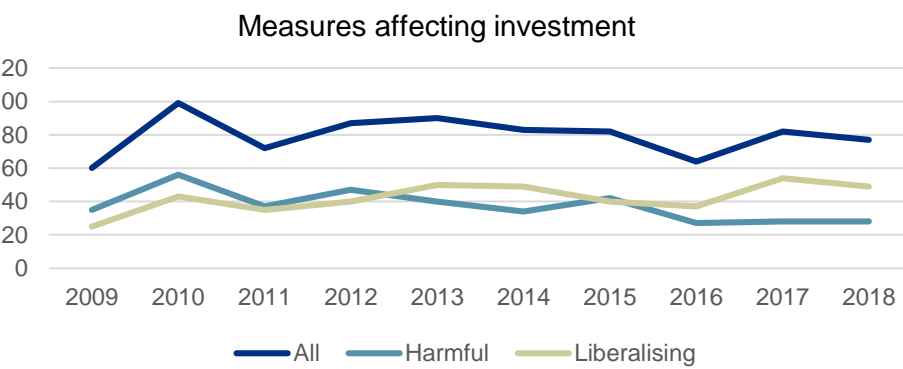
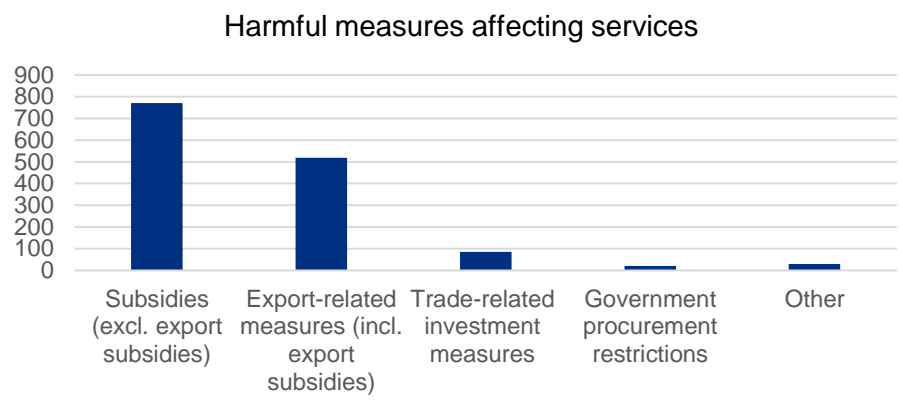
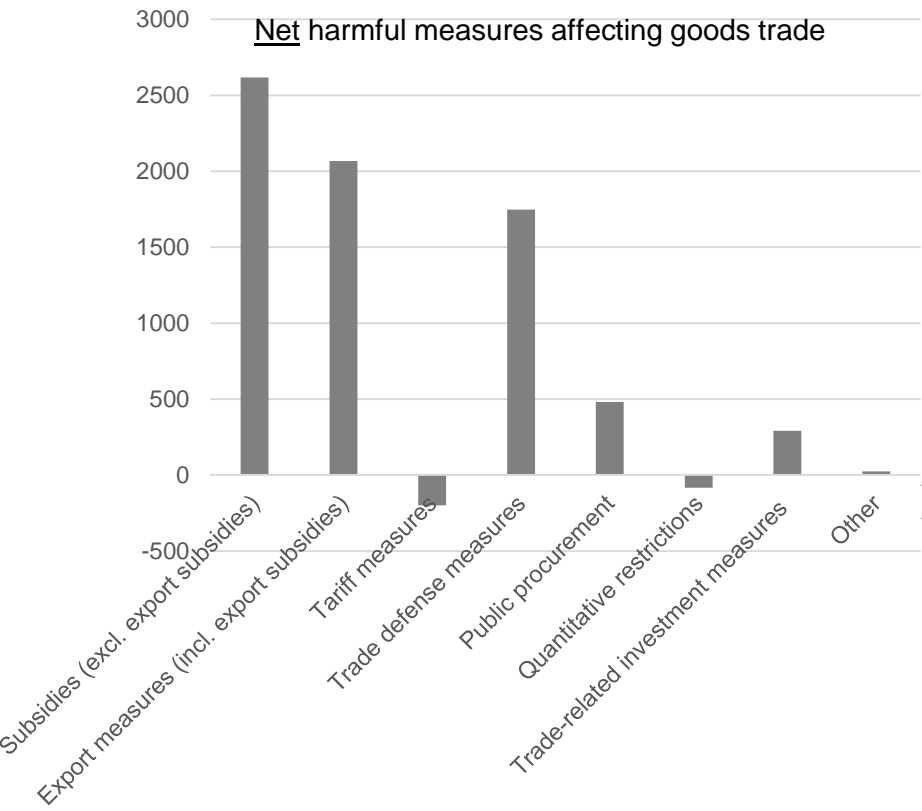


Global safeguard measures, 2009-18 (total for EU = 0)

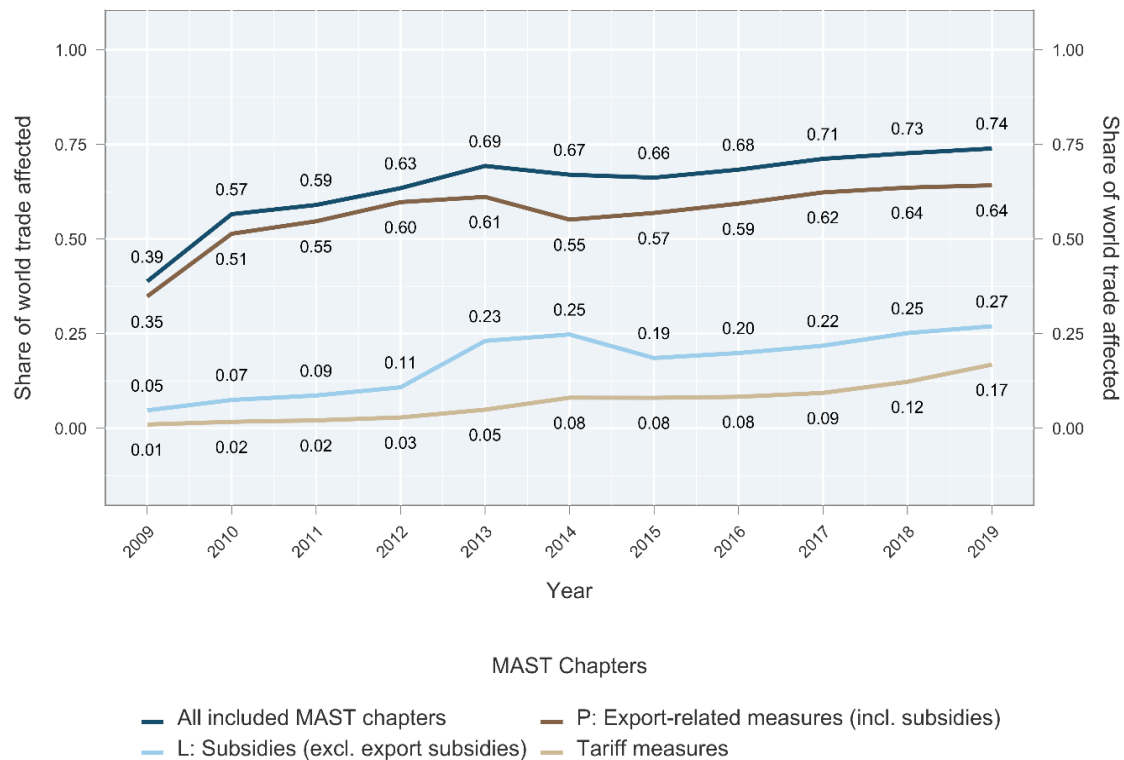
Main users of global safeguards, 2009-18



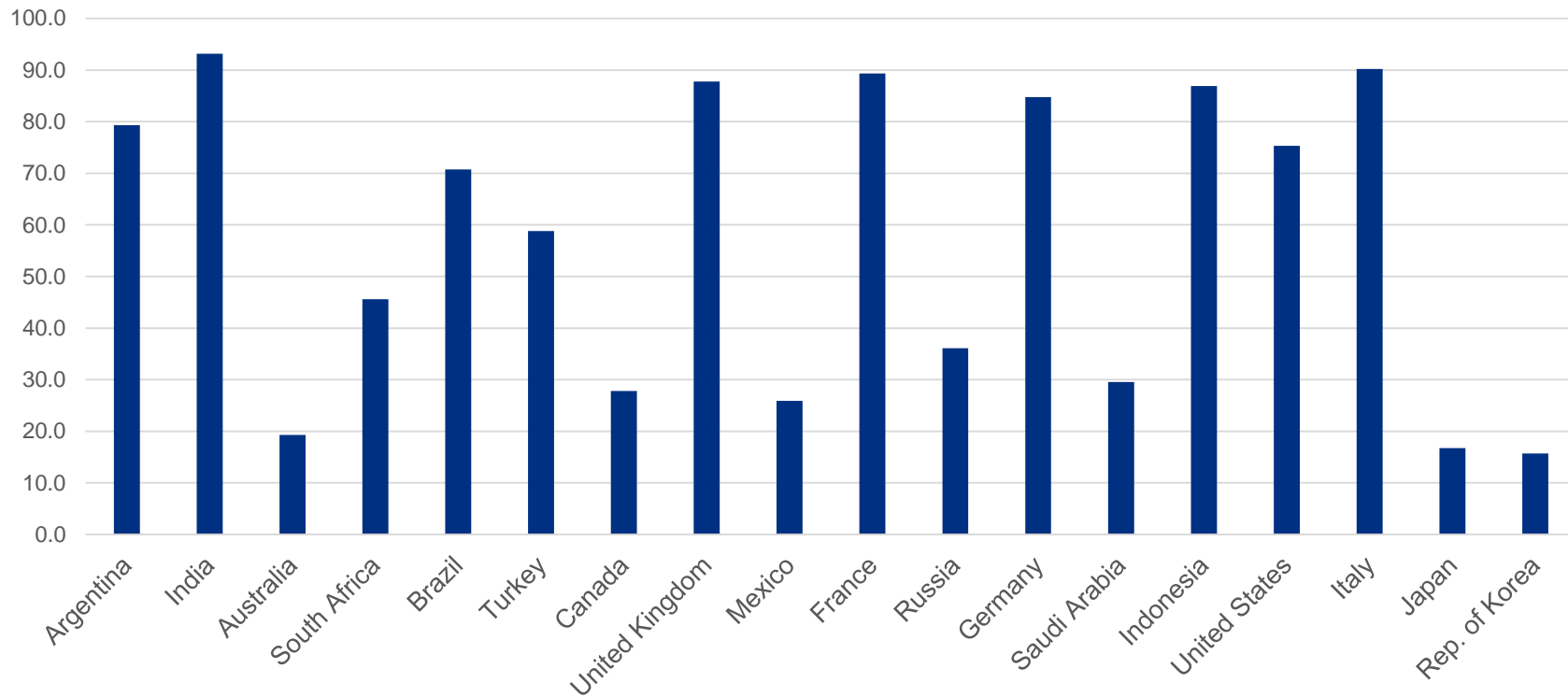
Number of policy measures affecting trade in goods, services and investment, 2009-18



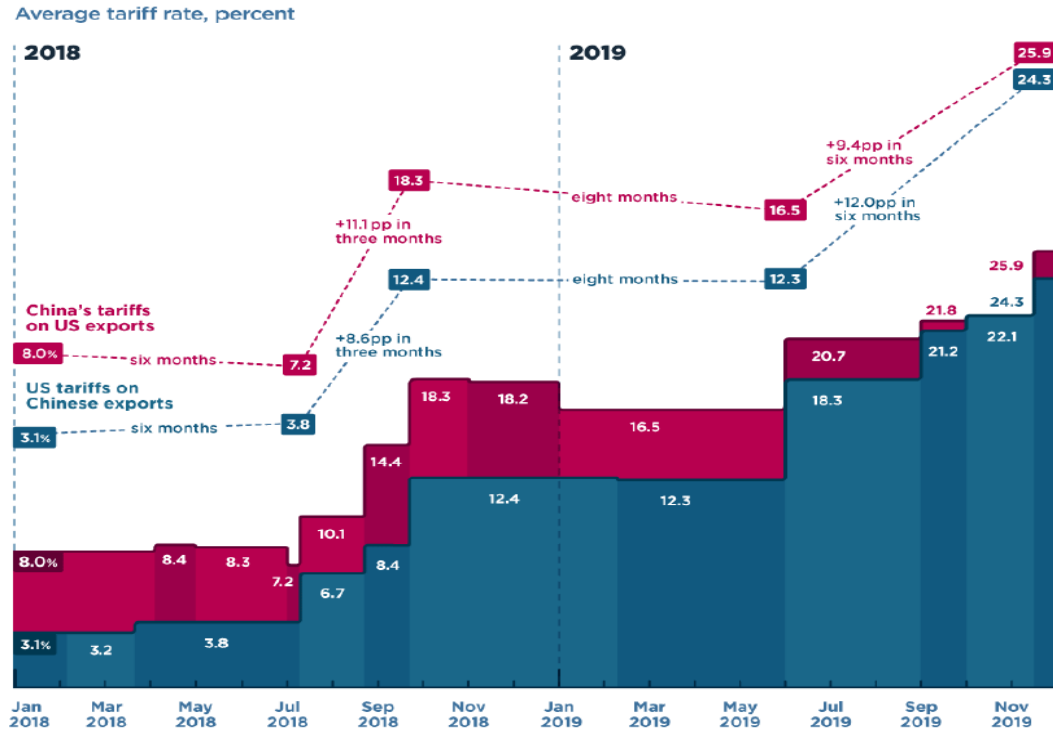
Share of trade affected by post 2008 trade-related measures



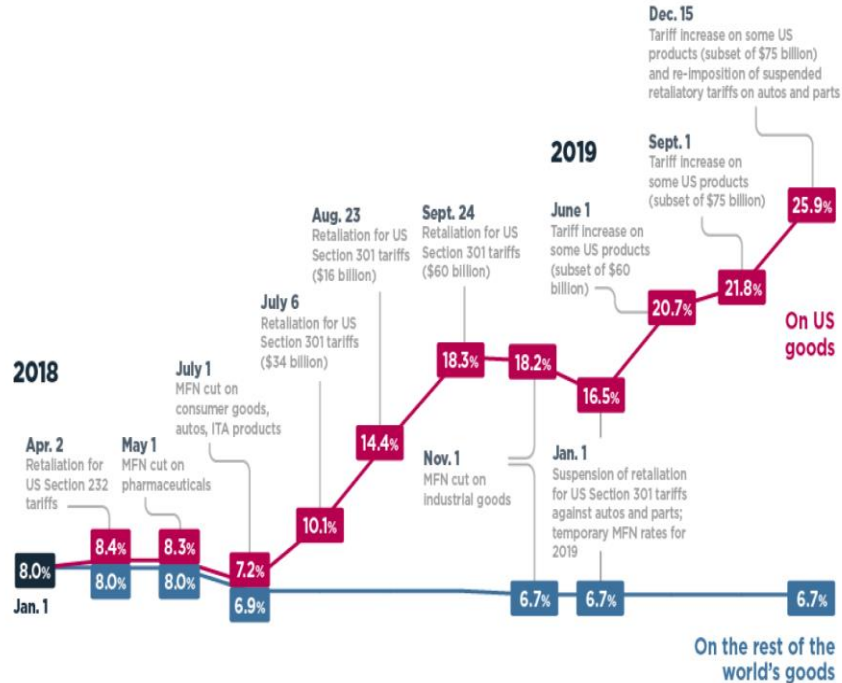
Share of Chinese exports subject to discriminatory trade policies (%)



Rising to 100% in case of the US: tit-for-tat dynamics of US-China tariffs

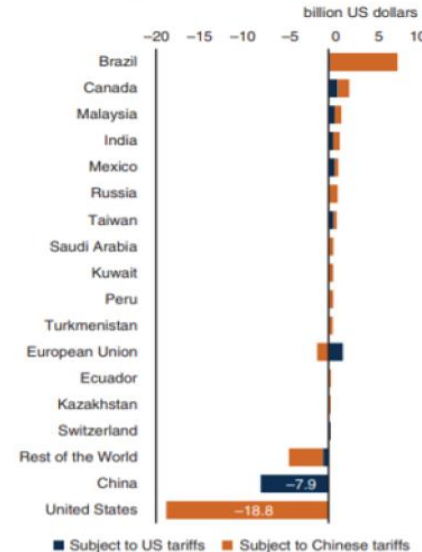


China's response: open up to reduce CPI effect; increase trade diversion

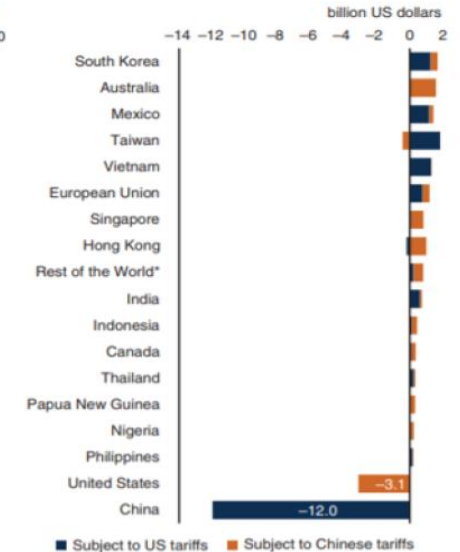


Changes in exports of tariff-affected products to the United States and China: China, United States, and the 15 countries with the largest gains

a. Change in exports of products on U.S. and Chinese lists 1 and 2 (Aug 2018–Mar 2019 vs Aug 2017–Mar 2018)



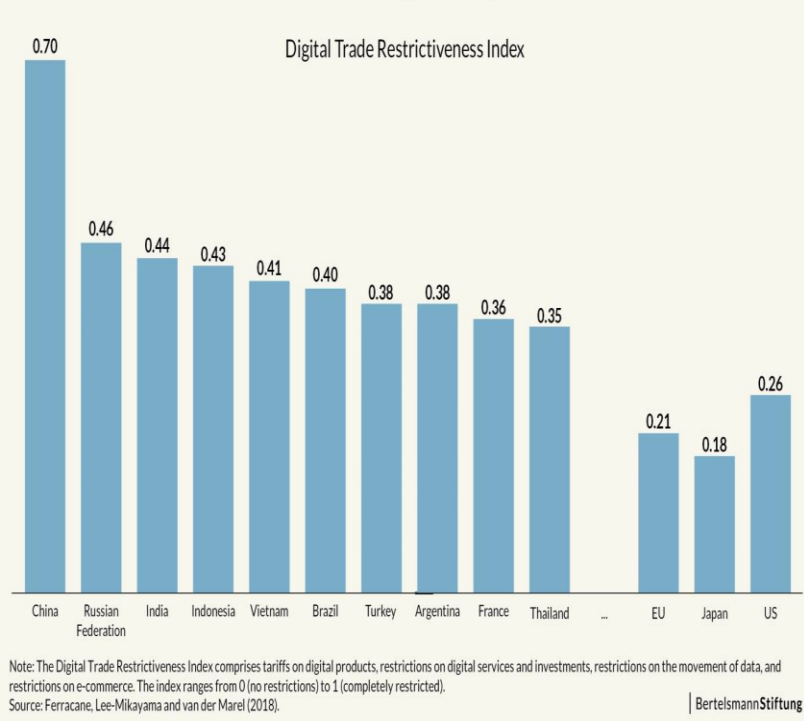
b. Change in exports of products on U.S. and Chinese lists 3 (Jan–Mar 2019 vs Jan–Mar 2018)



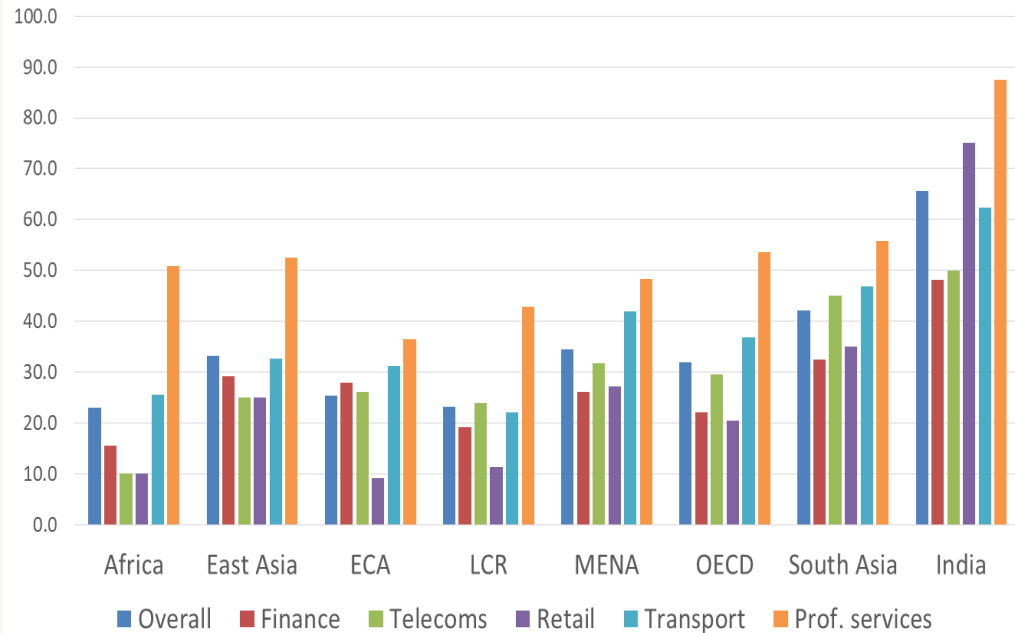
Sources: U.S. Census Bureau, China Customs Statistics, UN Comtrade, and authors' calculations.
Notes: Blue (red) bars refer to products on the U.S. (Chinese) lists of goods affected by new tariffs. Products for which Chinese (U.S.) shares in U.S. (Chinese) imports are less than 5 percent were excluded.
 * Chinese imports of gold (HS 710812) from Switzerland removed because of large decline (-\$5 billion).

Digital trade and services trade restrictions

FIGURE 6: Digital trade: Ten most restrictive countries, plus the EU, Japan and US



STRIs by Region and Sector (late 2000s)



Source: ECIPE and World Bank

Non-OECD countries' export of software intensive services over the internet and partner countries' data policies (2015)

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	ln(SM)	ln(SM)	ln(SM)	ln(SM)	ln(SM)	ln(SM)	ln(SM)	ln(SM)
(D/L) * Data policy	-0.167*							
	(0.085)							
(D/L) * Data policy CB		-0.409***		-0.477***	-0.525*	-0.530**	-0.527*	-0.515*
		(0.004)		(0.002)	(0.050)	(0.043)	(0.050)	(0.050)
(D/L) * Data policy DR			0.028	0.226	0.118	0.077	0.093	0.069
			(0.858)	(0.140)	(0.708)	(0.803)	(0.767)	(0.822)
OECD STRI					1.344**	1.178	1.620**	1.135
					(0.012)	(0.129)	(0.048)	(0.134)
FE Partner	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
FE Sector	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
STRI category					Overall	MA & NT	ESTABL	DISCR
Observations	16514	16514	16514	16514	7481	6573	7481	6573
R2A	0.313	0.313	0.313	0.313	0.347	0.339	0.347	0.339
R2W	0.000	0.001	0.000	0.001	0.002	0.002	0.002	0.002
RMSE	2.116	2.115	2.116	2.115	2.043	2.056	2.044	2.056

CB: local storage; processing; conditional flow regime

DR: data retention; right to be forgotten; admin req. e.g., GDPR

Three related challenges; one necessary condition to address them

1. Dealing with policy tensions that give rise to large cross-border spillovers
 - In old areas – e.g., subsidies; technology transfer; IPRs
 - And in new areas – e.g., SOEs; digital trade barriers; data privacy....
2. Addressing development differences more effectively
3. Settle the dispute on dispute settlement (US blocking of Appellate Body appointments)

Necessary condition:

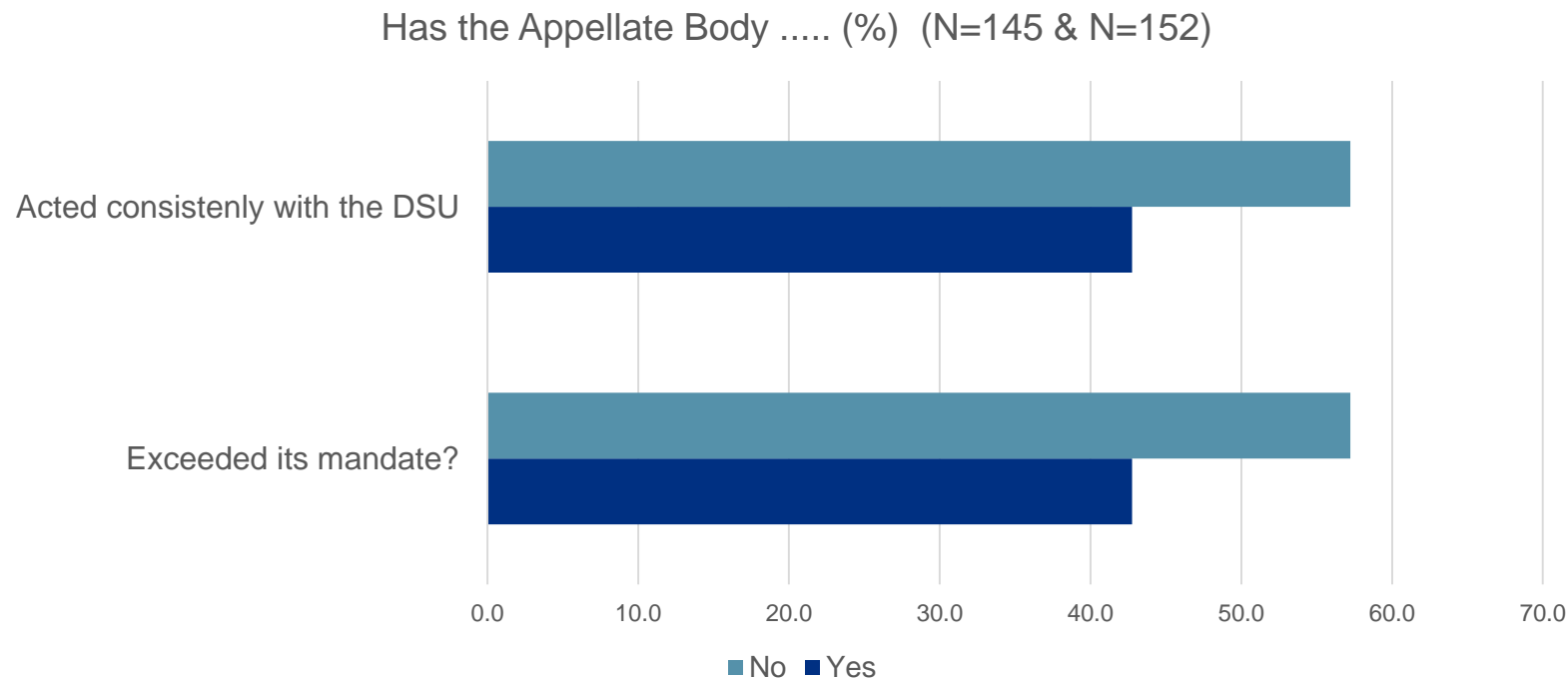
Reinvigorate WTO as a venue for deliberation and cooperation – incl. by negotiating agreements that establish rules of the road for policies generating trade conflicts

Dispute settlement

- Prominent element of reversion by US to aggressive unilateralism
 - Long-standing grievance regarding the treatment of zeroing in antidumping
 - More generally, US argues AB has exceeded its mandate in ruling on whether Chinese SOEs are public bodies; mis-characterization of factual issues, disrespect of statutory deadlines, claiming that decisions have precedential value
- US purportedly is not questioning the basic features of WTO dispute settlement
 - Instead argues it want WTO members to implement what was agreed in 1995
- Arguably this is not sufficient. Action needed to:
 - Improve the quality of panel reports (e.g., increasing the use of economics)
 - Improve the quality of panellists and AB members
 - Reduce the politicization of appointments
 - Revisit working practices – e.g., attenuate role of Secretariat
 - Hoekman & Mavroidis (EUI 2019 working paper; August 2019 VOXEU column)

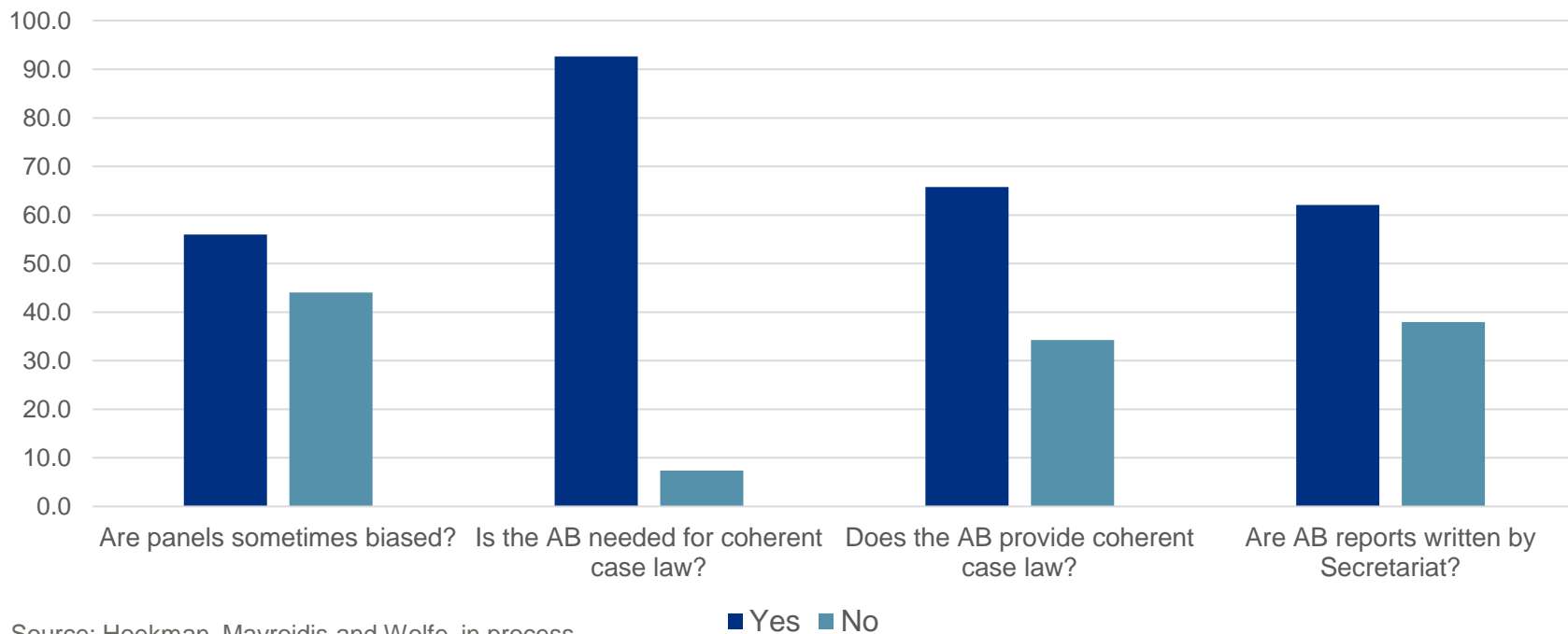
US not as much of an outlier on the substance?

Preliminary survey findings



WTO dispute settlement survey: additional questions (N ≈ 145)

Practitioner/expert perceptions of panels/AB (%)



Source: Hoekman, Mavroidis and Wolfe, in process

Special and Differential Treatment (SDT)

- Not a zero-one issue: all members get some type of “SDT” in WTO
- To be useful as opposed to divisive SDT must be:
 - enabling and not exempting
 - dynamic and not entail permanent differences in obligations
 - flexible and customized – one size does not fit all
 - defined jointly through engagement / cooperation
- Should be intermediated through WTO Committees, with engagement by development agencies
- Technical assistance is central to the substantive concerns
- Elements already in place: waivers; Trade Facilitation Agreement; Aid for Trade
- Necessary condition for revisiting SDT is that enough members want to engage and strengthen the WTO – i.e., this is part of the broader reform agenda

Substantive rules and rule-making: What is systemically important?

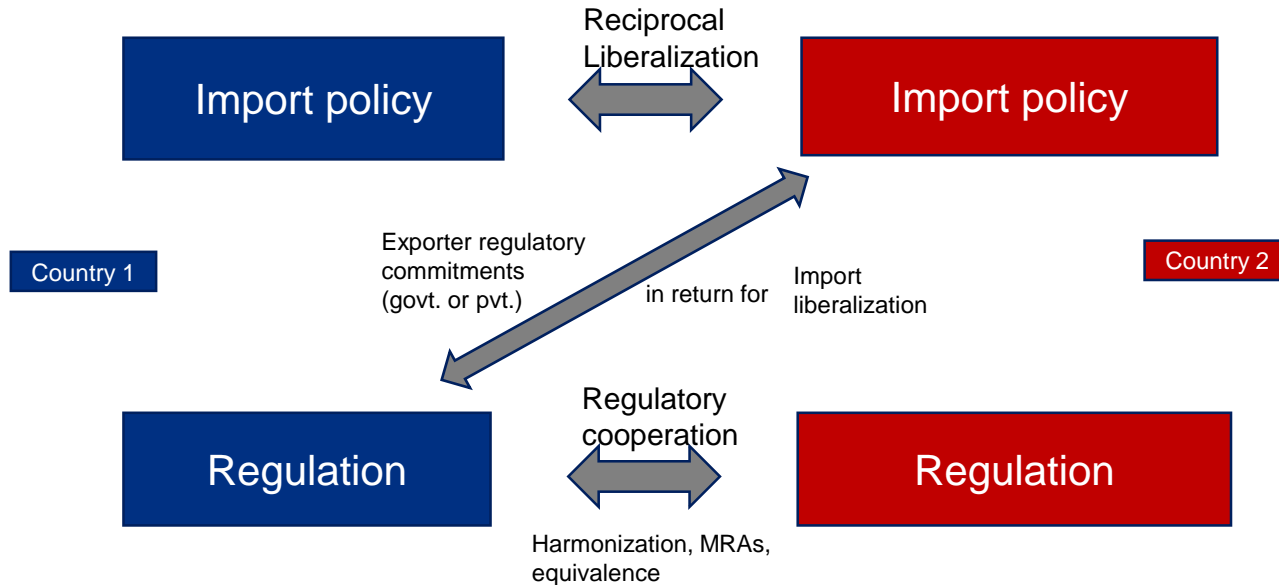
- China, China, China? No! Many countries use policies distorting competitive conditions on the global market
- But, many (most) WTO members are systemically small
 - If so, internalizing spillovers does not need to span all WTO members
- Determine whether free riding a concern and if so, what constitutes critical mass
- How?
 1. Policy dialogue: what are systemically important negative spillover impacts of non-tariff policies
 2. Where? Substantive deliberation in WTO committees, supported by Secretariat
 3. Deepen engagement with business community and general public

See Bertelsmann Stiftung (2018) at <https://www.bertelsmann-stiftung.de/en/publications/publication/did/revitalizing-multilateral-governance-at-the-world-trade-organization/>

Open plurilateral agreements

- A response to consensus constraint in WTO but also to differences in preferences, priorities and capacities
- Could address not only market access issues but also regulatory cooperation ... and destination-based cooperation
- Nondiscriminatory in the sense of open to any country, ex ante and ex post
- More feasible for policy areas that are regulatory in nature and apply equally to national and foreign firms or products
 - E.g., good regulatory practices or initiatives to lower trade/operating costs for firms
 - But also can span market access-related issues where the “critical mass” needed to permit cooperation is relatively small
- See Hoekman and Sabel (*Global Policy*, 2019)

Different approaches to cooperation



Source: Mattoo (World Bank working paper, 2018)

OPAs not a panacea – but can help break stasis

- GPA and Tokyo Round codes illustrate OPAs may not be easy to expand to additional WTO members
 - How much this matters depends on free-riding/critical mass considerations
- Open processes critical: openness an asset, not a liability
 - Secretariat support; non-parties kept informed
- Must address concerns of non-participating WTO members that:
 - OPAs will be open ex post – e.g., by making this enforceable (recourse to DSU)
 - WTO Members needing assistance will be supported – e.g., build on TFA model
- Could help multilateralize regulatory cooperation outside the WTO (e.g., EU data adequacy; EU FLEGT; MRAs; ISDS; PTA chapters...)
- Could also be a way to revisit judicialization of enforcement
 - E.g., require reason-giving; third party review (TFA precedent)

What policy areas could OPAs be used for?

- Issues where free riding is not a binding concern
 - Trade/transaction costs of regulatory differences
 - Product standards – e.g., a code of conduct for private standards
 - Rules of origin
 - Domestic regulation of services (ongoing WTO discussion)
 - Multilateralize mutual recognition agreements
 - Sectoral equivalence regimes (e.g., bilateral air safety agreements)
 - Transparency in public procurement
- But also issues where critical mass is needed—especially where deals need to encompass relative small number of countries
 - Data privacy / adequacy
 - E-commerce (plurilateral negotiations commenced in early 2019)
 - Subsidies?
 - SOEs....?

OPAs and democratic legitimacy

- Rodrik's trilemma: globalization—regulation—sovereignty:
 - Global markets require global regulation which we don't have. Even if we had it (pursue it) and create a global regulator responsive to a global polity this is incompatible with nation state sovereignty and democracy
- Implication: return to GATT-type “thin” rules that assures “policy space” – focus only on discrimination, not IRC
- But “thick,” discursive rules that bolster regulatory capacity by continuous monitoring are what is needed given GVCs/production fragmentation
- If this proceeds along sector-by-sector regulatory OPAs there is no “global regulator” but does generate outcomes that are democratically legitimate (as regulators remain accountable at national level)
 - See Hoekman & Sabel (2018); Hoekman and Nelson (2018)

Looking forward

1. Deliberation informed by analysis

- How large are spillovers? Incidence? What is systemic as opposed to narrowly sector-specific?

2. OPAs and OPA governance

- Focus on key contested policies –industrial subsidies; SOEs; etc.
- Much depends on outcome of e-commerce and other joint initiatives
- And on willingness by proponents to address legitimate worries of opponents
 - Credible commitments to openness; nondiscrimination for subsequent accession candidates, etc.

3. Broader WTO reform

- Revisit enforcement—greater focus on specific trade concerns and peer review?
 - Lessons from product standards area; PTAs (implementation bodies; monitoring)
- Nexus of notifications/transparency & regular WTO Committee work
 - Technologies to generate information (big data)
 - Lessons from other IOs re: transparency and related analysis