

Rebooting Multilateral Trade Cooperation: Perspectives from China and Europe

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Background

- Context:
 - Increasing geopolitical tensions and protectionist pressures impacting trade policies for goods (reshoring; autonomy)
 - Shift to a more digital services economy and national programs to reduce carbon footprints changes the trade policy agenda
 - Higher rates of growth in emerging economies and rising global trade shares giving rise to calls for greater reciprocity
 - WTO has not been playing the role it should have as a platform to assist members deal with policy spillovers through negotiations and settle disputes
- China and EU – the world’s top two traders – have made clear they strongly support the rules-based global trading system and oppose unilateralism
- Can they cooperate to revitalize the WTO as a forum for agreeing on trade policy-related rules and the venue where trade disputes are resolved?



Book deals with two (not all!) challenges confronting WTO

I. Cross-cutting, institutional issues

1. *Reviving the negotiation function of the WTO: Why the onus falls on the three major powers*

TU Xinquan | Robert Wolfe

2. *Transparency: Local Subsidies in China and the United States*

Simon Evenett | KONG Qingjiang

3. *China, the European Union, and the WTO Dispute Settlement Crisis*

LIAO Shiping | Petros Mavroidis

4. *Special and differential treatment and developing country status: can the two be separated?*

Patrick Low

5. *National security and other nontrade objectives under WTO law*

CUI Fan | Catherine Hoeffler | Stephanie Hofmann

II. Managing international competitiveness spillovers

6. *Is it possible to promote an agricultural agenda in the WTO?*

LU Xiankun | Alan Matthews

7. *Reforming WTO Rules on Subsidies*

LI Siqi | Luca Rubini

8. *A Core Proposal for Reforming the WTO's Subsidy Rules*

LIU Jingdong

9. *What kinds of rules are needed to support digital trade?*

Martina Ferracane | LI Mosi

10. *Updating the General Agreement on Trade in Services*

Bernard Hoekman | SHI Jingxia

11. *The EU-China Comprehensive Agreement on Investment: A Model for Investment Coverage in the WTO?*

Jürgen Kurtz | GONG Baihua

12. *State-owned or controlled enterprises*

Bernard Hoekman | André Sapir

13. *Climate Change and the WTO*

ZHANG Jianping | XIE Zhiyu

Premises

- Choice of subjects guided by premise that resolving institutional challenges is critical for updating WTO rules and should be focus of WTO reform efforts.
- Five priorities:
 - (i) Clarifying governance framework for open plurilateral agreements
 - (ii) Improving trade policy transparency mechanisms
 - (iii) Resolving the dispute settlement crisis
 - (iv) Differentiating between development status and special & differential treatment
 - (v) Must address both “old” policy instruments (for which agreements exist) and “new” areas that are not or only partially covered by WTO rules
- The contributions do not focus on several important “here and now” issues such as the Covid-19/global public health (vaccines) and fishery negotiations

Systemic, cross-cutting priorities

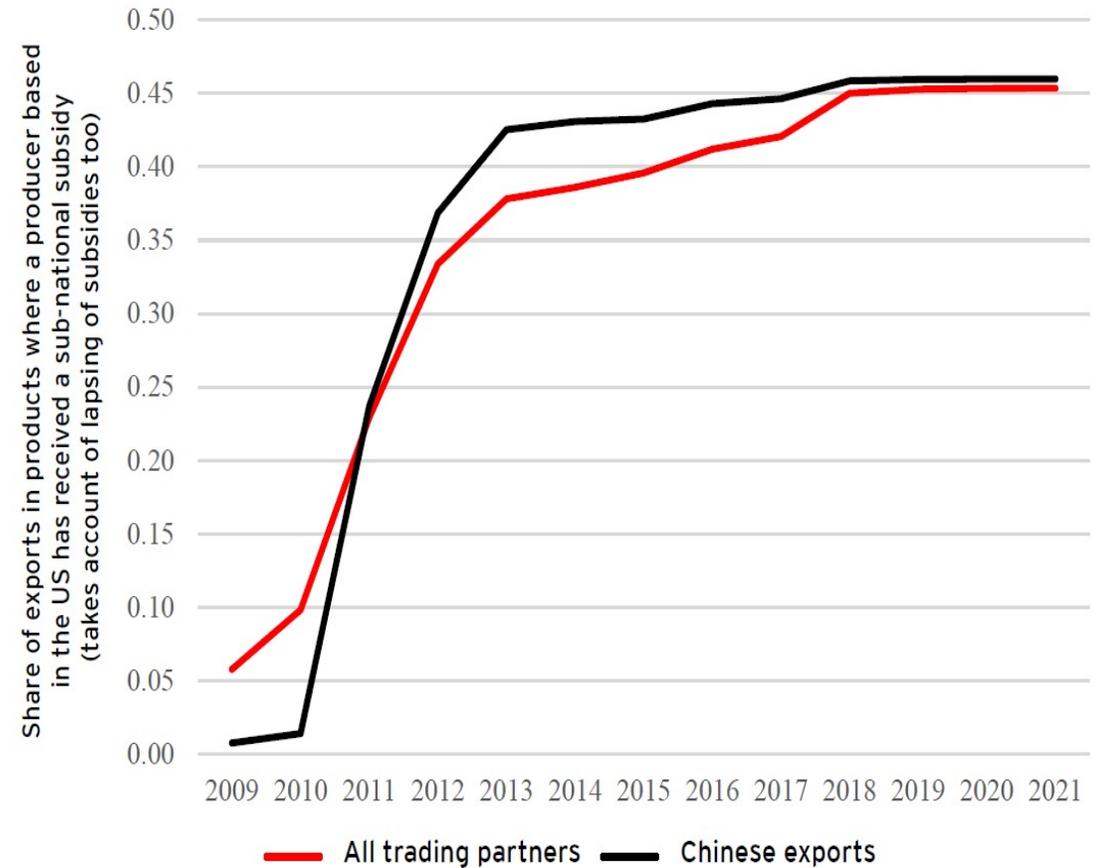
Negotiations (Tu & Wolfe)

- Stress that WTO is a forum, not an actor; joint engagement among EU, China, and the US is critical
- Following abolition of “Green Room” type deliberation before General Council meetings, there are no “bridge clubs” that include all three major trade powers. This is a problem.
- Pursuit of open plurilateral agreements (OPAs) is a partial solution to the consensus constraint—partial because of need for critical mass
- Plurilateral engagement a positive development but all WTO members must accept this is a legitimate path for proponents to pursue. This requires agreement on:
 - governance principles for nondiscriminatory OPAs; and
 - a mechanism to incorporate nondiscriminatory OPAs into the WTO
- China, EU and US should launch an initiative to address the legal/governance gaps
- Need for cross-issue linkages/package deals remains—plurilaterals are not a panacea

Transparency (Evenett & Kong)

- Notification performance weak for many WTO members and agreements
- As of April 2021 one third of the membership had yet to submit subsidy notifications for 2015
- Many of the policy areas discussed in Part 2 of the book have a tax/subsidy dimension
- Focus must extend beyond inadequate compliance with notification obligations: measures that may have significant effects do not need to be reported
 - Example: sub-national subsidies. Are significant in China, but also in the US (see graph in panel)
- WTO members should establish a work program to improve domestic transparency of subsidies
- Such information is necessary to improve notifications, as well as analysis of their incidence and spillover effects

Share of exports of products to US affected by US sub-Federal subsidies to local producers



Sources: Global Trade Alert database, data extracted on 29 April 2021.

Dispute settlement (Liao & Mavroidis)

- A central dimension of the ‘value proposition’ of the WTO is de-politicized conflict resolution—independent, third-party adjudication of trade disputes
 - Demise of the Appellate Body means WTO no longer can supply this
 - MPIA is a (plurilateral) stopgap; cannot and not intended to be a long-term solution
- Need deliberations that build on Walker process & DSU Review to ensure conflict resolution continues to be effective and depoliticized
 - Both China and EU envisage this will continue to include an appeals mechanism – but it need not
 - Key need is to engage with the US to re-establish the conflict resolution function
- Clear signals on willingness to engage in negotiations on rules on substantive policies would increase incentives to resolve the dispute settlement crisis

Economic development differentials among WTO members (Low)

- Developing country status is distinct from special and differential treatment (SDT)
- Two types of SDT: regulatory and market access. The former pertain to WTO rules; the latter determine terms of participation in a given market
 - Market access SDT is fully determined by each WTO member—cannot be invoked by a beneficiary
 - Most regulatory SDT is “best endeavors” – less than one-quarter involves ‘flexibility’ that developing countries can invoke
- Main message: scope for opportunistic access to SDT by those developing countries considered undeserving is in fact limited
- Moving forward: launch a work program to establish how much the ‘flexibility’ category of regulatory SDT is actually used
 - This will provide a basis for decisions by individual WTO members to indicate they do not intend to do so in the future

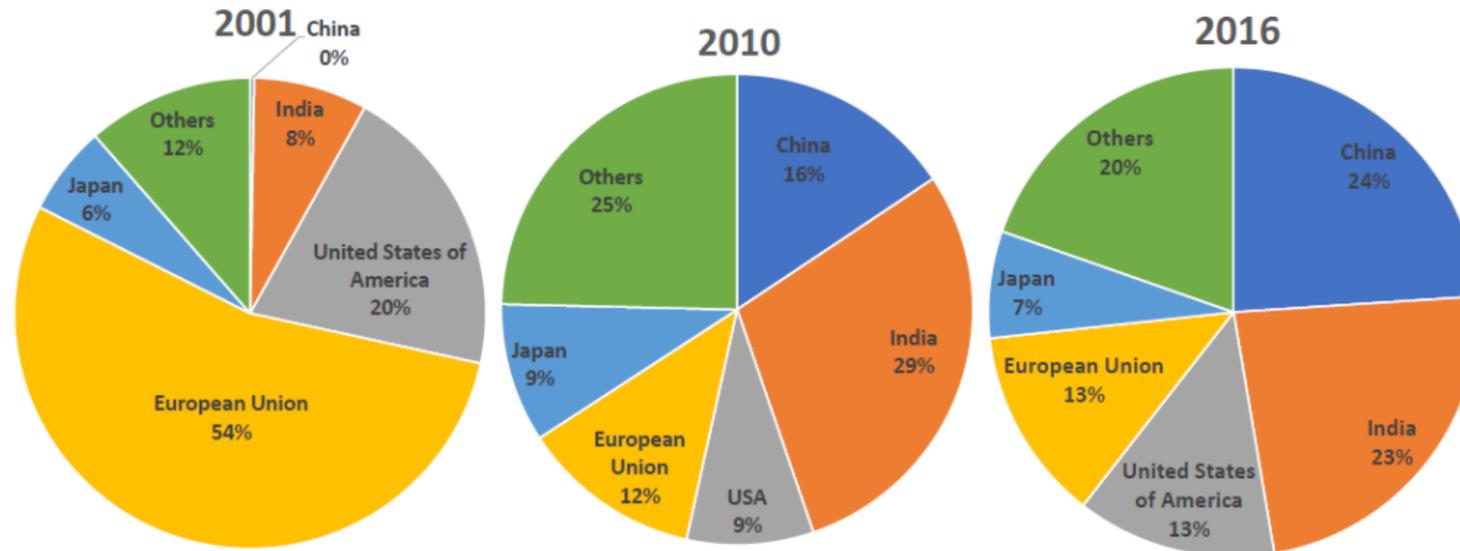
Nontrade objectives and WTO rules (Cui, Hoeffler & Hofmann; Zhang & Xie)

- States have many concerns when trade does not align with political and non-trade goals in areas such as food security, environment and climate change, labor rights, culture, and national security
- Challenge: squaring domestic regulation of production processes (“policy space”) to address such concerns with trade rules through provisions in WTO agreements, incl. exceptions
- Calls for deliberation that build on approaches used for product standards
- Aim should be a more open process of multilateral evaluation of states’ invocation of right to regulate and exceptions in WTO agreements, including on national security
- Same applies to use of trade measures in programs to combat climate change
- Unilateral imposition of trade measures – e.g., carbon border adjustment – risks violating WTO non-discrimination rules
- WTO members should instead consider a broader set of measures that can be used to reduce carbon emissions – including carbon markets

Substantive negotiation issues

Agriculture (Lu/Matthews)

- Increasingly a developing nation agenda— 60% of global food trade in 2018 and rising share of trade-distorting support:



- Does not lend itself to plurilateral approaches—linkages are needed
- Example: strong overlap with climate change agenda
- Rules on support (subsidies) a key source of friction. Revisit methodology to calculate product-specific support to ensure it only captures transfers at above world market prices—a key weakness of current methodology.

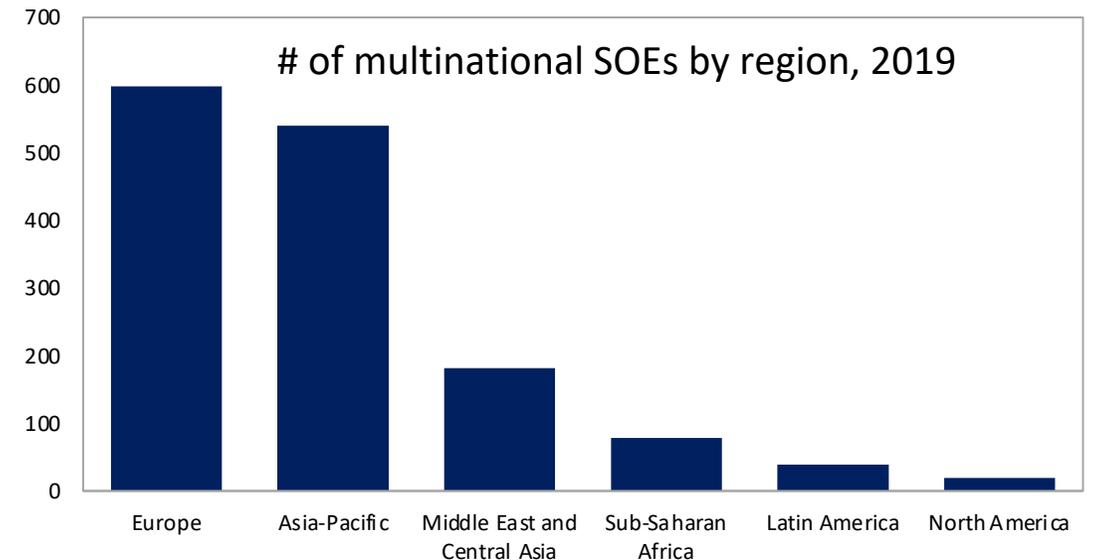
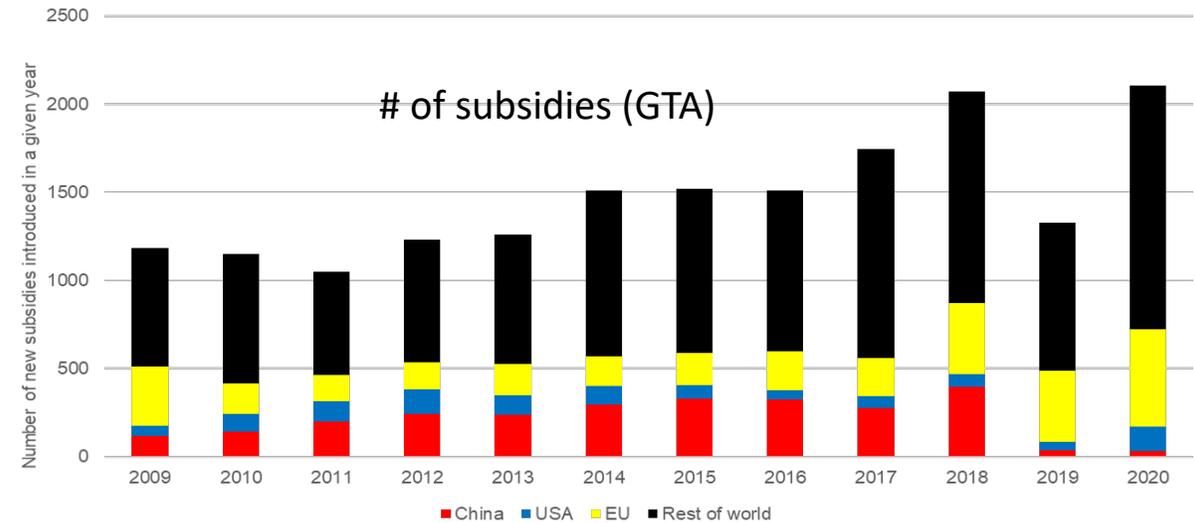
Subsidies (Li/Rubini/Liu) & SOEs (Hoekman/Sapir)

• Subsidies

- Subsidies account for more than half of all trade-impacting policy measures globally
- Start with a concerted effort to compile information and develop a common understanding of where new rules are needed (incl. services) & what types of subsidies should be non-actionable

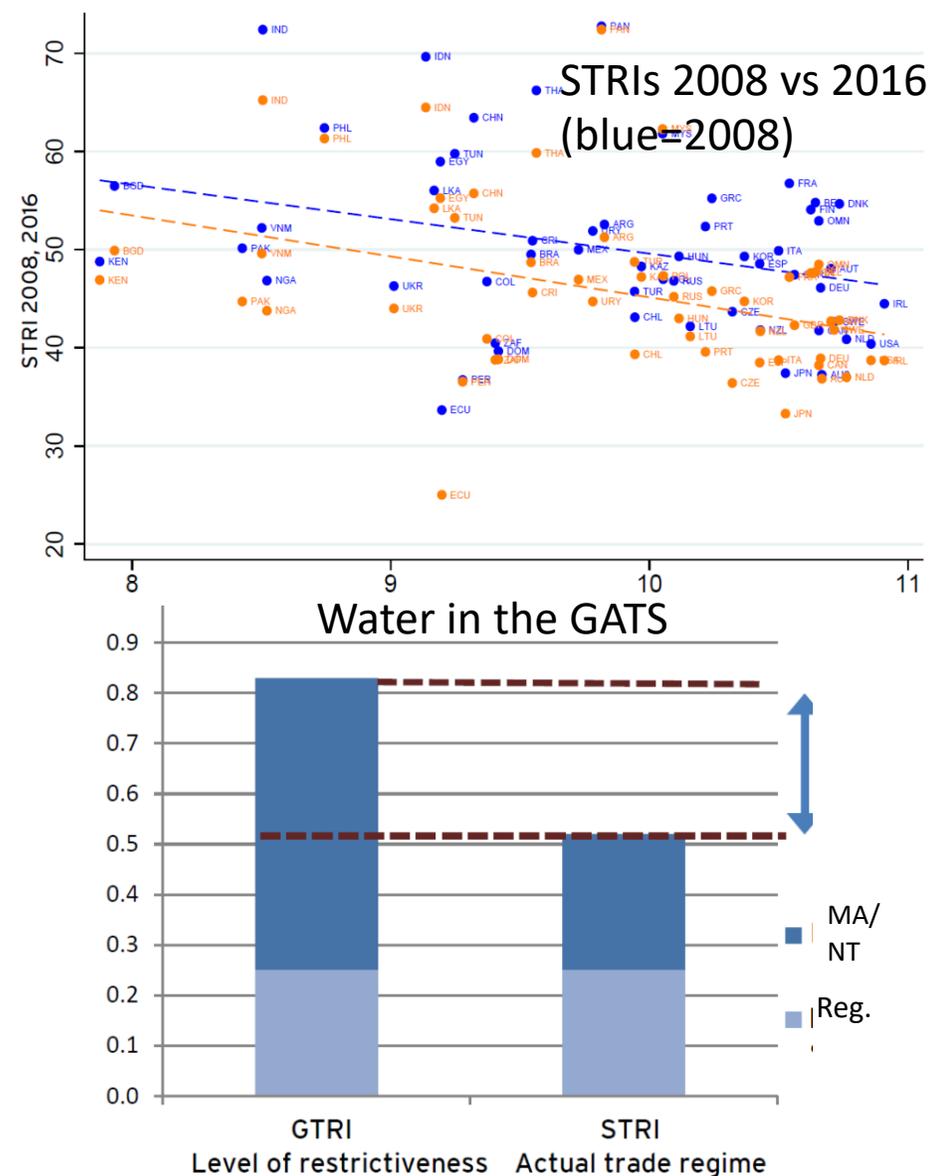
• SOEs

- Focus on behavior not ownership
- Reflect/build on recent treaties—CPTPP, RCEP, CAI— for possible approaches in WTO. Adoption of the “covered entity” approach used in the CAI could be a potential element
- EU and China – both jurisdictions with SOEs – should take the lead to create a WTO Working Party on SOEs to prepare the ground for a plurilateral negotiation on new rules for SOEs
- Need to start with developing a solid evidence base on competitive spillover effects



Digital trade (Ferracane/Li), services (Hoekman/Shi) & investment (Kurtz/Gong)

- Summarize history/state of play in WTO. Discussions on e-commerce/services date back to 1990s; investment would be new
- Large outstanding agenda for cooperation—one that matters for business and citizens/consumers as barriers to trade are significant
- PTAs have been main locus for cooperation, not WTO. PTAs, especially RCEP and the CAI – because China is a signatory – offer pointers to what might be feasible
- Common theme of these chapters: all three areas lend themselves to open plurilateral agreements that must include China to be meaningful
- Even if agreement on some matters is not possible, OPAs offer prospect of improved governance of trade and investment by promoting transparency, enhancing predictability (e.g., reducing water in GATS commitments) and supporting regulatory cooperation



Conclusion

- Four priorities on institutional front:
 - Establish a robust enabling environment for OPAs to permit outcomes of JSIs to be incorporated into the WTO – and encourage new ones (e.g., on trade/climate; public health)
 - Resolve the dispute settlement crisis
 - Revisit approaches towards transparency – notably for subsidies and SOEs
 - Address divide on development status & special and differential treatment
- Opportunity for China and the EU to work with like-minded to support work on this
 - China's request to accede to CPTPP; RCEP membership and agreement on CAI suggest there may be more scope to do so than many think
- To build basis for substantive negotiations on policies need informed deliberation
 - Many chapters call for work programs to update information/analysis of spillovers
- Necessary condition for progress is cooperation and agreement among large players
 - Build on trade/investment agreements that address subsidies; SOEs; digital trade matters
- Key question: do Members want to use WTO to help manage geo-political rivalry?

E-book can be downloaded from:

<https://voxeu.org/>

See also April 2021 special issue of *Global Policy* for complementary research on WTO working practices/reform:

<https://www.globalpolicyjournal.com/journal-issue/special-issue-trade-conflicts-multilateral-cooperation-and-wto-reform>

