



# **Global Challenges, EU Trade Policy and External Cooperation**

**Bernard Hoekman**

European University Institute and CEPR

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## Background & context

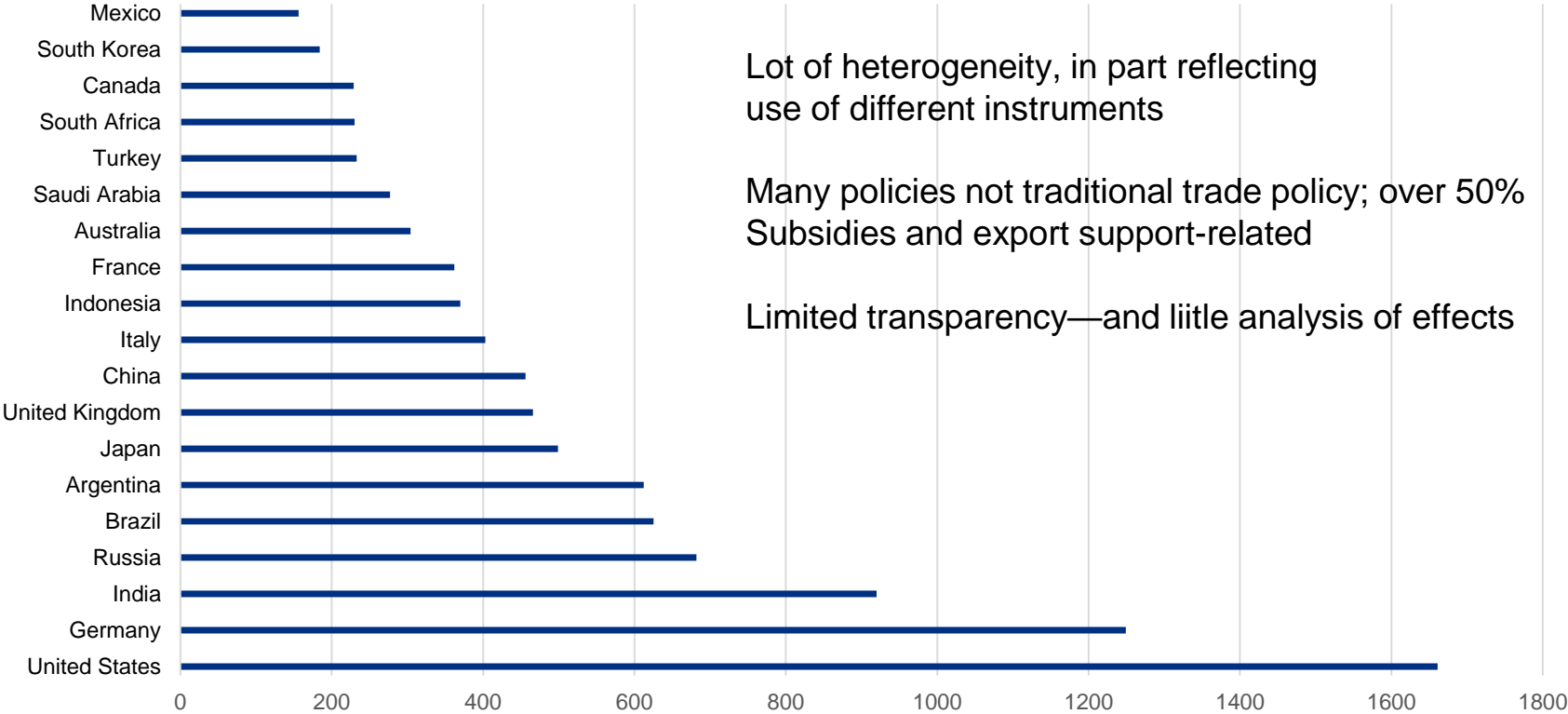
- Increasing use of trade-related policy measures
  - “Make it here!” as opposed to “made in the world”
  - Focus on retaining/attracting technology/investment – much more than a trade policy story
- Calls for “fair trade” and action against “unfair” competition
  - At industry/firm level: subsidies; market power; SOEs; IPRs; investment policies
  - At individual/community level: labor & product standards, climate-related regulation
- Technological change, servicification and shift to digital economy
- Geopolitical/economic systemic competition/tensions: “China vs. US”

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## Responses

- Deeper (preferential) integration among likeminded countries
  - Linkage of trade to nontrade policy objectives (e.g., now central feature of EU trade policy)
- More unilateral use of trade defense and resort to investment controls
  - Some subject to WTO, others that are not
- Resurgence of US aggressive unilateralism
  - Trade war against China; protectionist actions and threats against other countries
- Undercutting GVCs and associated specialization
- End point depends on how far the US goes in decoupling from China and policy of China towards rest of the world and vice versa
- Potential mutual assured destruction if national security  $\equiv$  “economic security”  
=> unilateral actions undermine the trust needed for a rule-based trade system

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



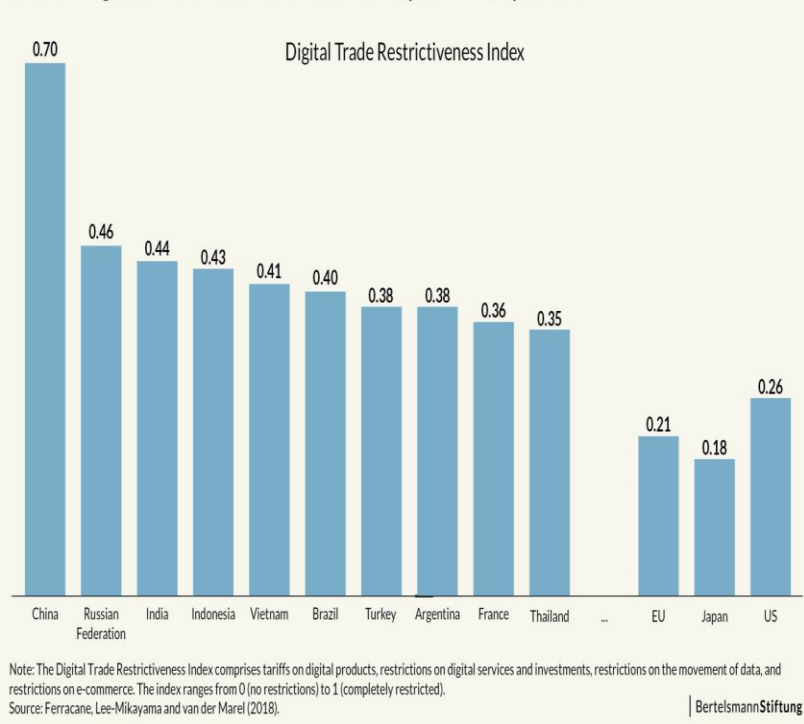
Lot of heterogeneity, in part reflecting use of different instruments

Many policies not traditional trade policy; over 50% Subsidies and export support-related

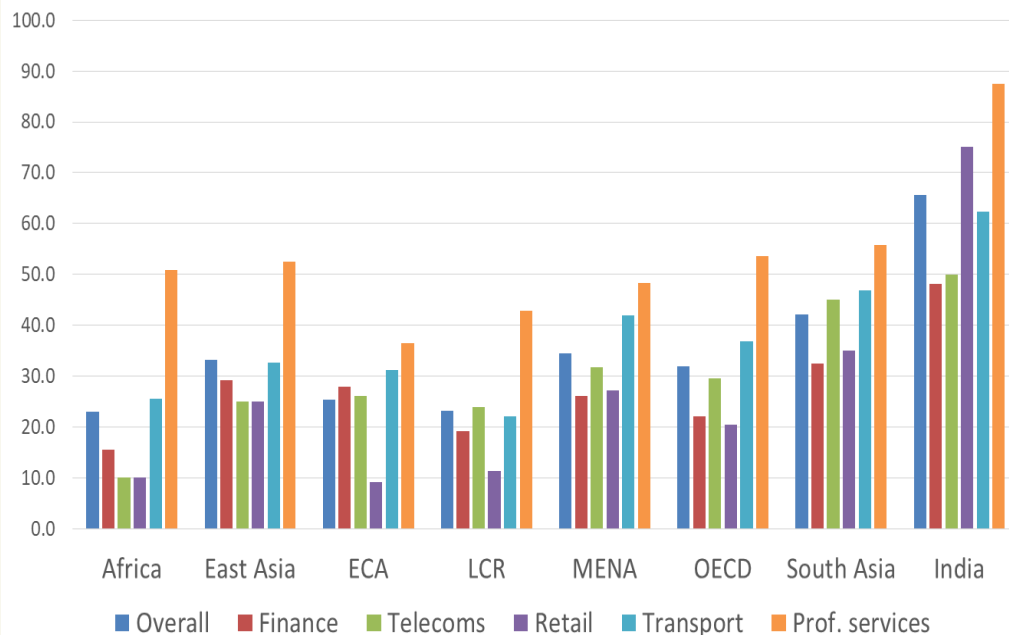
Limited transparency—and little analysis of effects

# Including measures affecting digital economy and services trade

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

# Digital trade barriers may matter a lot in longer term

## Effect of data policies on non-OECD export of software intensive services

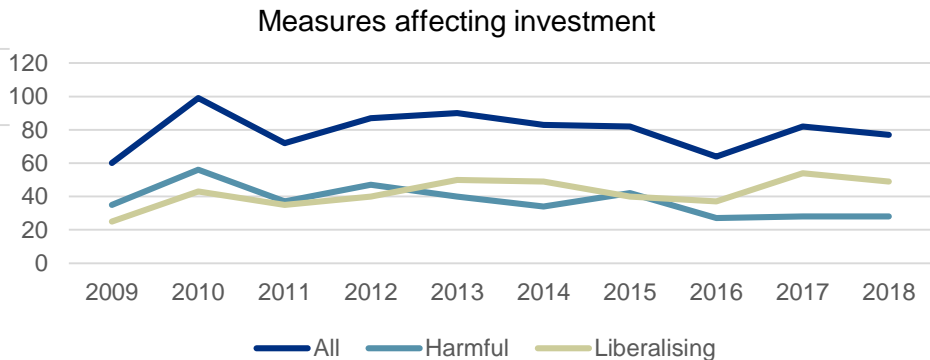
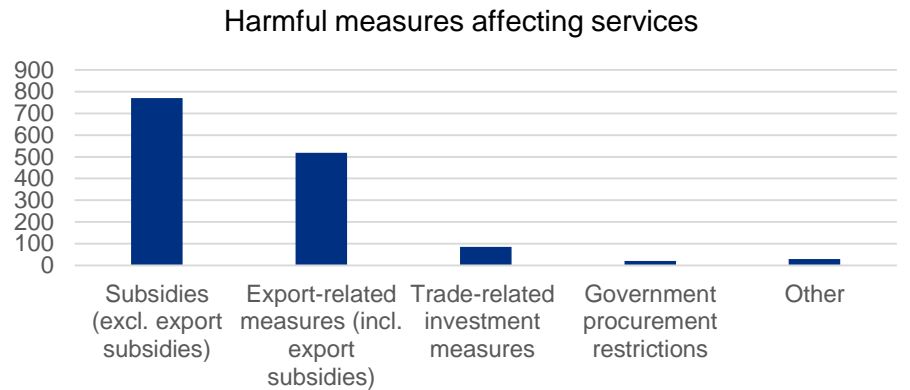
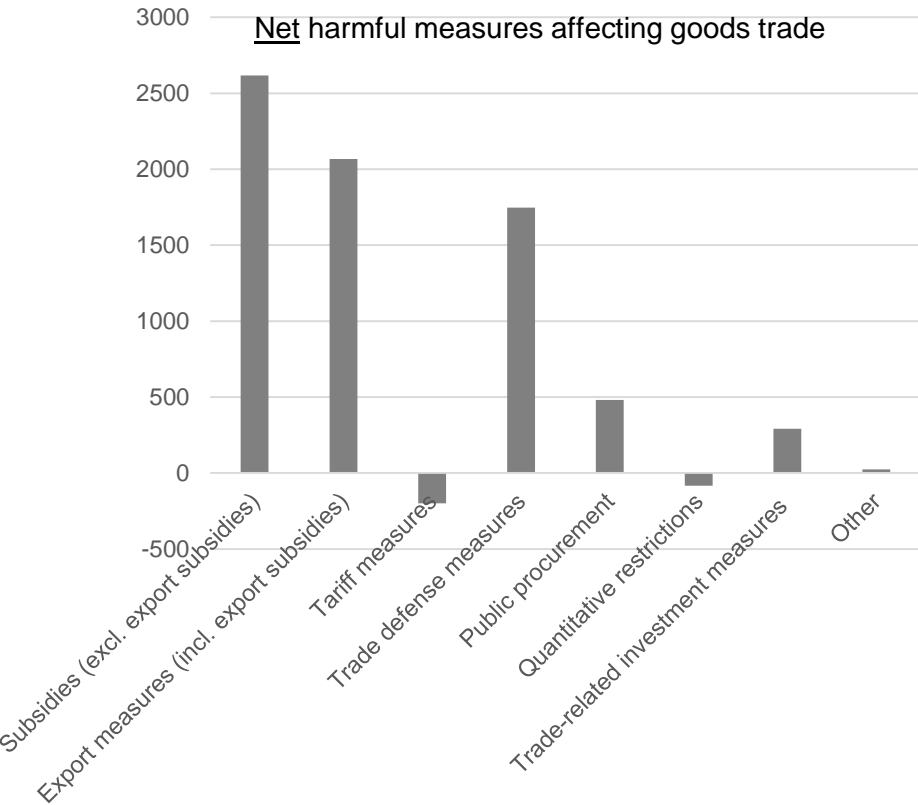
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	ln(SM)	ln(SM)	ln(SM)	ln(SM)	ln(SM)	ln(SM)	ln(SM)	ln(SM)
(D/L) * Data policy	-0.167*							
	(0.085)							
(D/L) * Data policy CB		<b>-0.409***</b>		<b>-0.477***</b>	<b>-0.525*</b>	<b>-0.530**</b>	<b>-0.527*</b>	<b>-0.515*</b>
		(0.004)		(0.002)	(0.050)	(0.043)	(0.050)	(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

# Unpacking global trade policy trends

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



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## EU strategy in light of global trade policy trends

- External policy traditionally trade and development focused – “soft power”
  - Trade one of the core common policies
  - Large development aid programs as a result of historical relationships/ties with many developing countries
- Notwithstanding the common commercial policy member states pursue national trade promotion goals through economic diplomacy and export credit mechanisms
- Both EU and EU member states maintain development assistance programs
- Gives rise to potential policy coherence challenges
- More generally:
  - Need to manage internal and external shocks (Euro; Brexit; migration/refugee flows)
  - Differences in preferences and interests within EU impact on ability to act
  - Civic interest group opposition to new deep trade agreements
- Research question: does EU and member states effectively use their soft power to realize external objectives?



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## One element of RESPECT project: assess EU trade strategy

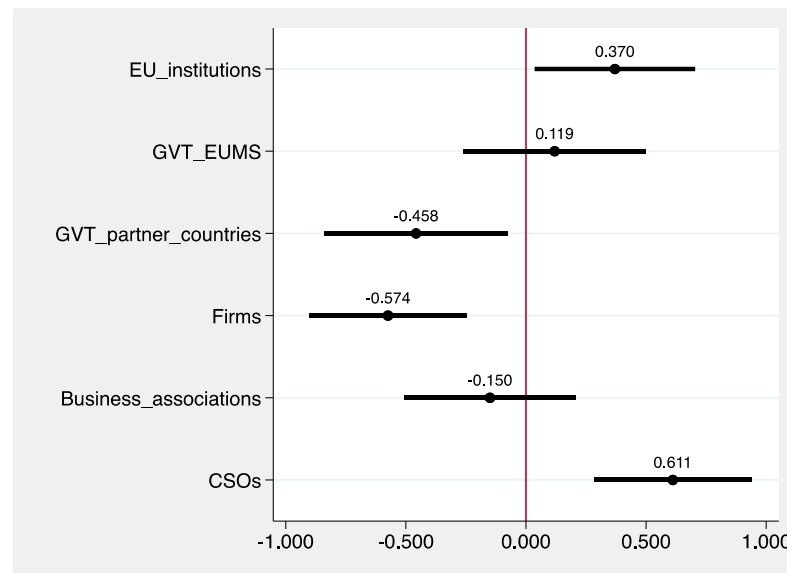
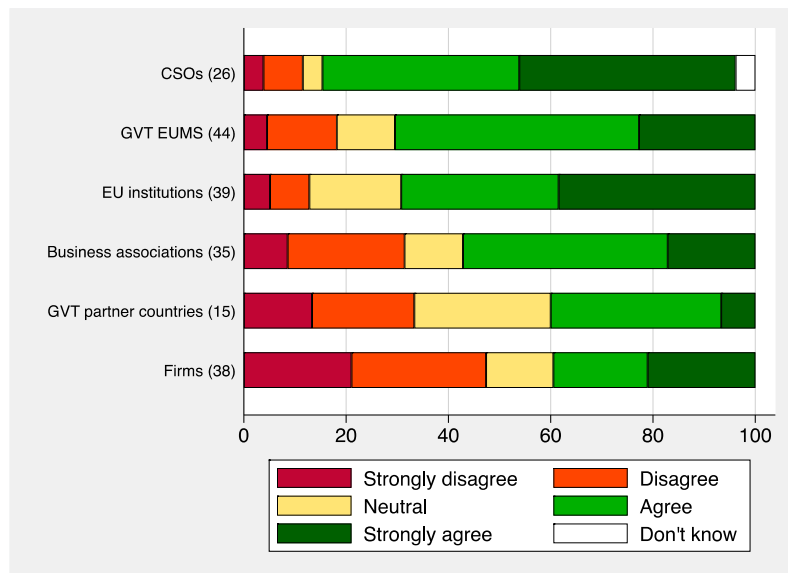
- Opening foreign markets via
  - WTO and preferential trade agreements
  - An EU-wide market access strategy & partnership to address foreign trade barriers
- Focus on using trade and external policy to realize EU values – promote EU values (as defined in Treaty of Lisbon) via:
  - Market access conditionality (GSP+)
  - Linking trade and nontrade policy objectives in trade agreements
  - Development cooperation & aid for trade
  - Bilateral and plurilateral sectoral regulatory initiatives
- Unilateral instruments to defend against perceived unfair competition (trade; FDI)
- Active participation in WTO but relatively limited use of WTO dispute settlement
  - Recent focus on WTO reform: what could/should be done?

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## Assessing EU strategy in light of global trade policy trends

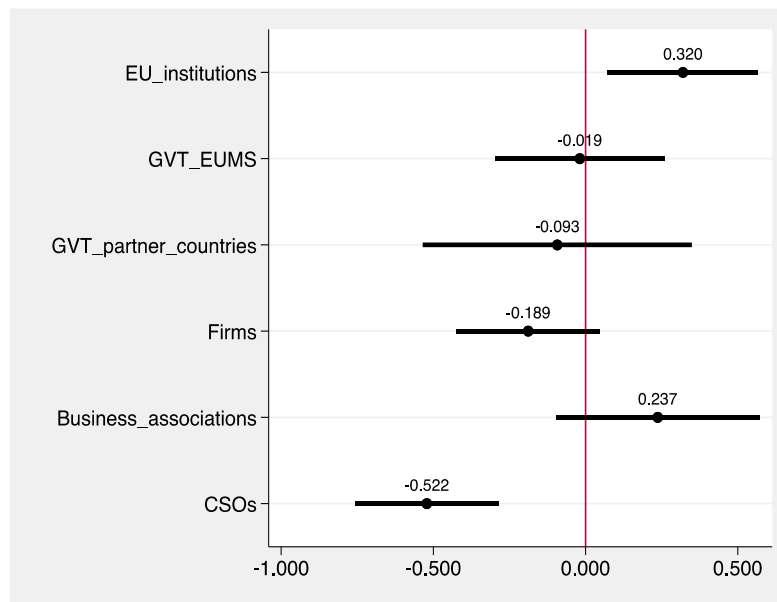
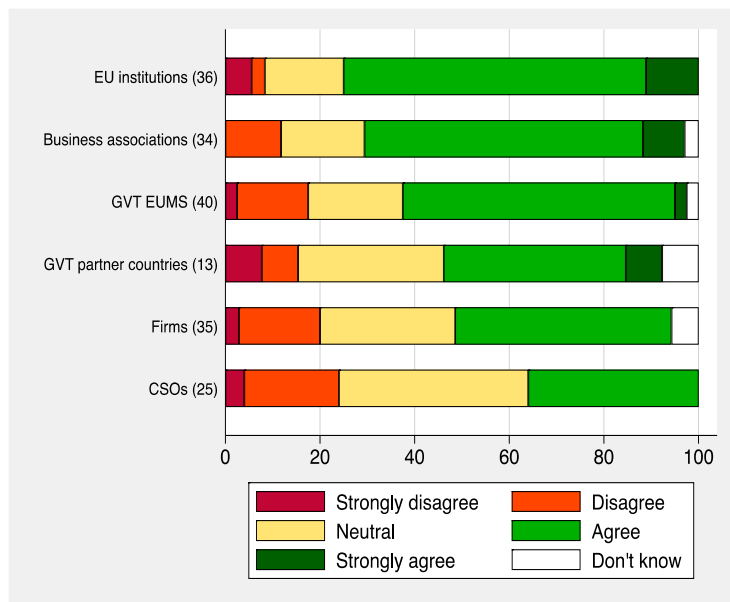
- Walk on two legs?
  - Multilateral (WTO) vs. preferential trade agreements
  - Latter have been primary focus...but no agreements with large emerging economies
- Insufficient focus on services?
  - “Binding only” agreements (TiSA); limited coverage in PTAs
- EU focus on values – a problem?
  - Singapore issues in late 1990s; focus on development – at the cost of market access?
  - Potential source of conflicts by linking access to nontrade goals – e.g., carbon tax...
- Not enough attention on implementation of agreements & defense of market access?
- Differences in preferences and interests within EU impact on ability to act
  - Civic interest group opposition to deep trade agreements
- Not enough focus on analysis of economic stakes & effects; monitoring & evaluation

# The EU should make access to its markets by other countries conditional on non-trade outcomes (labor standards, environmental protection, etc.)



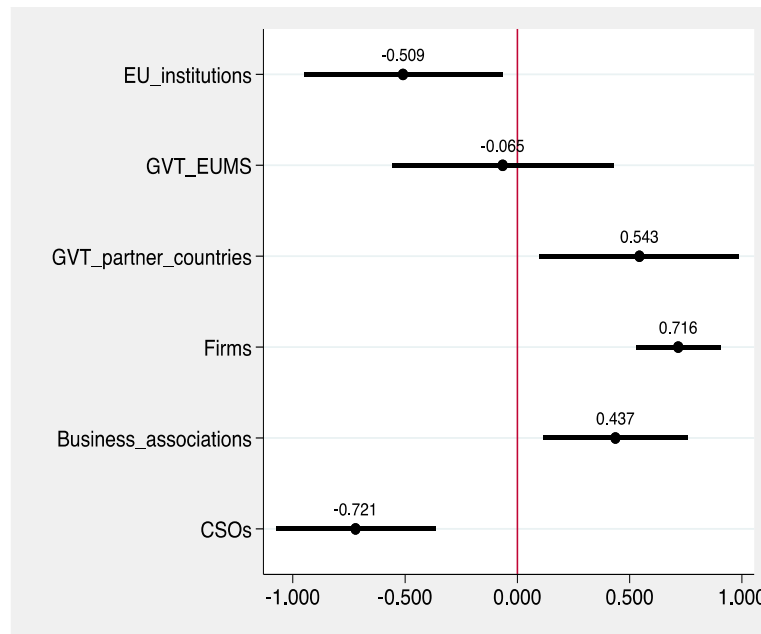
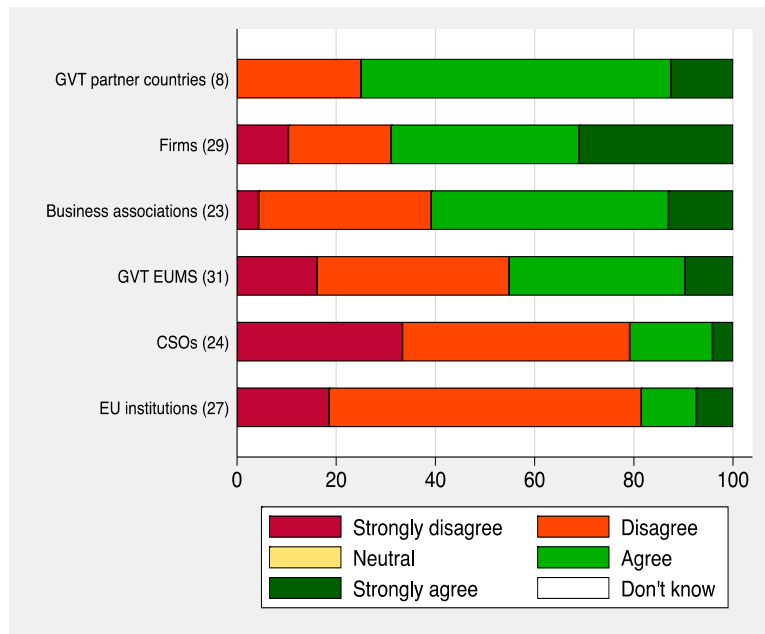
point estimates and 95% confidence intervals from ordered probit model

# EU trade policy supports the realization of EU non-trade objectives



point estimates and 95% confidence intervals from ordered probit model

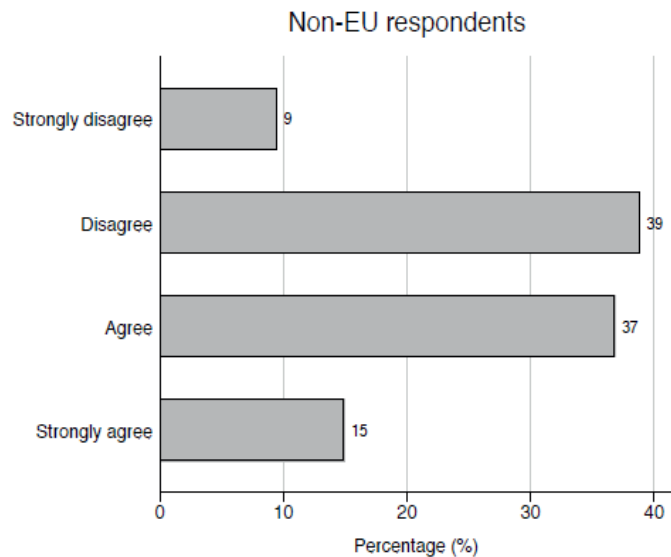
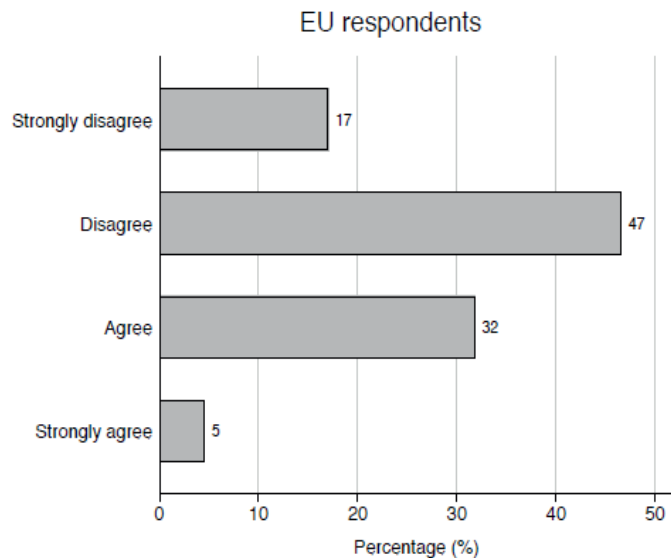
# Including non-trade objectives reduces effectiveness of EU trade policy



(point estimates and 95% confidence intervals from ordered probit model)

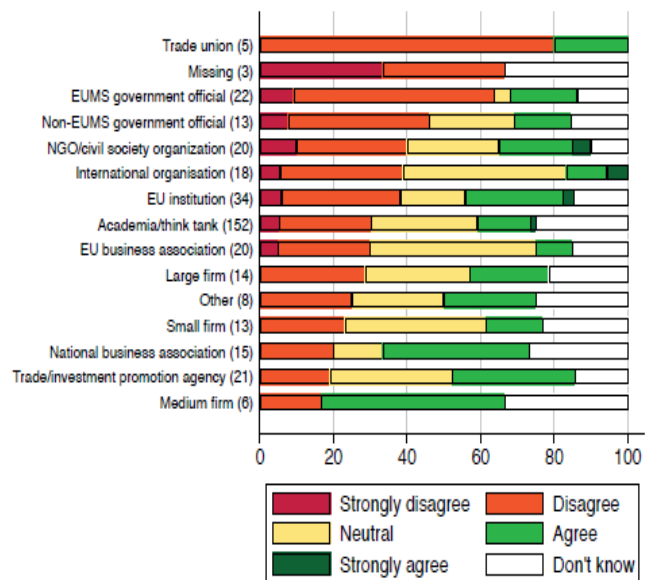
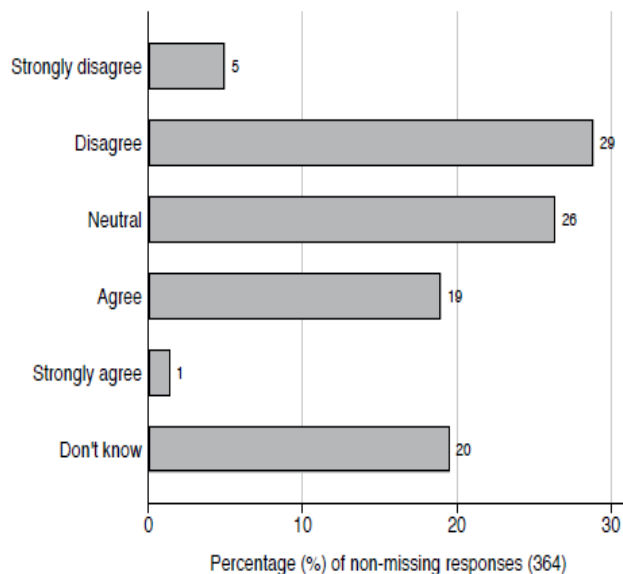
# Does inclusion on non-trade objectives reduce the effectiveness of EU trade policy?

RESPECT survey: practitioner/expert responses



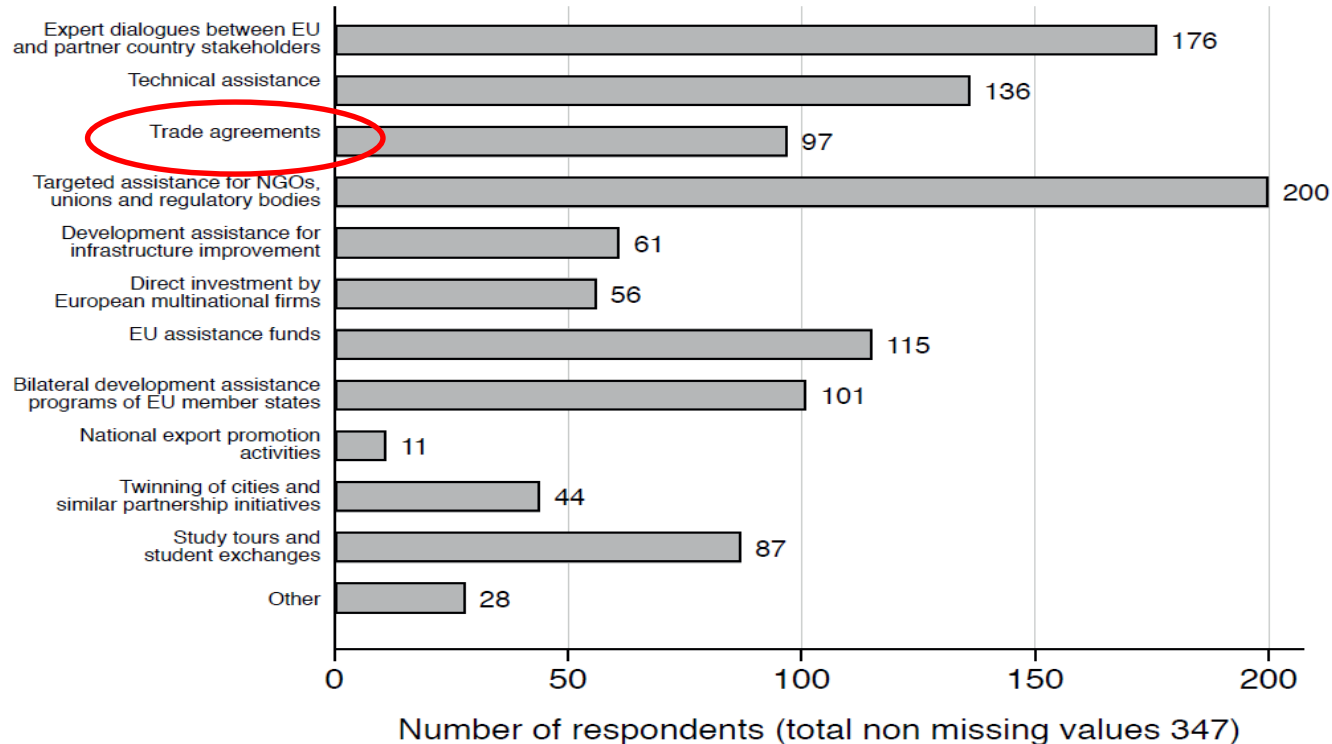
# The EU monitors how trade agreements impact on non-trade policy goals

## RESPECT survey respondents



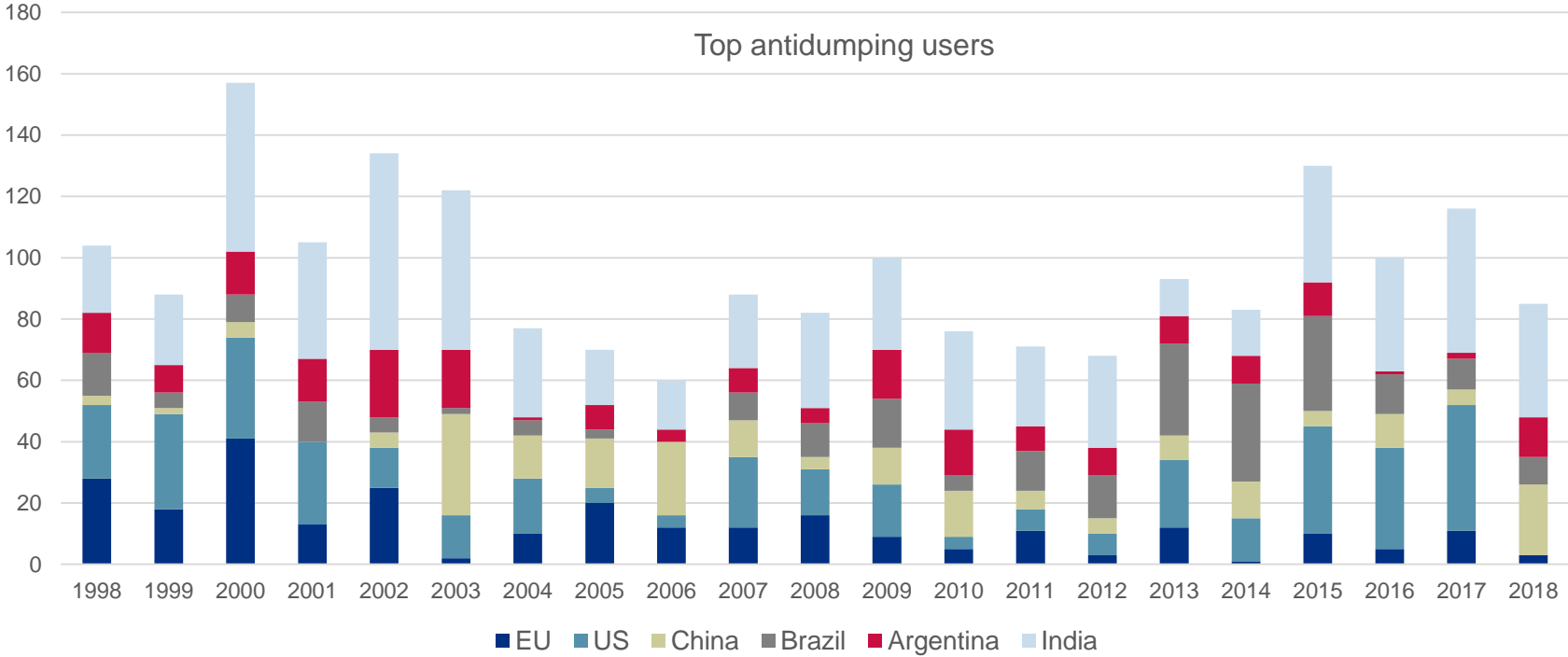
# EU recognizes a multi-dimensional agenda calls for multiple instruments

Survey: What instruments are most effective to achieve EU nontrade goals?

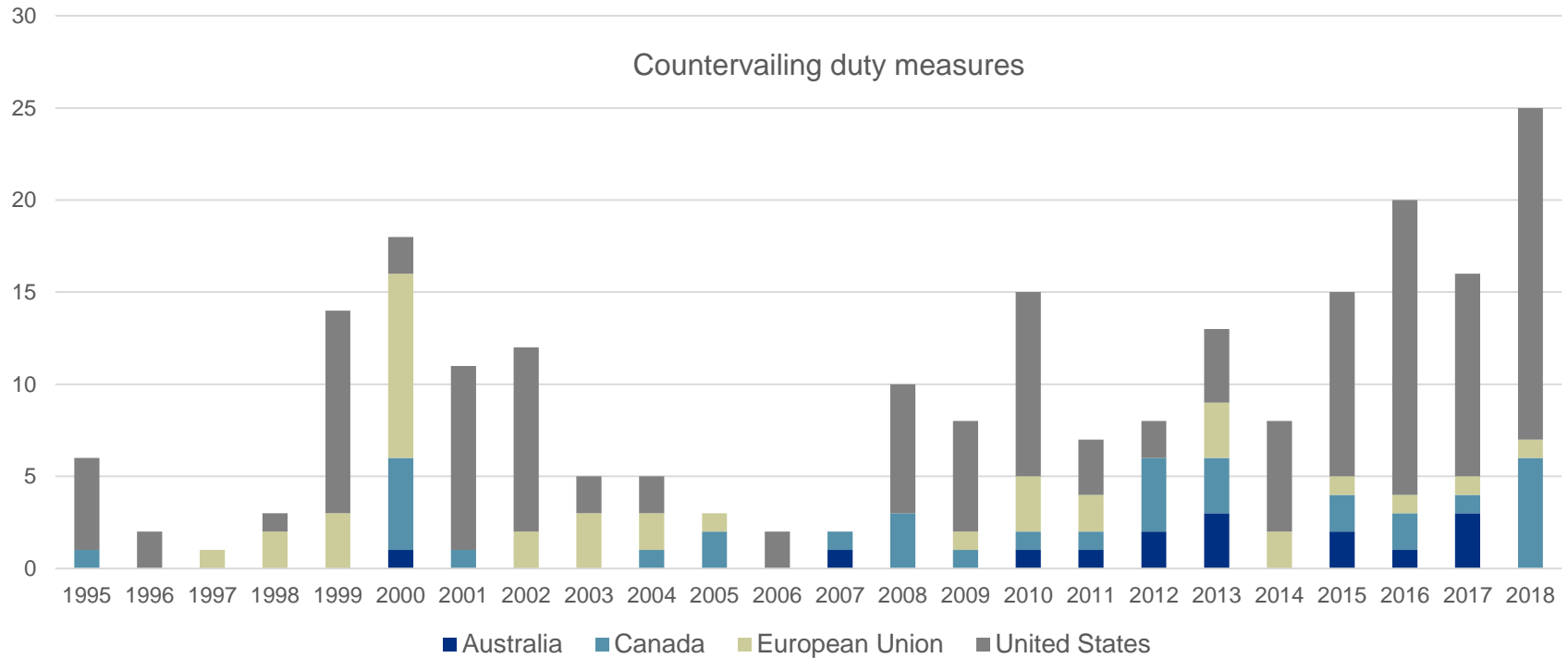




# Antidumping – emerging economies and US are leading users (new measures imposed, 1998-2018)

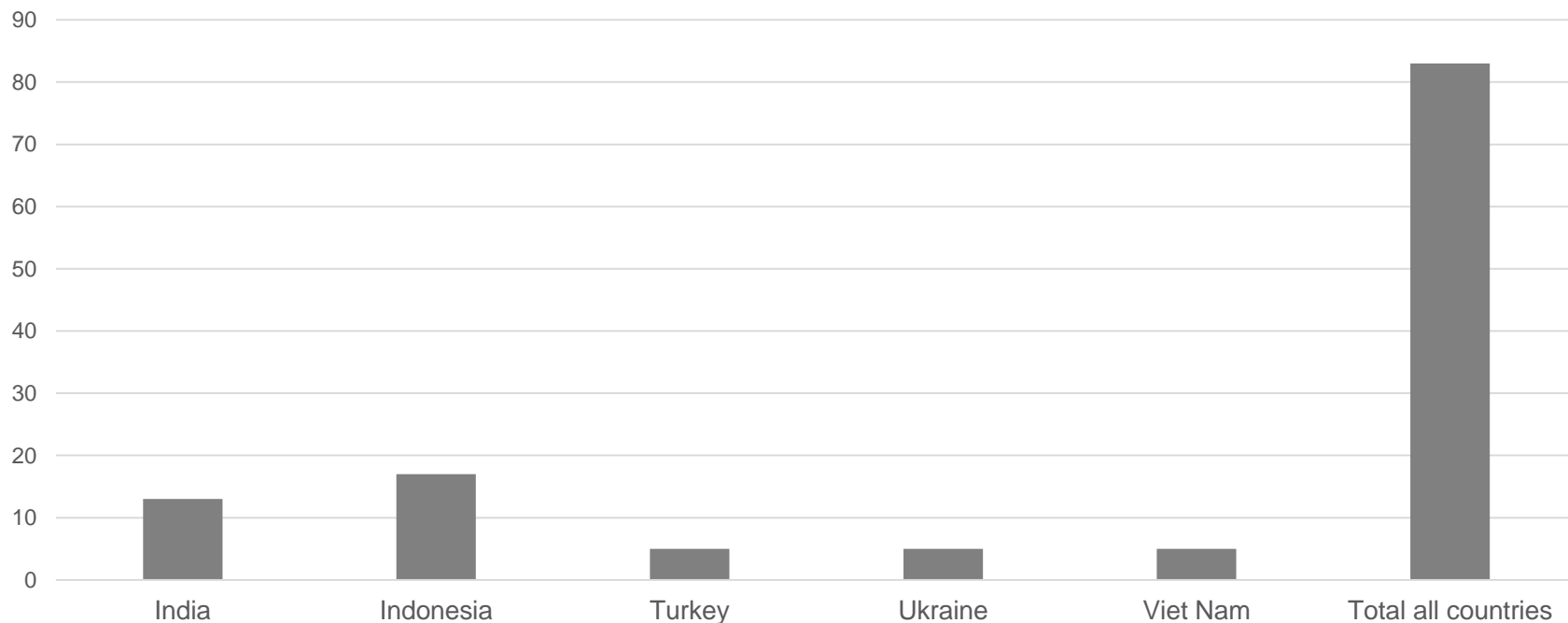


## US is the dominant user of countervailing duties (NB: the EU ↓ recently) (main users of CVDs, 1995-2018)

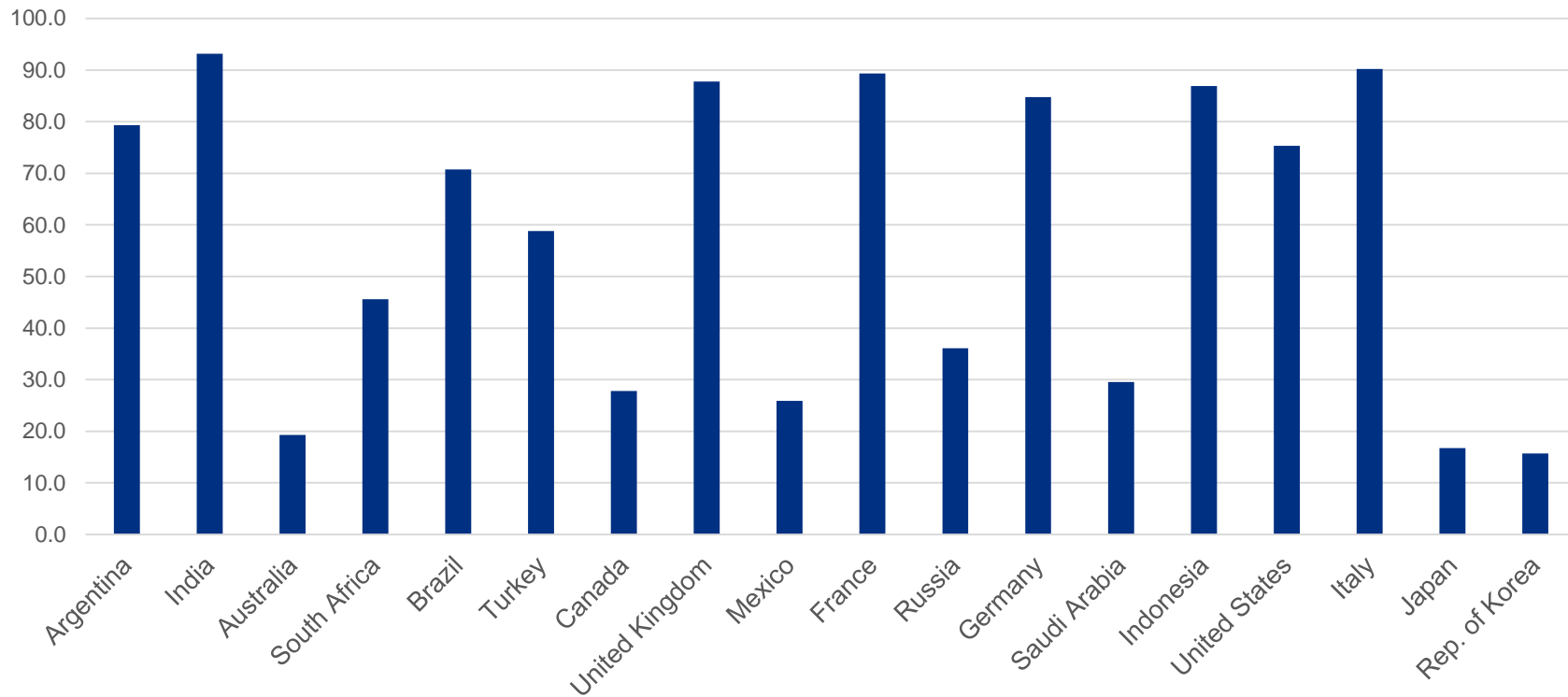


## Global safeguard measures, 2009-18

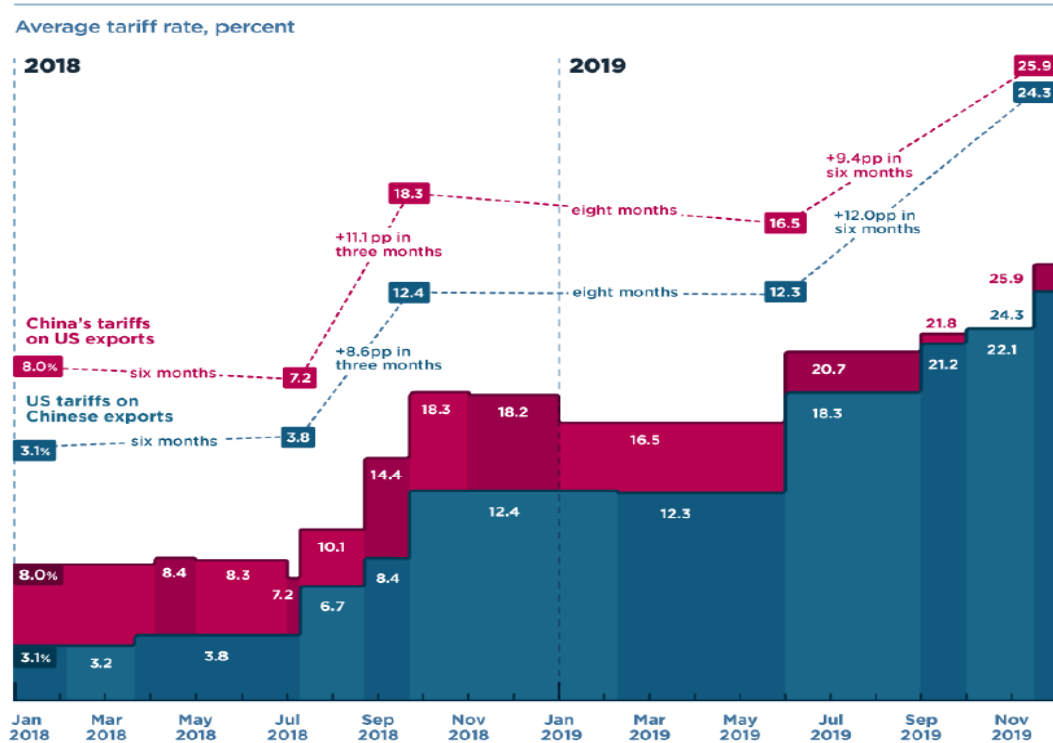
Main users of global safeguards, 2009-18



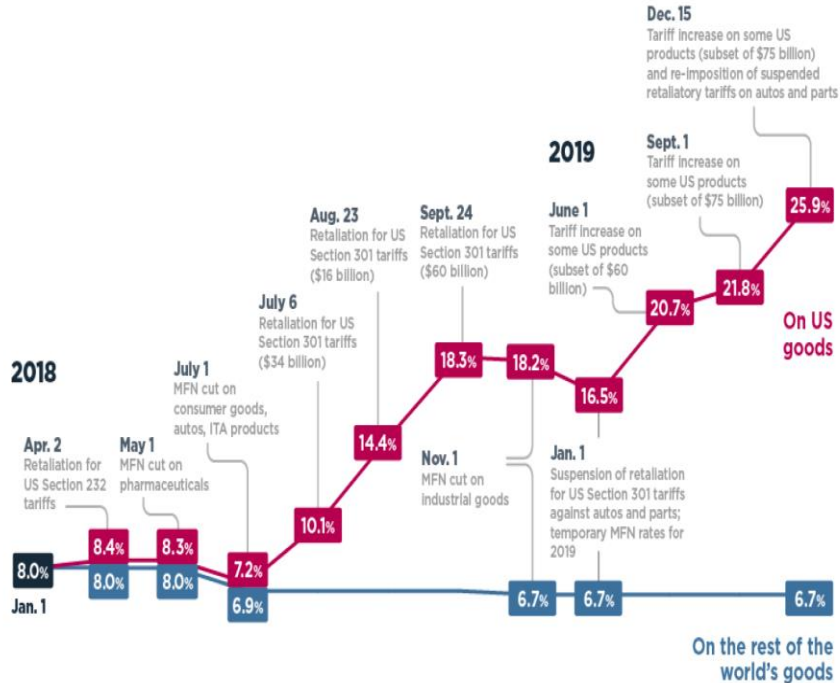
## Share of Chinese exports subject to discriminatory trade policies (%)



# Rapid rise in case of the US: tit-for-tat dynamics of US-China tariffs

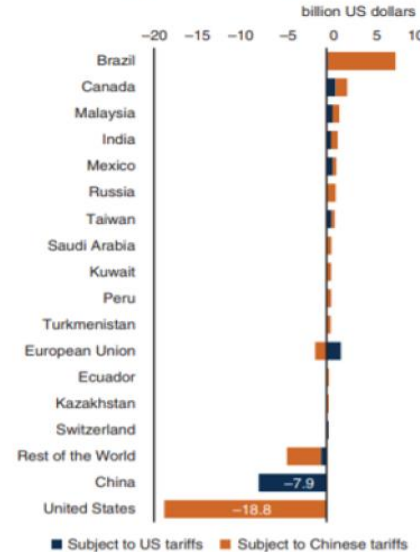


# China's response: increase trade diversion

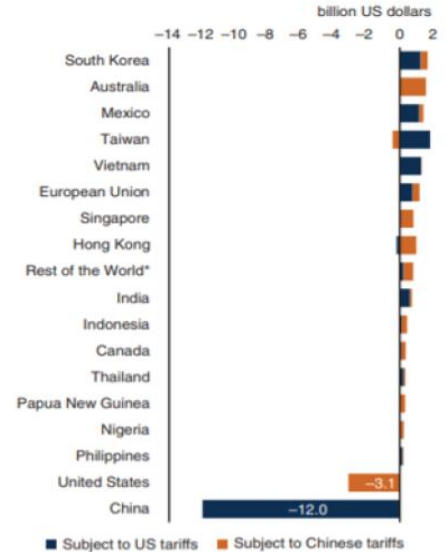


## Changes in exports of tariff-affected products to the United States and China: China, United States, and the 15 countries with the largest gains

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).

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## Three related challenges for the EU (and China) in the WTO

1. Revitalizing the rule-making function to deal with policy tensions perceived to give rise to large cross-border spillovers
    - In old areas – e.g., subsidies; technology transfer; IPRs
    - And in new areas – e.g., digital trade barriers; e-commerce; data flows....
  2. Take development differences more seriously
  3. Enhance the effectiveness of dispute settlement mechanisms
- ❑ Necessary condition for progress on all these fronts is to reinvigorate WTO as a venue for deliberation and cooperation

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## 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 other stakeholders

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

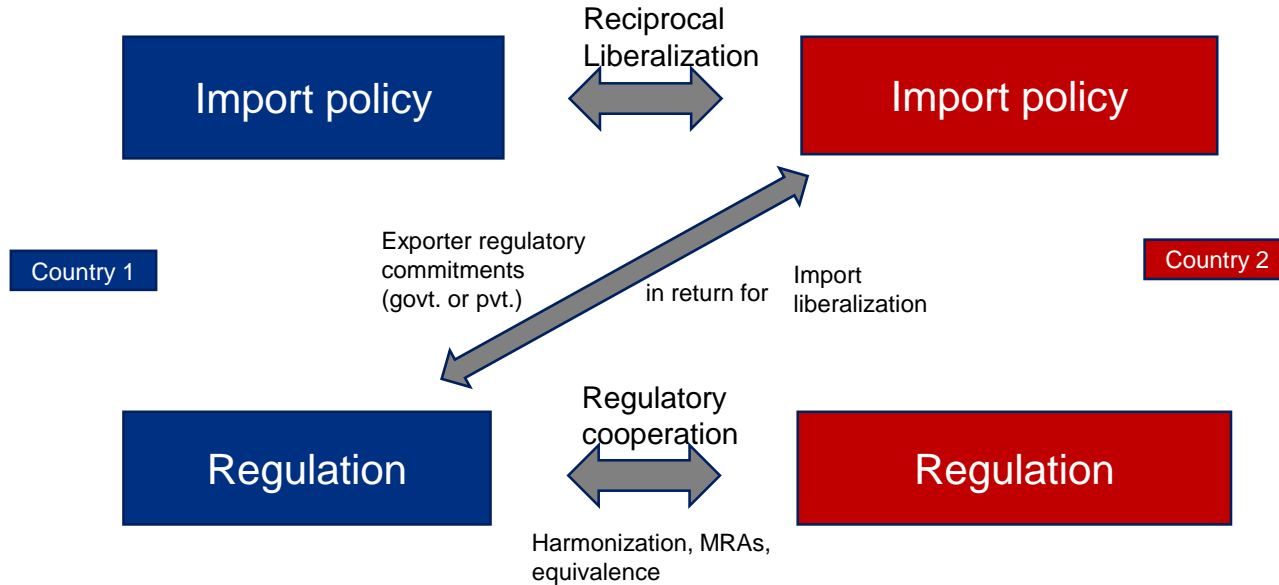


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## How? Open plurilateral agreements

- 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
- These arguments are elaborated in Hoekman and Sabel (*Global Policy*, 2019)

## Different approaches to cooperation



Source: Mattoo (2018)

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## OPAs can support all three types of cooperation

- 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 (again: TFA precedent)

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## What policy areas could OPAs be used for?

- Issues where free riding is not a binding concern
- Addressing the 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)
  - Data privacy / adequacy
  - E-commerce (plurilateral negotiations commenced in early 2019)
  - Multilateralize mutual recognition agreements
  - Sectoral equivalence regimes (e.g., bilateral air safety agreements)
  - Transparency in public procurement
  - Competition law and policy
  - Subsidies
  - SOEs....

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## Development differences and special and differential treatment (SDT)

- Development differences matter; one size may not fit all
- Distinguish between “fit” of rules at a given point in time and at any point in time
  - Both cases call for deliberation and negotiation – not rote invocation of “developing country” status
- 1960s thinking embedded in SDT is outdated: ineffective and counter-productive
- Differentiation is needed but needs to be differentiated and specific....
- To be useful as opposed to divisive agreements must be:
  - Enabling as opposed to entailing permanent differences in obligations
  - Dynamic, flexible and customized
  - Defined jointly through engagement / cooperation
- TFA one model (treaty); APEC another (soft law); Aid-for-Trade as an instrument
  - The building blocks are there
- Need to start with decision to stop invoking SDT rhetorically and engage on the substance
- Continued insistence on and defense of outdated and ineffective “SDT” counter-productive

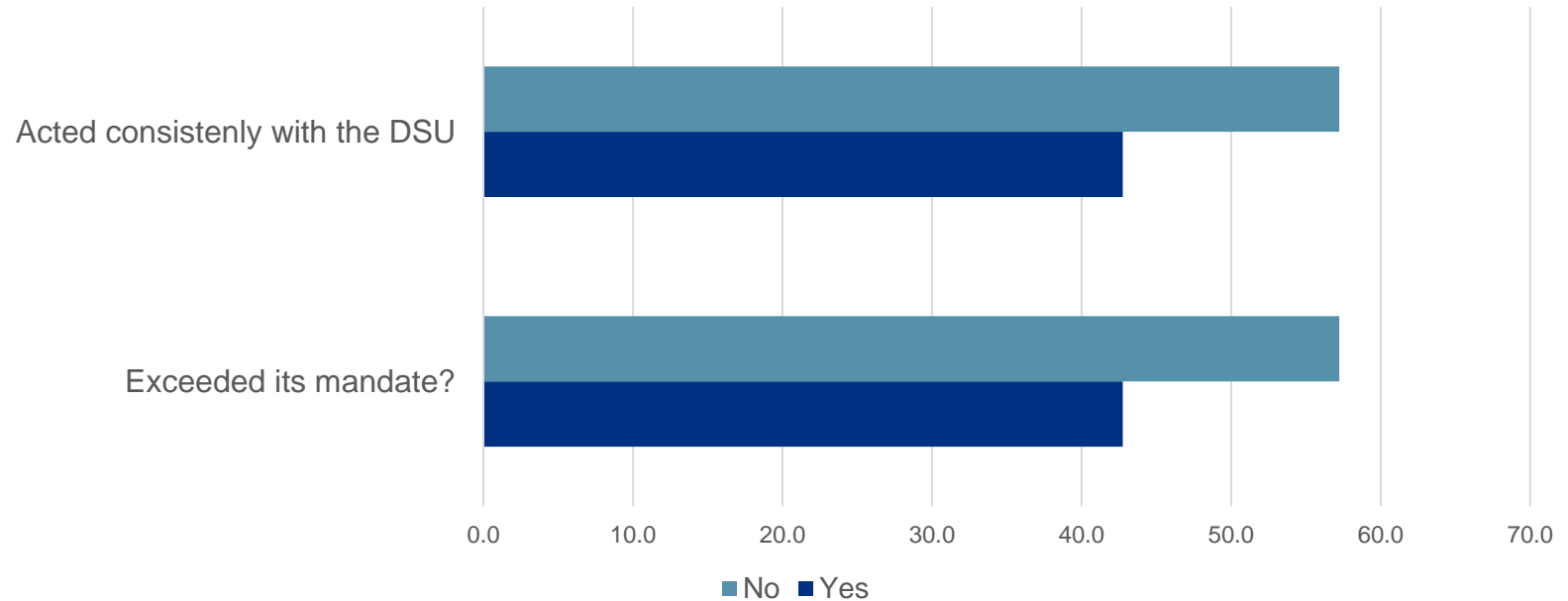
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## Dispute settlement

- One element of US 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 necessary but not sufficient. Focus on whether and how 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
  - Improve working practices – e.g., role of Committees (use of specific trade concerns; thematic sessions and input from stakeholders/expert bodies)

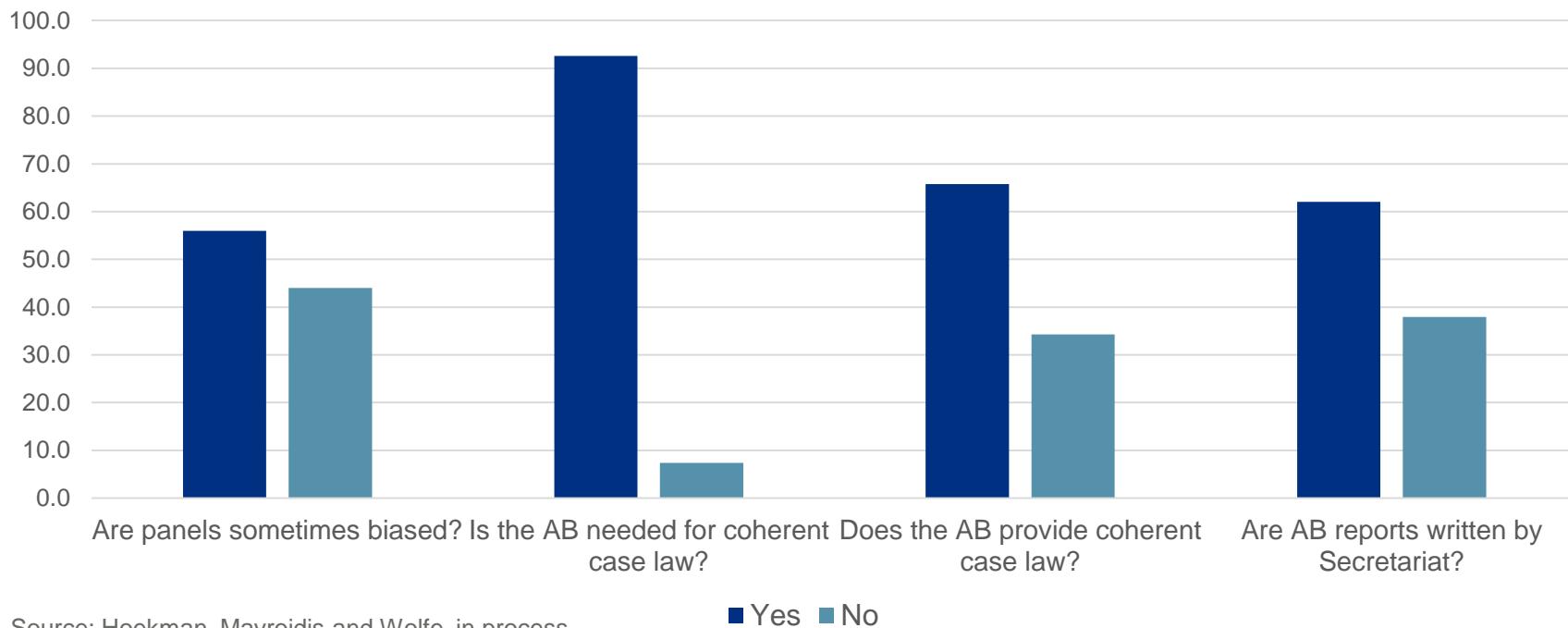
# Is the US an outlier? Recent expert/stakeholder survey

Has the Appellate Body ..... (%) (N=145 & N=152)



## Additional questions (N ≈ 145)

Practitioner/expert perceptions of panels/AB (%)



Source: Hoekman, Mavroidis and Wolfe, in process



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## Looking forward

### 1. Deliberation informed by analysis

- How large are spillovers? Incidence?

### 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 worries of opponents
  - Credible commitments to openness and multilateralization (enforceable)

### 3. Broader WTO reform

- Revisit enforcement—greater focus on specific trade concerns and peer review?
  - Lessons from product standards area – including in PTAs
- Nexus of notifications/transparency & regular Committee work
  - Technologies to generate information (big data)