Is the World Trade Organization responsible for protectionism?

A China Global Trade report

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At **ChinaGlobalTrade.com**, we believe that the health of the global economy and peace between sovereign nations depends on those nations having productive trading relationships – and that requires open, honest, fact-based dialogue. Our mission, then, is to encourage and foster such dialogue.

To accomplish that mission we produce "Content Packages" designed to cover a key issue in a way that brings balance to the discussion by presenting viewpoints from all perspectives within the debate; infuses facts (data) into the dialogue; and encourages readers/ listeners/ viewers to look at the issue from new angles.

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1. How to Read This Report

At ChinaGlobalTrade.com, our mission is to encourage and foster open, honest, fact-based dialogue on issues relating to China's trade with the world. To accomplish that mission, we seek insights from a wide range of experts, across geographies and perspectives, to offer our readers a balanced portal into the issues. The author of this report, ChinaGlobalTrade.com director Molly Castelazo, is not the expert on these issues; her role, rather, is to seek out and interview those experts, then to compile their insights into a cohesive discussion of the issue.

Instead of assuming and then arguing one position or another, this report presents viewpoints from experts broadly considered to be authorities on these issues as well as books, monographs, and other works previously published on this topic. It is up to the reader, then, to determine a conclusion.

The following experts graciously agreed to be interviewed for this report. ChinaGlobalTrade.com sincerely appreciates their time and insight. ***To note, interviewees' viewpoints are expressed in quotations with attribution. Otherwise, the views expressed in this report are the views of the author alone; errors and omissions are the author's alone.*** While there is consensus among some of the experts interviewed in the areas where consensus is noted, not every interviewee shares the viewpoints of the other interviewees or of the report as a whole.

Experts interviewed (for their full biographies, see Interviewee Biographies at the end of the report):

- Robert D. Atkinson, President, Information Technology and Innovation Foundation
- Norman R. Augustine, retired chairman and CEO of the Lockheed Martin Corporation and author of *Rising Above the Gathering Storm: Energizing and Employing America for a Brighter Economic Future*
- Pat Choate, Economist, former vice presidential candidate, author most recently of *Saving Capitalism*
- Bob Davis, Senior Editor, Wall Street Journal
- Ralph Gomory, Research Professor, NYU Stern School of Management
- Adam Hersh, Economist, Center for American Progress
- Leo Hindery, Chairman, US Economy/Smart Globalization Initiative at the New America Foundation
- Thea Lee, Deputy Chief of Staff, AFL-CIO
- Patrick Mulloy, Former Commissioner, US-China Economic & Security Review Commission
- Dick Nanto, Specialist in Industry and Trade, Congressional Research Service
- Clyde Prestowitz, President, Economic Strategy Institute, author most recently of *The Betrayal of American Prosperity*
- Keith Rockwell, Director, Information and External Relations Division, World Trade Organization
- Peter D. Sutherland, S.C., K.C.M.G., Chairman and Managing Director of Goldman Sachs International, former Director General of the GATT

We also sought the insights of experts in China. We reached out to a number of experts, and they have elected not to participate, which we find unfortunate. Our aim in these reports is to provide a balanced perspective on the issues. That balanced perspective is incomplete without the Chinese viewpoint. Our aim is to give a voice to the Chinese perspective, which is often not heard in these discussions. If you would like to participate in this or any other China Global Trade discussion, please email ChinaGlobalTrade.com director Molly Castelazo at molly@futureofuschinatrade.com.

2. Executive Summary

Is the World Trade Organization responsible for protectionism? That question is based on the idea that if the WTO is responsible for ensuring a level playing field for global traders, and if the global trading system is broken because the playing field is not level, and if global traders respond to an imbalanced field and ineffective referee with domestic protectionism, then the WTO is – theoretically – responsible.

In more detail, the thought process behind the question, "Is the WTO responsible for protectionism?" – and behind the expert opinions and literature review in the pages that follow is:

Is the global trade system broken? Experts, including Pat Mulloy and Ralph Gomory, find evidence that it is, including significant and growing trade imbalances that lead them to conclude that trade, as it is playing out, is not mutually beneficial. What has led to a broken global trading system in those ways? A number of experts, including Rob Atkinson and Dick Nanto, say that imbalanced foreign direct investment flows are one significant cause of the breakdown in the global trading system.

Then the question becomes, if the brokenness in the global trading system primarily centers on imbalanced trade, isn't it the mission of the WTO to create a level playing field for global trade? If that is in fact the mission of the WTO, has it succeeded in fulfilling that mission?

If the WTO has not succeeded in fulfilling its mission, has something else taken its place to level the global playing field? A number of experts, including Dick Nanto and Peter Sutherland, say that domestic protectionist policies and regional and bilateral trade agreements that eschew the WTO have risen as countries aim to create their own level playing fields in the absence of an effective WTO. (Hence, the question in the title, "Is the WTO Responsible for Protectionism?")

So if the WTO has not fulfilled its mission of leveling the global trade playing field, why hasn't it? Across the diverse views of the experts interviewed, three answers emerged to that question: the WTO doesn't deal with the most fundamental source of imbalance (FDI); the "players" of the field aren't playing the same game; and the multinational corporations that wield tremendous influence over policymakers favor the status quo.

For those experts who believe that the global trading system is broken – that the WTO has failed to ensure a level playing field for all and, in the absence of an effective multilateral trading system, domestic protectionism and regional and bilateral trade agreements that weaken multilateral trade have risen, the question becomes: How do we fix the global trading system?

2.1. What are the foreign trade and industrial policies of six of the world's largest trading nations?

Information from the World Trade Organization trade policy reviews and other sources will make clear how different the foreign trade and industrial policies of the six countries are – and that those differences are fundamental. *See Section 3.*

Bob Davis, a long-time reporter with the *Wall Street Journal*, explains, "Even with all the opening and all the reforms, you have China far on the right vis-à-vis the weight of state influence and state ownership, with the U.S. toward the left with the weight on corporate influence. China is certainly not a state-owned economy anymore and U.S. is certainly not a free market economy in the sense that people usually use that term, but there is indeed a great different between the two."[1]

2.2. What are the successes and failures of the global trading system?

Data showing huge imbalances demonstrate that trade is not at all mutually beneficial. Consider that in 2011 China had a $244 billion annual trade surplus, 9.3 percent annual growth, and $3.2 trillion in foreign reserves. The U.S. has a $738 billion trade deficit, 1.8 percent annual growth, and a national debt of $10 trillion and counting. *See Section 4.1.1*.

2.3. What are the sources of those successes and failures of the global trading system?

According to *The Economist*, "Charlene Barshefsky, American's trade negotiator at the time when China's entry into the WTO was being considered, fears that the rise of state capitalism may be undermining the post-war trading system. China's ability to make huge strategic investments, even to the point of creating new industries, puts private companies at a severe disadvantage." The article continues, "Peter Mandelson, a former EU trade commissioner, thinks that the 'huge and very real benefits of globalisation are being undermined by the distorting interventions of state capitalism from one direction and by the anxious politics of an increasingly defensive and fearful developed world from the other.'"[2]

Pat Mulloy, former commissioner on the US-China Economic & Security Review Commission, attributes much of the trade imbalance and associated distortions to the flow of FDI into China: "The whole purpose of the global trading system that we put into place after World War II is being undermined now by the policies of the mercantilist countries in Asia – Japan set the example. Singapore said 'Let the foreigners in!' and Deng Xiaoping did let them in, but it was part of an export-led growth strategy. When the U.S. Congress voted to give China permanent normal trade relations in 2000, our trade deficit was about $60 billion. Now it's $295 billion; we've had over $2.3 trillion in trade deficits with China in the past 10 years. People wonder why we don't have a healthy job base in this country for our people. Well, that's why!"[3]

Among China, the U.S., UK, Japan, Germany, and Brazil, the U.S. has consistently been a significant source of foreign direct investment. Since China acceded to the WTO in 2001, however, China has risen as a prominent FDI destination as well, outpacing the U.S. in 2010. What has China done with all that foreign investment? They've used it to build technological capabilities in key industries. In fact, data on the Chinese exports by type of enterprise show that foreign-invested enterprises (FIEs) in China account for a huge percentage of the country's exports (consistently well over half).

The percentage of *high-tech* exports accounted for by FIEs is even higher – more than 90 percent. According to a study by the U.S. International Trade Commission (USITC), in 2002 more than 99 percent of computer exports out of China were from FIEs.[4] According to a 2011 report by the Congressional Research Service, "China's accession to the WTO (with the reduction of trade and investment barriers)

[1] Bob Davis, Interview by Molly Castelazo, August 2012.
[2] *The Economist*, "The world in their hands," 21 Jan 2012, Special Report pp. 16-17.
[3] Pat Mulloy, Interview by Molly Castelazo, March 2012.
[4] USITC, How Much of Chinese Exports Is Really Made In China? Assessing Foreign and Domestic Value-Added in Gross Exports, report number 2008-03-B, March 2008, p. 21.

appears to have been a major factor behind the migration of computer production from other countries to China."[5]

But, according to experts including Dick Nanto and Rob Atkinson, the story doesn't end there. It was never China's endgame, they say, to have its highest-end export industries run by foreign-invested enterprises (typically foreign-Sino joint ventures). Phase 2, currently underway, is for China's own private (and, more often, state-owned) enterprises to take over from those foreign firms, now that they have the technological capability and human capital. It's a phenomenon that Nanto, a specialist in industry and trade with the Congressional Research Service, calls re-Sinofication.

"Now that foreign investors have played their key role in modernizing and industrializing the economy, Beijing is trying to reclaim business from the foreign investors. It reflects a deep-seated nationalism and distrust of foreigners. The current policy seems to be to invite the foreigners in, see how they do it, transfer their technology to local firms, and then beat them at their own game. Beijing wants its own national champion companies, such as Huawei and Lenovo, competing in international markets with their own brand name products and technology."[6]

To read more detailed expert insights about the role of foreign direct investment in the global trading system today, see Section 4.2.

2.4. What is the mission of the World Trade Organization (WTO)?

Huge and growing trade imbalances, as well as foreign direct investment that many experts see as having lopsided benefits for China, lead many experts to conclude that the global trading system is not working as it could be. Is it the responsibility of the WTO to ensure that the global trading system does work well?

According to its mission: "The WTO is the international organization whose primary purpose is to open trade for the benefit of all."[7] A statement from the director-general begins with: "The WTO provides a forum for negotiating agreements aimed at reducing obstacles to international trade and ensuring a level playing field for all, thus contributing to economic growth and development. The WTO also provides a legal and institutional framework for the implementation and monitoring of these agreements, as well as for settling disputes arising from their interpretation and application."[8]

According to Keith Rockwell, Director of Information and External Relations Division at the World Trade Organization, "Over time there were measures to reduce trade obstacles; it took course over eight so-called rounds of negotiation, the Doha Round being the ninth. In 1995 the WTO itself came into being and it was in some ways similar to the GATT but different in some very important ways, notably a much strengthened settlement dispute system, an inclusion of agriculture, services, and intellectual property protection in the mandate of the organization – we have an agreement that covers these things. And those were really the key issues…The basic principle of the WTO is non-discrimination. The reason why Roosevelt and others felt it was so important to have global rules for trade is that the rules of the game changes quite a lot historically and there was often an effort to use trade policy to pick some groups of countries or some countries against others."[9]

[5] Wayne M. Morrison, "China-U.S. Trade Issues," Congressional Research Service (August 2011), p. 9.
[6] Dick Nanto, Personal Communication, 1 Nov 2012.
[7] WTO, "About the WTO — a statement by the Director-General"
http://www.wto.org/english/thewto_e/whatis_e/wto_dg_stat_e.htm
[8] ibid
[9] Keith Rockwell, Interview by Molly Castelazo, September 2012.

Yet, according to experts such as Rob Atkinson, President of the Information Technology and Innovation Foundation, the WTO was not set up to deal with the factors causing the global trading system to malfunction, including foreign direct investment into countries with state-owned enterprises, implicit but not explicit technology transfer requirements, and lax intellectual property protection. Says Atkinson, "The WTO can't work to fully implement its promises; it works at suboptimal level and allows only certain disputes to be resolved. That's not to say that it's completely ineffective, but it cannot achieve its promise."[10]

To read more about the mission of the WTO, according to the experts, see Section 5.1.

2.5. If the role of the WTO is to be an arbiter of free trade – a referee of the "game" of international trade – has it succeed in that role?

According to Bob Davis, while the WTO is by no means perfect, it's fairly good at keeping countries playing by the rules. "If we scrapped the WTO, you'd have individual countries fighting individual countries. It would be much more politically fraught; it would be much more a system of big country vs. little country where the little country has absolutely no recourse…So again, do I think it's perfect? Not remotely. Is it barely effective? Yeah, probably, but I think it has some value."[11]

If the point of the WTO is to provide an environment in which trade disputes can be adjudicated so that they don't spiral into trade wars, Rockwell argues that the WTO has succeeded in that mission. "When China joined the WTO the notion of arbitration was a very foreign concept to the Chinese. I used to get phone calls from people saying 'This is an insult to our country' and I would say 'Well no it isn't, it's a very good way of taking a lot of steam out of these disputes. You bring it here, it gets resolved here, it doesn't get dragged on endlessly – you don't have Hu Jintao and Barack Obama talking about solar panels because they don't need to. You've got a system where it can be dealt with by lawyers and technicians and settled in a way that is in line with the rules.' Now not everyone likes the rulings, people tend to like the rulings when they win much more than when they lose but that's part of the system and I think that there is a certain order that has been brought about by this – you don't have countries responding to alleged rules of trade violation by taking unilateral trade actions, which could quickly spiral out of control."[12]

Other experts disagree, arguing that the WTO has not succeeded in its role as "referee" in the global game of trade. Pat Mulloy, a former commissioner on the US-China Economic & Security Review Commission, says, "What did the GATT talk about? The GATT, which is now in the WTO charter as well, talks about entering into reciprocal and mutually advantageous arrangements. Yet today our global trading relationships are not reciprocal and they're not mutually advantageous."[13]

A number of experts, including Rob Atkinson, and Pat Choate, economist and author most recently of *Saving Capitalism*, argue that the global trading system is actually worse off with the WTO than without it. Says Atkinson, "China gained the benefits of the WTO – which is to get access to markets – but they also got protection from the WTO. The U.S. cannot now unilaterally go after China because they're in the WTO. So they got a great deal: they got protection from being gone after and then on top of that there's a whole set of non-tariff barriers that they are the masters of. They could write a book on how to manipulate the trade system to your own advantage."[14]

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[10] Robert D. Atkinson, Interview by Molly Castelazo, September 2012.
[11] Bob Davis, Interview by Molly Castelazo, July 2012.
[12] Keith Rockwell, Interview by Molly Castelazo, September 2012.
[13] Pat Mulloy, Interview by Molly Castelazo, March 2012.
[14] Robert D. Atkinson, Interview by Molly Castelazo, September 2012.

Pat Choate agrees, "What [the WTO] does is give [policymakers in the U.S. and other rules-based economies] an excuse to go for process instead of results. They'll take the issue to the WTO through a procedure and then they'll go through an appeal and they'll have a decision and they'll quibble about it for years and they kick the can down the road and the problem to their successor."[15]

To read more expert opinions about whether the WTO has succeeded as an arbiter of free trade – a referee of the "game" of international trade – see Section 5.2.

2.6. Has something else replaced the WTO to level the playing field of global trade?

If it is true that the WTO has failed to ensure a level playing field for all, one theoretical response from countries would be to stop trading. But that hasn't happened. So if the WTO is not effective, has something else filled the void – something else to "level the playing field" of global trade?

According to some of the experts interviewed, including Dick Nanto, a specialist in industry and trade with the Congressional Research Service, domestic protectionism has been rising. The thinking is this: If the WTO won't protect economies against their partners' unfair trading practices, they'll protect themselves. Says Nanto, "If we think one of our trading partners is not abiding by their WTO commitments, we can negotiate or file a case with the WTO, but these take a long time, they're very expensive and the outcome is not certain. It's much easier for companies to go through our section 301 antidumping or something like that than the free trade practices route, and it's a little surer in terms of the outcome." He adds, "The WTO is fairly toothless when it comes to enforcing trade agreements" – for as noted before it is voluntary.[16]

One marker of protectionism is "trade defense" measures – anti-dumping and anti-subsidy (countervailing) cases heard by domestic governments. Nanto says, "The anti-dumping cases seem to be the vehicle of choice to getting protection. It used to be that anti-dumping cases were fairly few but they seem to be getting through now and there are dumping margins so it seems to be a better route for getting protection for your industry for Americans at least. The Chinese are doing the same thing against the U.S., believe it or not, American cars and various things."[17]

Increasingly, countries are turning to "murky" protectionism – the use of "non-tariff measures." The WTO warns that as fiscal stimuli around the world are scaled back (at the same time that unemployment remains high and economic growth slow), "murky" protectionism may rise. "Protection may then take more complex and more subtle forms, imperfectly covered by WTO disciplines. This illustrates the need for strengthening and updating the WTO rule-book, in particular by drawing on lessons of the crisis and recent developments."[18]

The problem with unilaterally imposed domestic protection policies – even those like anti-dumping and countervailing duties, which are allowed within WTO rules – is that they are circumventions of the WTO process. Dick Nanto explains, "Looking at it from an efficiency point of view, the problem of using an unfair trade practices route – especially with respect to China – is that it goes through the U.S. Department of Commerce. The Department of Commerce tends to side with the U.S. because there is a natural bias – they're in charge of U.S. commerce, right? … So I would guess that there would be greater

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[15] Pat Choate, Interview by Molly Castelazo, September 2012.
[16] Dick Nanto, Interview by Molly Castelazo, August 2012.
[17] ibid
[18] "World Trade and the Doha Round: Final Report of the High-Level Trade Experts Group," World Trade Organization, May 2011.

protection in using domestic law as opposed to going through the WTO or free trade agreements. The other problem is that China tends to retaliate. We think our commerce department is pro-U.S., well China's bureaucracy is blatantly pro-China and they tend to retaliate very quickly; if we come up with an anti-dumping order they will come around and find something against us. So it tends to create these sorts of mini trade wars."[19]

To read more expert opinions about the rise of domestic protectionism, see Section 5.3.1.

Regional and bilateral trade agreements are another way that countries have acted outside of the World Trade Organization in the attempt to level the playing field. According to the World Bank, the number of preferential agreements has increased from about 70 in 1990 to almost 300 today.[20]

Peter Sutherland, who headed the GATT from 1993-1995 (when it became the WTO), argues that "the Transpacific trade area, for example, or the even more incredible idea of a North Atlantic free trade area will end up being protectionist devices if they ever happen – they won't happen in my book, but they will divert attention from where attention should be given, which is toward multinationalism."[21]

Like the use of domestic protection measures, the increasing prevalence of preferential agreements weakens the WTO. Clyde Prestowitz, President of the Economic Strategy Institute, explains: "When you don't have a well-functioning comprehensive global system, you wind up with various bilateral and mutual agreements, but those agreements tend to undermine the international system."[22] The authors of a 2011 report on world trade and the Doha Round, *World Trade and the Doha Round: Final Report of the High-Level Trade Experts Group*, agree: "Preferential trade agreements are a distraction from the greater goal of a multilateral trade deal."[23]

Sutherland, who co-chaired the study, notes that "I would much prefer to have seen bilateral development taking place under the umbrella of the WTO than outside it. If we fail to recognize the enormous benefits that the GATT system brought to the whole globalization process – which is central to the ambitions of China – then we're missing the whole point. And I think the point is being missed in regards to the Doha round, which itself is emblematic of the WTO. If the WTO loses credibility then its dispute settlement mechanism and its potential as a negotiating forum based on the principal of most favored nation and non-discrimination will be eroded, and that will open up the opportunity for fractious trade disputes that cannot get resolved and for more protectionism. So I'm deeply disappointed with where we are and I blame the big traders, China and the U.S. in particular, for not pushing the multinational system forward. And a price will be paid for this; it's already beginning to be imminent in terms of protectionism."[24]

To read more expert opinions about the rise of bilateral and regional trade agreements, see Section 5.3.2.

2.7. If the WTO has not fulfilled its promise to ensure a level playing field, why not?

Based on the insights of those experts who believe that the WTO has not lived up to its potential, there are three broad reasons why.

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[19] Dick Nanto, Interview by Molly Castelazo, August 2012.
[20] "China 2030: Building a Modern, Harmonious and Creative High-Income Society." Development Research Center of the State Council, the People's Republic of China, (2012), p. 64.
[21] Peter Sutherland, Interview by Molly Castelazo, October 2012.
[22] Clyde Prestowitz, Interview by Molly Castelazo, August 2012.
[23] "World Trade and the Doha Round: Final Report of the High-Level Trade Experts Group," World Trade Organization, May 2011, p. 11.
[24] Peter Sutherland, Interview by Molly Castelazo, October 2012.

1. ***The first reason, according to the experts, is that the WTO doesn't deal adequately with a fundamental source of trade imbalance: foreign direct investment (FDI).*** According to the U.S. Trade Representative and the Information Technology and Innovation Foundation, the WTO doesn't adequately address FDI-related imbalances because it is not set up to do so. According to the United States Trade Representative (USTR) in its review of China's WTO compliance, "China has revised many laws and regulations on foreign-invested enterprises to eliminate WTO-inconsistent requirements relating to export performance, local content, foreign exchange balancing and technology transfer, although some of the revised measures continue to 'encourage' one or more of those requirements."[25] For example, while China has signed on to the Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement, according to the Information Technology and Innovation Foundation, China "helps its domestic firms and hurts foreign firms by turning a blind eye to intellectual property theft, even within its own government agencies."[26]

   To read more of the experts' opinions on why the WTO doesn't adequately address FDI, including that negotiators were working off of the "Japan model" (closed to FDI); China's policy direction is quite different today than at the time of the country's accession to the WTO; and negotiators side with MNCs, which derive huge benefits from FDI in China, see Section 6.1.

2. ***The second reason why the WTO has not fulfilled its promise to ensure a level playing field, according to the experts who believe the WTO has not been effective, is that Western nations subscribe to rules-based trade, which is in alignment with the WTO framework, but other nations (including China, Brazil, and Japan) subscribe to results-based trade, which is not consistent with the WTO framework.***

   Leo Hindery, chairman of the US Economy/Smart Globalization Initiative at the New America Foundation, explains, "Trade is supposed to be balanced; if we go back into the 1700s the whole premise of trade is that countries would use their comparative advantage, but at the end of the day that advantage would bring everything in balance. Well it's so acutely out of balance. If [that were] because the premise of trade was simply wrong that's fine, but if it's out of balance because one country follows one rule of trade and the other country follows another, you have to find a common ground. For reasons that are hard to understand, for decades now China seems to be allowed to follow one rule of trade and we follow another. We either need to acknowledge that that's an acceptable outcome, which I don't believe it is, or we need to seek a redress."[27]

   Rob Atkinson explains, "China rejects the 200-year old framework of trade based on comparative advantage and is really seeking absolute advantage. Chinese don't think of themselves as engaged in global trade, they see themselves as engaged in global autarchy, self-sufficiency, domination. The Chinese are attempting to achieve that goal by a wide array of clearly unfair and in some cases inappropriate mercantilist trade practices."[28]

   To read more of the experts' opinions on how deep-seeded philosophical differences affect countries' relationships with and attitudes toward the WTO – and their trading partners – see Section 6.2.

[25] "2011 Report to Congress On China's WTO Compliance," United States Trade Representative, Pg. 10, December 2011.
[26] Robert D. Atkinson. "Enough is Enough: Confronting Chinese Innovation Mercantilism." The Information Technology & Innovation Foundation, (2012), p. 38.
[27] Leo Hindery, Interview by Molly Castelazo, March 2012.
[28] Robert D. Atkinson, Interview by Molly Castelazo, September 2012.

3. ***The third reason why the WTO has not fulfilled its promise to ensure a level playing field, according to the experts who believe the WTO has not been effective, is that multinational corporations favor the distorted trade status quo (with heavy FDI into China) because it benefits them; their interests are not aligned with national interests in the U.S. or Europe.*** According to Clyde Prestowitz, "China's not a leading aircraft manufacturer, so on a free trade basis you wouldn't expect that aircraft manufacturers would be rushing to produce in China. But some of them are. It's clear that they are doing so because China has made it clear that if they want to sell in China they need to produce in China and need to transfer the technology."[29]

   Even international trade agreements, says Pat Mulloy, are influenced by corporate lobbyists. "I went to the big Uruguay Round meeting going on in Brussels either in '90 or '91 and what I saw was all the lobbyists who were traditionally on Capitol Hill over there lobbying trade negotiators to get what they wanted into the trade agreements. Those weren't trade agreements; they were fixes to get some of the corporations what they wanted."[30]

   So U.S. policymakers, according to Atkinson and other experts, kowtow to multinational corporations because that's where their campaign financing comes from. But have they always? Pat Mulloy says no. "We used to have a stakeholder theory of what a corporation was about; the corporation was supposed to serve the community, the employees – and the shareholders were somewhere among those listed. In the mid 1980's something morphed in our system, and the emphasis became solely shareholder value, and then the CEOs of the companies tied their own compensation to shareholder value. Their short-term motives are now to make as much money as quickly as they can, and the whole system drives them to do that whether they want to or not. So now they have both an institutional and a personal motive to engage in activities that increase shareholder value in the short term but are not always good for the U.S. employees or the community."[31]

   To read more of the experts' opinions on the relationship between what's good for multinational corporations and what's good for domestic economies – and why multinational corporations seem to win with policymakers – see Section 6.3.

2.8. If the WTO is responsible for protectionism, are there ways the global trading system could be fixed?

The overwhelming consensus among the experts interviewed is that trade can be mutually beneficial with the right framework in place to do, in essence, what the WTO claims as its mission: ensure a level playing field. Across the experts interviewed, five ideas emerged for ways to fix the global trading system.

1. ***Develop multilateral trade agreements that address FDI (and have real teeth for punishing transgressors)***. Information Technology and Innovation Foundation president Rob Atkinson writes, "The WTO needs to focus on developing an enforceable regime that addresses the many non-tariff mercantilist actions nations take. The WTO system is still largely about 'trade' agreements relating mostly to imports and exports. Thus, it addresses export restraints and export quotas, but the root cause – a production cartel run by a government – is not addressed. One place to start to fix this would be to institute enforceable actions with regard to rules for joint venture requirements; and to base requirements on real conditions on the ground, not some provisions in a government legal code. There is no national security reason for China to extend joint venture requirements to as many

[29] Clyde Prestowitz, Interview by Molly Castelazo, August 2012.
[30] Pat Mulloy, Interview by Molly Castelazo, March 2012.
[31] ibid

industries as they do. A second area where new rules are needed regards SOEs. The idea that opaque, heavily subsidized, and favored SOEs compete in the global trading system competing with firms that must raise their own capital in the marketplace makes a mockery of the idea of fair and welfare enhancing competition. A third area is standards. Standards manipulation for competitive advantage should more easily be WTO-actionable."[32]

2. ***Develop multilateral trade agreements based on a middle-ground philosophy to focus on outcomes rather than rules***. A number of observers suggest the U.S. move more toward Germany and develop a trade policy that is subservient to industrial policy (which in turn is designed for one specific purpose: to promote national interest). According to Thea Lee, deputy chief of staff at the AFL-CIO, "Trade policy is a very important piece of a comprehensive overall economic and industrial strategy and we haven't done it very well. So I think we need to rethink our trade policies in terms of the so-called free trade agreements that the U.S. enters into – we need a set of policies that are going to incentivize companies to create good jobs here in the U.S. We need to rethink what is the model of trade agreement do we seek? What kind of protections for worker rights, for environmental standards, even for investment and intellectual property rights, financial services – we need to rethink those rules so that we are incentivizing job creation in the U.S."[33]

   As "state capitalism" has risen in Asia, Brazil, and Russia, Western Europe seems poised to follow suit. As *The Economist* describes, "The European Commission's directorate for enterprise and industry has mused on the need to create European champions to fight 'unfair competition' from overseas. Nicolas Sarkozy, [then] French president, has created a sovereign-wealth fund. Alexandre de Juniac, as chief of staff to Christine Lagarde, then France's finance minister, ascribed his country's renewed enthusiasm for dirigisme to China's influence. Japan's Ministry of Economy, Trade and Industry in 2010 named the rise of state capitalism as one of the drivers of a newly interventionist industrial strategy."[34]

   Clyde Prestowitz sees the same trend. "All of the Asian countries are pursuing mercantilist policies of one kind or another, everybody's doing strategic export trade and in Europe the Germans have their own kind of industrial policy and export led strategy and the rest of Europe is kind of being forced to become more German. So yes, I think that's kind of the trend of the world."

   "We've got to move toward results-oriented trade," says Rob Atkinson. "The U.S. is committed to a process-oriented trade regime and that works with Canada, it works with Europe mostly, because fundamentally those are rule-based countries. It doesn't work with non-rule based countries like China. We can keep trying to tweak the rules and keep trying to bring cases to the WTO – which we should – but fundamentally we need to say to our trading partners, 'These are the results we want. We expect them to happen and if they don't there will be penalties.'"[35]

3. ***Multinational corporations could form a coalition to insist on fair treatment in emerging markets.*** To resolve the problem of multinational corporations lobbying for the status quo, Rob Atkinson suggests forming a coalition of MNCs to have real power to negotiate with state capitalist countries. Given that China gets away with mercantilist behavior in large part because MNCs feel powerless to stop it, with the threat of being pitted against each other and locked out of the world's fastest-growing market. Atkinson suggests that if the world's MNCs banded together to face China with a unified

[32] Robert D. Atkinson. "Enough is Enough: Confronting Chinese Innovation Mercantilism." The Information Technology & Innovation Foundation, (2012), p. 82.
[33] Thea Lee, Interview by Molly Castelazo, March 2012.
[34] *The Economist*, "And the winner is…" 21 Jan 2012, Special Report p. 18.
[35] Robert D. Atkinson, Interview by Molly Castelazo, September 2012.

front, that would go a long way to reducing China's forced technology transfer, IP theft, domestic content mandates, and the like.

Says Atkinson, "[The Information Technology Innovation Foundation] has argued for a new law that would allow companies to get an anti-trust exemption with regard to their decisions to invest in China, to give companies the ability to ban together and say, 'We're all willing to invest in China but were not going to give them our technology.' They all agree on that ahead of time and then if the Chinese say, 'If you don't give us your technology you can't invest' then none of the companies invest. Then China can't play companies against one another."[36]

4. ***Policymakers must demonstrate real leadership.*** Even if the perfect solution is evident – and there are many good ones – it has to be implemented. And that's where the difficulty lies. Policymakers have been incredibly reluctant to make any meaningful change in either their own country's trade policy or WTO rules. "The solutions are not a problem," says Pat Choate. "The problem is politics."

   According to Ralph Gomory, research professor at the NYU Stern School of Management, "I do think that [the solution] will require a raised consciousness outside of Washington D.C. In other words a wider assortment of people have to become active and say 'What we are doing right now is not good enough' – it will take almost a mass movement to overcome the financial power of the corporations."[37]

   In the May 2011 report from the high-level trade experts group for the WTO, Peter Sutherland and his co-authors cite a dearth of political leadership as a primary reason for the failure of the Doha Round, which the authors call emblematic of the failure of the WTO. The authors write, "This report traces the imminent failure of the Doha Round back to a deficit of political leadership. It is a failure at the level of national governments to engage with a multilateral process that ranks alongside the emerging climate change negotiations and the global reform agenda for financial markets after the banking crisis in its capacity to shape the global economy for the better. It is a failure above all of national leaders, who are ultimately the only players who can provide the legitimacy and room for manoeuvre that is required to close a negotiation at a level of ambition that will require compromise from all."[38]

5. ***Policies must align what's good for multinational corporations with what's good for their home countries.*** Speaking at a hearing of the U.S.-China Commission, NYU Stern School of Management research professor Ralph Gomory suggested: "We need to consider a U.S. national economic strategy that includes incentives for companies to have high value-added jobs in the United States. If we want high value-added jobs, let us reward our companies for producing such jobs – whether they do that through R&D and advanced technology, or by just plain American ingenuity applied in any setting whatsoever."[39]

To read more of the experts' opinions on how the global trading system could be fixed, see Section 7.

[36] Robert D. Atkinson, Interview by Molly Castelazo, September 2012.
[37] Ralph Gomory, Interview by Molly Castelazo, March 2012.
[38] Peter Sutherland, Jagdish Bhagwati, Kwesi Botchwey, Niall FitzGerald, Koichi Hamada, John H. Jackson, Celso Lafer and Thierry de Montibrial. "The Future of the WTO: Addressing institutional challenges in the new millennium." World Trade Organization, (2004): 0-86.
[39] Ralph Gomory, Testimony before the U.S.- China Economic and Security Review Commission Hearing on China's Five-Year Plan, Indigenous Innovation and Technology Transfers, and Outsourcing (15 June 2011). http://www.uscc.gov/hearings/2011hearings/written_testimonies/11_06_15_wrt/11_06_15_gomory_testimony.pdf

For those experts who believe that the global trading system is broken – that the WTO has failed to ensure a level playing field for all and, in the absence of an effective multilateral trading system, domestic protectionism and regional and bilateral trade agreements that weaken multilateral trade have risen, the question becomes: How do we fix the global trading system?

Among the diverse viewpoints of the experts interviewed, a theme emerged: that whatever the answer is, it must acknowledge that free market capitalist economies (those on the "invisible hand" side of the spectrum) and state capitalist economies (those on the "heavy hand" side) are founded on fundamentally different philosophies about the roles of the state and the enterprise and the goal of trade policy.

The answer is certainly not to close borders to trade. But it is to insist that countries abide by a single set of rules that facilitate the outcomes that maximize benefits for all traders. It is to insist that mercantilism is not a sustainable growth strategy and that countries that engage in it will not be allowed to partake in the benefits of global trade. And, it is to insist that foreign direct investment be a vehicle for mutually beneficial growth among all parties, not a rise of one at the expense of the others. With a system that accounts for these issues, trade can be mutually beneficial.

2.9. Recap of expert opinions[40]

The purpose of bringing together noted experts from a wide range of backgrounds with a wide range of perspectives was not to generate a consensus on the question of "Is the WTO responsible for protectionism?" But in interviews with those experts, as well as an in-depth review of a wide variety of publications, some themes emerged. Those themes make up the body of this report, and where experts disagree, those disagreements are explored. For that reason, we strongly encourage readers to read on through the full body of the report.

That said, there were a number of common themes noted by the experts, including:

- There are deeply entrenched, fundamental differences in trade and industrial policies between the world's largest trading nations.
- Those fundamentally different philosophies cause problems, including FDI-related trade imbalances, as global economic integration continues to increase.
- Avoiding imbalanced outcomes is what the World Trade Organization was designed to do. According to the organization's mission: "The WTO is the international organization whose primary purpose is to open trade for the benefit of all."
- The WTO has fallen short in its role as an arbiter of mutually beneficial trade. The global trading system is undermined not only by the "distorting interventions of state capitalism" in China, Japan, Brazil, and elsewhere, but also by the lack of an effective response from those countries' trading partners (including the U.S. and Western Europe).
- In the absence of an effective WTO, the void has been filled by protectionist domestic policies, and bilateral and regional trade agreements. They weaken the WTO further.
- There are three key reasons why the WTO has failed to "level the playing field" of global trade:
    1. The WTO doesn't deal with the most fundamental source of imbalance, which is foreign direct investment

[40] These are themes that emerged from among the diverse viewpoints of the experts interviewed. They do not represent the views of every expert interviewed.

2. Western nations subscribe to rules-based trade, which is in alignment with the WTO framework, but other nations (including China, Brazil, and Japan) subscribe to results-based trade, which is not consistent with the WTO framework
3. Multinational corporations favor the distorted trade status quo (with heavy FDI into China) because it benefits them in the short term; their interests are not aligned with national interests in the U.S. or Europe

- There are five ways to fix the global trading system so that it does generate mutually beneficial outcomes:
    1. Establishing multilateral trade agreements that address FDI (and have real teeth for punishing transgressors)
    2. Building multilateral trade frameworks based on a middle-ground philosophy to focus on outcomes rather than rules
    3. Multinational corporations could form a coalition to insist on fair treatment in emerging markets
    4. Policymakers must demonstrate real leadership
    5. Policies must align what's good for MNCs with what's good for their home countries

In the end, it will depend on an effective mutually beneficial multilateral trade system and on the will of policymakers to make change happen.

3. What are the Foreign Trade and Industrial Policies of Six of the World's Largest Trading Nations?

There are deeply entrenched, fundamental differences in trade and industrial policies between the world's largest trading nations. Philosophies about the role of the state in enterprise and the extent to which national interests guide trade policy range from laissez faire, "invisible hand"[41] on one end of the spectrum (U.S., UK) and state capitalism, "heavy hand" on the other (China, Brazil).

Countries on the left end of the spectrum in the figures below generally believe that the market is best left alone, guided by an "invisible hand" that leads individuals to maximize their own self-interest and thus, maximize the interest of the society. These countries can generally be called laissez faire, a French term for "allow to do" that describes economic policy opposed to government intervention in the economic affairs of individuals and the market.

Countries on the right end of the spectrum in the figures below, in contrast, generally believe that the interest of the society is maximized when the state intervenes in the market and guides the decisions of individuals. These countries can broadly be categorized as state capitalist, a system in which the state has some level of control of production and the use of capital, characterized by a significant number of companies that are owned, supported, or directed by the state.

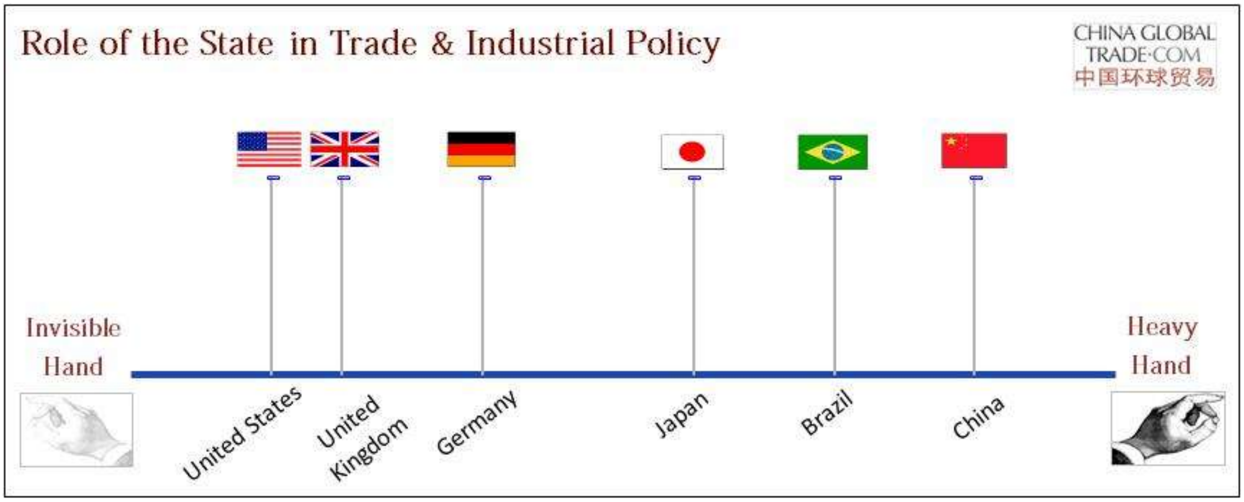
According to Bob Davis, a long-time reporter with the *Wall Street Journal*, if there is a continuum between completely market-guided open free trade and completely state-guided mercantilism, China is toward one end (on the right in Figure 1) with mercantilist national industrial policies guiding its foreign trade policy. The U.S. is toward the other end of the continuum (on the left in Figure 1) rejecting the idea of industrial policy (in philosophy if not always in practice), and embracing laissez faire free trade. Davis explains, "Even with all the opening and all the reforms, you have China far on the right vis-à-vis the weight of state influence and state ownership, with the U.S. toward the left with the weight on corporate influence. China is certainly not a state-owned economy anymore and U.S. is certainly not a free market economy in the sense that people usually use that term, but there is indeed a great difference between the two."[42]

[41] "Invisible hand" is a term coined by economist Adam Smith in his 1776 book *An Inquiry into the Nature and Causes of the Wealth of Nations*. Smith writes: "Every individual necessarily labours to render the annual revenue of the society as great as he can. He generally neither intends to promote the public interest, nor knows how much he is promoting it ... He intends only his own gain, and he is in this, as in many other cases, led by an invisible hand to promote an end which was no part of his intention. Nor is it always the worse for society that it was no part of his intention. By pursuing his own interest he frequently promotes that of the society more effectually than when he really intends to promote it. I have never known much good done by those who affected to trade for the public good."

[42] Bob Davis, Interview by Molly Castelazo, August 2012.

Figure 1: Role of the State Continuum

A continuum with laissez-faire, free market capitalist economies on the left ("invisible hand") and mercantilist, centrally-planned, state capitalist economies on the right ("heavy hand").



In between the U.S. and China is the German model "where you'll have a great deal of government influence through the banking system, you'll have a cartelized industry, you'll have certain national objectives tied in and disguised as economic policy," explains Pat Choate, a former vice presidential candidate, and author most recently of *Saving Capitalism*.[43] To an even greater extent, the Japanese model offers very clear protection for industry when it is deemed to be in the national interest. For example, says Choate, the Japanese have created a sanctuary market for their auto industry. "To keep up a robust domestic auto market, the Japanese – through a variety of means – will not allow our cars into their market."

Choate adds, "The Chinese have taken a variety of the Japanese model. They've had to be more direct and cruder in their protectionism but they'll basically demand the exchange of technology, they'll demand next generation licenses on technology, they will steal the technologies." The Brazilian model is closer to the Chinese one, especially as far as state ownership in enterprise is concerned, though the Brazilians have in philosophy at least embraced foreign trade to a greater extent.

It is broadly true that China, Brazil, and Japan are at the right hand of the spectrum (run based on a "heavy hand" of government philosophy) while the U.S., United Kingdom, and Germany are on the left hand of the spectrum (run with a more "invisible hand" philosophy). However, in some cases the countries fall in very different order across the spectrum – using public spending on research and development as a measure, for example, the U.S. and Japan sit on the right "heavy hand" side and Brazil and China on the left. Figures 2-5 showcase some examples.

[43] Pat Choate, Interview by Molly Castelazo, September 2012.

Figure 2, for example, shows how each of the six countries rank according to an OECD measure of state control (based on the government's regulation of product markets). Here, China is at the farthest "heavy hand" end of the spectrum, with the United States at the far left.

Figure 2: Role of the State Spectrum Measure 1 – State Control of Enterprise

A continuum with laissez-faire, free market capitalist economies on the left ("invisible hand") and mercantilist, centrally-planned, state capitalist economies on the right ("heavy hand"). Based on the OECD measure of product market regulation – the extent to which policy settings promote or inhibit competition in areas of the product market where competition is viable.

Figure 3 plots each country's applied most favored nation (MFN) tariff rate, which is the average tariff rate the country applies to other WTO members. Brazil's applied rate is the highest (indicating a heavier hand of government) while Japan's is quite low, and the U.S.' applied rate is the lowest (indicating that the government "stays out of the way" of free markets in terms of this aspect of trade with WTO members).

Figure 3: Role of the State Spectrum Measure 2 – Applied Most Favored Nation (MFN) Tariffs

A continuum with laissez-faire, free market capitalist economies on the left ("invisible hand") and mercantilist, centrally-planned, state capitalist economies on the right ("heavy hand"). Based on each country's average applied MFN tariff as reported to the WTO.

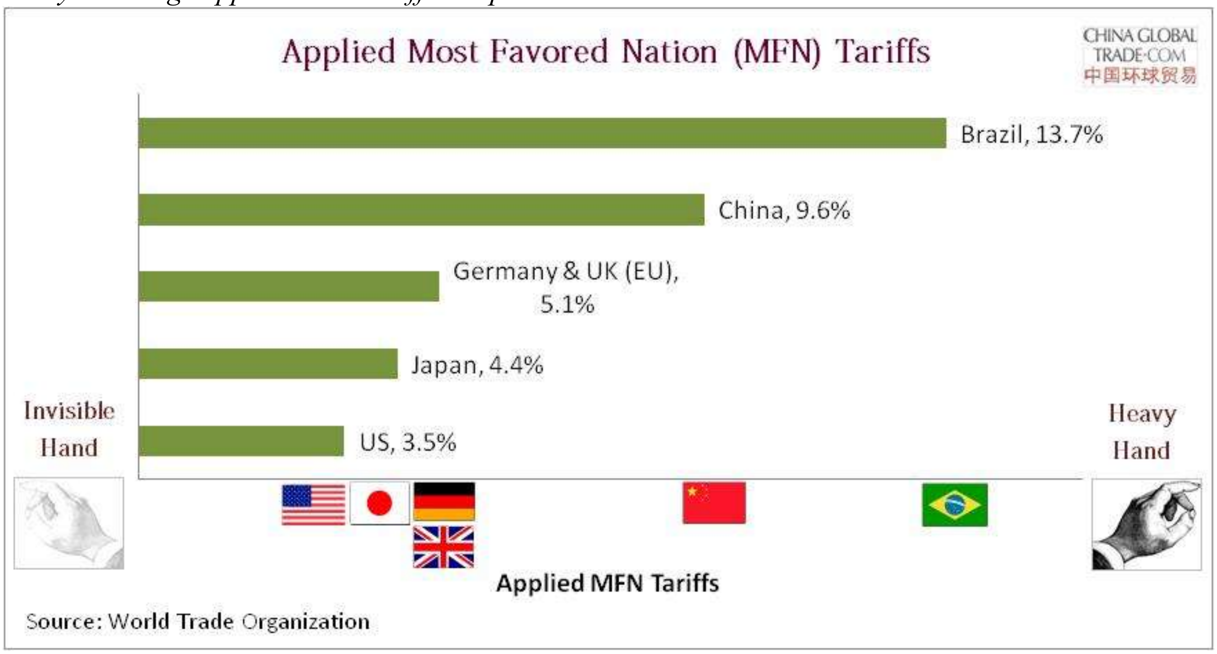


Figure 4 shows the number of antidumping (AD) and countervailing (CV) duties that each country currently has in force. Japan, it is made clear, does not make use of the WTO mechanism to apply AD/CV duties, while the United States has made heavy use of the mechanism.

Figure 4: Role of the State Spectrum Measure 3 – In-force Antidumping and Countervailing Duties

A continuum with laissez-faire, free market capitalist economies on the left ("invisible hand") and mercantilist, centrally-planned, state capitalist economies on the right ("heavy hand"). Based on the number of antidumping and countervailing duties each country has currently in force.

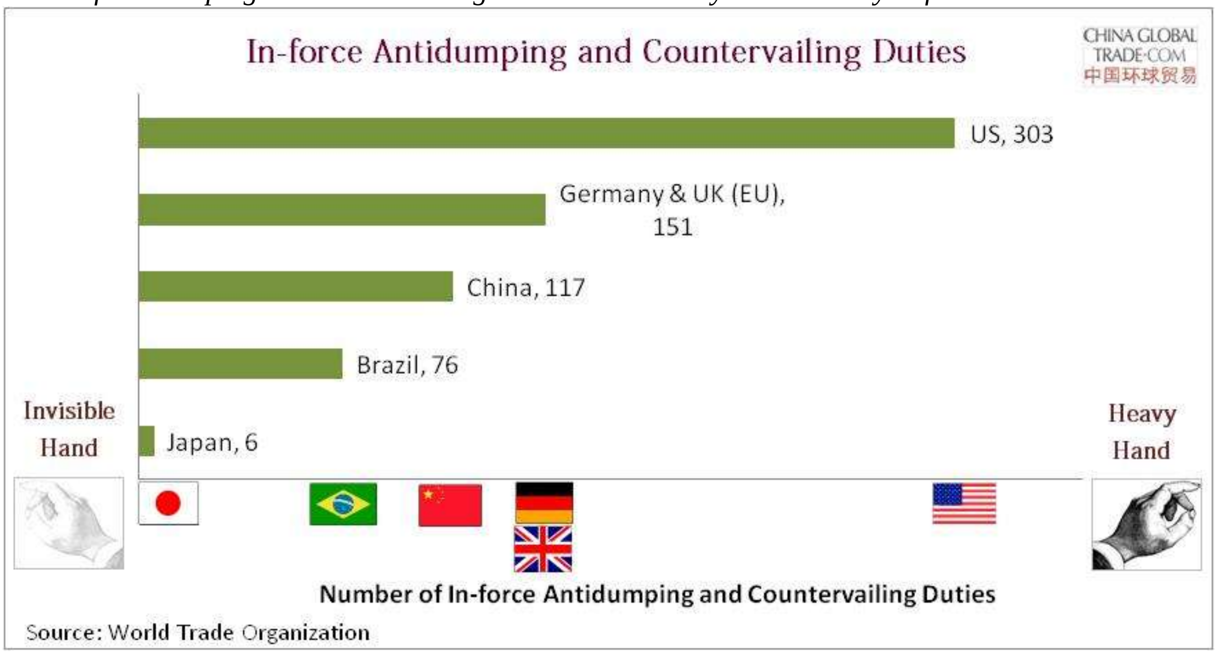
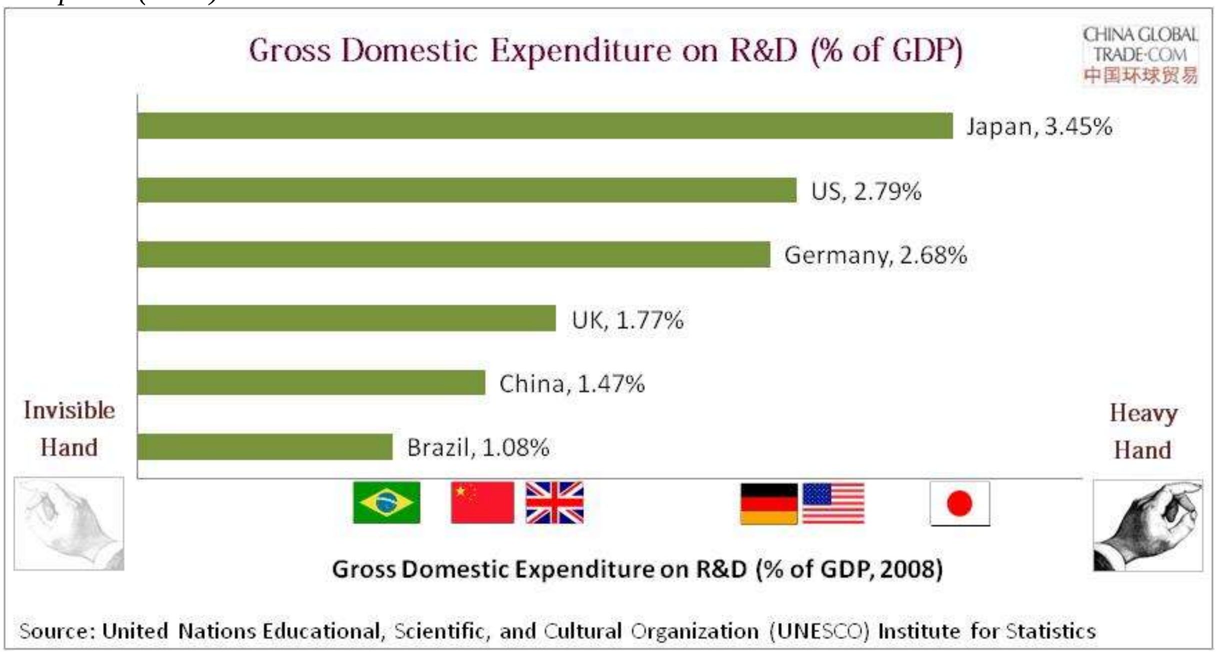


Figure 5 shows the percentage of GDP that each country expends on research and development. Spending on R&D is one way that the government can encourage innovation among enterprises (in the U.S., NASA's federally-funded space programs, for example, have been a tremendous source of commercial innovation). In this sense, R&D expenditure is an intervention in the market (though clearly of a different type than, say, subsidies, of course).

Figure 5: Role of the State Spectrum Measure 4 – Gross Domestic Expenditure on R&D

A continuum with laissez-faire, free market capitalist economies on the left ("invisible hand") and mercantilist, centrally-planned, state capitalist economies on the right ("heavy hand"). Based on the percentage of gross domestic product (GDP) that each country spends on publicly funded research and development (R&D).



3.1. China's Foreign Trade and Industrial Policies

Though not the founder of state capitalism, China is quite likely its most famous devotee. In the last five years, China has at the same time continued its trade liberalization *and* intensified state intervention in the economy. China strategically uses both trade policy and industrial policy to further its goals – to accelerate its opening to the outside world (with a view to acquiring foreign technology and knowhow); develop foreign trade; and promote economic development. Within this overall trade policy objective, the 12th Five-Year Plan (covering 2011-15) emphasizes exports and inward foreign investment as well as imports and outward foreign investment.[44] In this context, China aims to stabilize exports, expand imports, and thus reduce the trade surplus, according to Chen Deming, who has been Chinese Minister of Commerce since 2007.[45] The authorities intend to achieve this objective through import facilitation measures, as well as further preferential trading agreements.[46]

[44] The 12th Five-Year Plan, Part XII.
[45] Minister Chen Deming answered journalists' questions at a press conference during the 11th National Congress, 7 March 2011. Transcripts viewed at: http://www.gov.cn/2011lh/zhibo/20110307a.htm [25 May 2011].
[46] World Trade Organization, "China Trade Policy Review," 8 May 2012, p. 15.

Perhaps the most emblematic feature of industrial policy in China is state ownership of enterprise. The government actually owns more than half of the companies, and most of those are "dramatically influenced by government policy," says Bob Davis, a senior editor with the Wall Street Journal.[47] As *The Economist* points out, "state-directed capitalism is not a new idea," but it has "undergone a dramatic revival." Whereas "In the 1990s most state-owned companies were little more than government departments in emerging markets; the assumption was that, as the economy matured, the government would close or privatize them. Yet they show no signs of relinquishing the commanding heights."[48]

While state ownership of corporations is anathema to America's free market ethos (when the government purchased shares of GM in 2008, it was only to keep the automaker's imminent collapse from taking the rest of the economy down with it) in China it is not seen in the same negative light. Says Davis, "In China, I think they look at it differently. State-owned enterprises (SOEs) are independent in the sense that they look to make profits, which is different from the way it used to be, but on the other hand, they're sort of like a department of the state as well. What we may consider a subsidy, Chinese leaders may consider a funneling of money through a department. The term 'state owned' is not seen as a pejorative in China. In fact, for young people, I'm told the number one place they'd like to work is a state-owned company because they're seen as more secure, which is pretty amazing given how vibrant some of China private enterprises are. It's a very different view of the world."

The problem that SOEs pose for the global trading system is that it is extremely difficult, if not impossible, for private companies to compete – especially when the state backing the enterprise is China, with $3.2 trillion in reserves. "In my business career, I have tried to compete with foreign governments and also my own government on at least one occasion, and there is no way that a firm – and Lockheed Martin was at the time I think one of the 25 largest in the country – there is no way the company could compete with governments," explains Norm Augustine, retired chairman and CEO of the Lockheed Martin Corporation and author of *Rising Above the Gathering Storm: Energizing and Employing America for a Brighter Economic Future*.[49] "The governments make the rules, enforce the rules, and interpret the rules, so the governments could dominate the market in certain areas."

Perhaps the most emblematic feature of industrial policy in China is state ownership of enterprise.

Another problem with China's SOEs, explains James McGregor, is that state capitalism in China is actually more aptly called "Authoritarian Capitalism." In an interview with the *Wall Street Journal*, McGregor, formerly the head of the American Chamber of Commerce in China and author, most recently, of *No Ancient Wisdom, No Followers*, explained: "[Authoritarian Capitalism refers] to the 117 huge central SOEs, many of them monopolies. If you really look at it, the system has evolved in the past decade so that the party controls these SOEs more than the government does. The Central Organization Department of the party appoints the top leaders and they outrank the bureaucrats who are nominally supposed to be the SOEs' regulators. The party is also able to use the SOEs for preserving political power as much as for building the economy. That's the heart of the Authoritarian Capitalist system in China today."[50]

[47] Bob Davis, Interview by Molly Castelazo, August 2012.
[48] *The Economist*, "The rise of state capitalism," 21 Jan 2012, p. 11.
[49] Norm Augustine, Interview by Molly Castelazo, August 2012.
[50] Wall Street Journal China RealTime Report, "Eight Questions: James McGregor, 'No Ancient Wisdom, No Followers'," 1 Oct 2012. http://blogs.wsj.com/chinarealtime/2012/10/01/eight-questions-james-mcgregor-no-ancient-wisdom-no-followers/?mod=WSJBlog

For example, as Derek Scissors, Senior Research Fellow for Asia Economics at The Heritage Foundation points out, in a number of industries, China has erected market access barriers (including technology transfer requirements and domestic subsidies).[51] Also, foreign-invested enterprises in China report discrimination against foreign enterprises. According to the 2011 Report to Congress on China's WTO Compliance by the United States Trade Representative (USTR), "China has added a variety of restrictions on investment that appear designed to shield inefficient or monopolistic Chinese enterprises from foreign competition."[52] For example:

> In November 2006, NDRC released a five-year plan on foreign investment, which promises greater scrutiny over foreign capital utilization. This plan calls for the realization of a 'fundamental shift' from 'quantity' to 'quality' in foreign investment from 2006 to 2010, with the state's focus changing from shoring up domestic capital and foreign exchange shortfalls to introducing advanced technology, management expertise and talent. The plan seeks to restrict foreign enterprises' acquisition of 'dragon head' enterprises, prevent the 'emergence or expansion of foreign capital monopolies,' protect national economic security, particularly 'industry security,' and prevent 'abuse of intellectual property.' The plan also directs that more attention be paid to ecology, the environment and energy efficiency and demands tighter tax supervision of foreign enterprises.[53]

Another example of China's foreign trade and industrial policies is its policy on government procurement. China is not yet a member of the WTO Government Procurement Agreement, but it has applied several times. In June 2011, China announced the decoupling of its 'indigenous innovation' policy from government procurement provisions. Chinese authorities maintain that there is no longer any indigenous innovation condition attached to government procurement, but China does not consider procurement by SOEs as government procurement.

The inability or unwillingness of the Chinese government to enforce intellectual property rights is yet another example of the implicit policies in China that are not technically in violation of the WTO but nevertheless go far to impede balanced trade. According to the WTO Trade Policy Review, "China is in the process of revising its legal regime and updating a comprehensive set of laws and regulations aimed at protecting the intellectual property rights of domestic and foreign entities in China, but some key improvements in China's legal framework are still needed, and China has continued to demonstrate little success in actually enforcing its laws and regulations in the face of the challenges created by widespread counterfeiting, piracy and other forms of infringement."[54]

For more detail on China's foreign trade and industrial policies, based on the last WTO trade policy review, see in Table 3: China's Foreign Trade and Industrial Policies (2012) Appendix 1.

3.2. Brazil's Foreign Trade and Industrial Policies

A founding member and steadfast believer in the World Trade Organization, Brazil nonetheless engages a variety of trade and industrial policy mechanisms counter to WTO principles to promote economic

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[51] Derek Scissors, "The Most Important Chinese Trade Barriers," Testimony before the United States House of Representatives Committee on Foreign Relations, 19 Jul 2012.
http://www.heritage.org/research/testimony/2012/07/the-most-important-chinese-trade-barriers
[52] "2011 Report to Congress On China's WTO Compliance," United States Trade Representative, Pg. 10, December 2011.
[53] "2011 Report to Congress On China's WTO Compliance," United States Trade Representative, Pg. 10, December 2011.
[54] ibid.

growth. The government provides a range of support mechanisms, including export financing, tax incentives for regional development, and price support for agriculture. But the heavy hand of the state is most obvious in state trading and state ownership of enterprises – a "policy decision that government control is appropriate to accomplish strategic objectives."[55] (See Table 4 for details.)

Brazil's state-trading enterprises are PETROBRAS; BR Distribuidora; COBRA; INB; CONAB (Companhia Nacional de Abastecimento); CMB; and the energy company ELETROBRÁS.[56] Since 2002, six state-owned enterprises operating in the financial sector have been privatized, one in the electrical sector was incorporated, and four were dissolved. But the State still controls a relatively large number of enterprises. In 2008, there were 135 majority government-owned enterprises covering a wide range of activities, including electricity, petroleum and petrochemicals, port services, transportation services, and health services. Twenty of these 135 government-owned enterprises operate abroad.

In August 2011, the Brazilian president released a new industrial policy plan – Plano Brasil Maior (Greater Brazil Plan) – to "improve the competitiveness of national industries in the context of a strengthening currency and increased international competition."[57] The plan sets several targets, including fostering the innovativeness of Brazilian companies. The programs that the plan outlines to achieve those goals include financial and tax relief to domestic producers as well as hiring incentives. Several of the programs are specifically geared to certain industries, sometimes defined at a very detailed level."[58]

Brazil promotes those national industries in a variety of ways, including with subsidies. The country provides domestic producers support and incentives at both the federal and the state levels. In general, support for production and investment is provided primarily though official credit – 30 percent of total credit in 2008 went to earmarked activities, and the national development bank (BNDES) managed more than half of that. Such credit is offered at significantly below-market rates, and in some cases is linked to local-content requirements.

Between Brazil's trade policy reviews in 2004 and 2009, the government liberalized its trade regime in some respects but also increased average tariff protection. Recommends the WTO: "Brazil needs to press on with its efforts to give additional impetus to trade and investment, including lowering effective tariff protection, reducing the use of import prohibitions, and providing greater predictability to the foreign investment regime."[59]

For more detail on Brazil's foreign trade and industrial policies, based on the last WTO trade policy review, see Table 4: Brazil's Foreign Trade and Industrial Policies (2009) in Appendix 1.

3.3. Germany's Industrial Policies

On almost every industrial policy and trade policy measure, Germany sits squarely in between the United States and the United Kingdom as devotees of the Adam Smith/David Ricardo "invisible hand" philosophy and China and Brazil, pioneers of heavy-handed state capitalism (see Section 3 for

[55] World Trade Organization, "Brazil Trade Policy Review," 11 May 2009.
[56] A state-trading enterprise may or may not be state-owned. The WTO definition of an STE is: "A private corporation or enterprise that receives some special right or privilege from the State (that is, a right or privilege not generally available to other private sector entities in the same area and thus giving the enterprise an advantage over those firms) and that as a result of this right or privilege is in a position to influence the level or direction of trade."
[57] Annabelle Mourougane, "Refining Macroeconomic Policies to Sustain Growth in Brazil," OECD *Economic Department Working Paper*, No. 889, October 21, 2011.
[58] ibid
[59] World Trade Organization, "Brazil Trade Policy Review," 11 May 2009.

definitions). Yet Germany claims that it does not follow a "strategic vision." Instead, its industrial policy is "focused on creating the ideal general conditions for doing business across all sectors and all parts of the value chain – something that has produced conditions especially favorable to long-term investment in high-tech manufacturing."[60]

In Germany, industrial policy is not so much a policy as a "highly embedded cross-government framework to which all parties subscribe." It is, in essence, a philosophy, much like the absence of industrial policy is in the United States. Yet Germans are still firm believers in the power and the value of free enterprise. Where China and Brazil would have the state and the enterprise intertwined, Germany looks to create the right conditions for industrial competitiveness, then the free enterprise flourish.

As such, Germany has remained a manufacturing powerhouse – not by competing on labor costs (labor is relatively quite expensive in Germany, especially given the entrenchment of labor unions), but by competing on its highly-skilled, innovative workforce. "The initial building-block when it comes to policy is a considerable investment in a highly skilled, vocational workforce, a workforce capable of innovating to create and manufacture advanced precision instruments. With this as a base, a raft of policies is designed explicitly to foster long-term stability. Close relationships between banks and industry encourage patient investment, while the full commercialization of R&D is encouraged through tax breaks and collaborative public-private partnerships."[61]

As a member of the European Union, Germany is somewhat constrained in its sovereign trade policies. The EU members are represented at the World Trade Organization as a whole; complaints are filed by or against the EU rather than an individual country, and trade policy reviews are conducted for the EU. The EU, by its own reporting, does not maintain any state trading enterprises. State ownership of enterprises varies significantly across member states.

Like most economies, the European Union provides subsidies in some cases for the development of key technologies or in certain industries. For example, one of the most famous recent export subsidy disputes was filed against the EU by the United States, which claimed that financing by Germany, Spain, and the United Kingdom for the development of the A380 aircraft constituted prohibited export subsidies. The panel found in the United States' favor; the EU has appealed the panel report.[62]

For details on the European Union's trade policy as detailed in the last WTO trade policy review, see Table 5: European Union's Foreign Trade and Industrial Policies (2011) in Appendix 1.

3.4. The United Kingdom's Industrial Policies

Since before the Industrial Revolution, the United Kingdom has been the bearer of the laissez-faire standard of minimal government involvement in trade and industrial policy – a standard that it very clearly passed on to the United States. On most measures of the role of the state, the United Kingdom and the United States are together on the side of Adam Smith's "invisible hand."

Not that either the United States or the United Kingdom are completely hands-off. In fact, the previous Labor Coalition in the UK took a "New Industry, New Jobs" approach to guided economic development.

[60] "Industrial Policy: Germany," *C.B.I: The Voice of Business,* http://www.cbi.org.uk/media-centre/case-studies/2012/03/industrial-policy-germany/
[61] ibid
[62] In parallel the EU challenged a number of U.S. measures affecting trade in large civil aircraft. In July 2010, the Chairman of the panel set up in the context of this dispute informed the Dispute Settlement Body that the panel expects to complete its work in the first half of 2011.

The current Coalition, though, has taken a much less favorable stance on industrial policy. "Whether this is because of its focus on deficit reduction, which limits the amount of money available to support an [activist] approach, or is the result of an ideological attitude to government intervention, is unclear. In truth, it is probably a mixture of the two."[63]

Today the UK's strategy on trade and investment follows three key goals: 1) Maximizing and realizing the opportunities for businesses in the UK to trade and invest; 2) Attracting investment into the UK; and 3) Strengthening the multilateral trading system including enabling developing countries to benefit from trade and investment. [64]

As a member of the European Union, the United Kingdom is somewhat constrained in its sovereign trade policies. The EU members are represented at the World Trade Organization as a whole; complaints are filed by or against the EU rather than an individual country, and trade policy reviews are conducted for the EU.

Individual EU member countries offer government financing to achieve specific means. During the recession and financial crisis that began in 2007, that kind of financing has skyrocketed – most notably to bail out failing banks, but for other sectors as well. In the UK, for example, the Automotive Assistance Programme included €2.5 billion in loans and guarantees to the automotive sector.

Excluding crisis-related aid, most of the subsidies given by EU member states were directed at manufacturing, followed by agriculture. According to the WTO, grants and tax exemptions were the most common instruments for provision of state aid, accounting for approximately 93 percent of the total in 2009.[65] Both Germany and the United Kingdom relied most heavily on tax exemptions, which comprised at least 50 percent of state aid.

For details on the European Union's trade policy as detailed in the last WTO trade policy review, see Table 5: European Union's Foreign Trade and Industrial Policies (2011) in Appendix 1.

3.5. Japan's Foreign Trade and Industrial Policies

Japan has been the leader in Asia in carrying out mercantilism. British Minister E. F. G. Hatch, in his 1904 book *Far Eastern Impressions*, wrote, "In the first place it has to be noted that Japan, unlike either China or Korea, is a rigidly protectionist country. While the government of the two last-named countries are content with moderate dues for revenue purposes, she imposes an exceedingly onerous tariff... Side by side with this familiar form of protection, Japan maintains in the regulations against foreign ownership of land a system of trade exclusion peculiarly her own. Free trade is, in fact, an expression unknown in the Japanese political vocabulary."

"You can follow through the years, again and again, a variety of Japanese protectionist measures up to the present time," explains John Walsh, Hinrich Foundation Trade Policy Research Advisor and Professor Emeritus of Management at the John M. Olin School of Business at Washington University. "[Measures] include forcing Texas Instruments to give their technology to Japanese companies before they would sell their products in Japan. Another example occurred in 1975, when Dow Chemical Japan was not allowed to produce caustic soda in Japan although at that time it was the world's low cost producer. Even today,

[63] "German lessons: developing industrial policy in the UK," *TUC: Trades Union Congress*, December 8, 2011, http://touchstoneblog.org.uk/wp-content/uploads/2012/01/GermanLessons.pdf
[64] "What's new in Trade Policy," BIS: Department for Business Innovation & Skill, http://www.bis.gov.uk/policies/trade-policy-unit/news
[65] The total comprises aid for industry and services only.

Hyundai, the Korean auto maker, is not allowed to sell its automobiles in Japan. Japanese tariffs are low. Understand that the WTO only deals with tariff and non-tariff means of protectionism. No world organization can tell a retailer or a distributor what they must charge for their products or services. When the exchanges rate of U.S. dollars to yen went from 360 to 80, Japanese retailers did not reduce the price of American products. They simply had higher margins of profit. When I asked several retailers why they didn't lower the price of American goods, most said the Japanese are used to paying more for American products.

In his 2003 book *Structural Reform in Japan: Breaking the Iron Triangle*, former Japan Vice Minister of Finance Eisuke Sakakibara described the country's economic system as "competition guided by the visible hand." Sakakibara writes, "The Japanese corporate system, or Japanese management system, has been successful because of its corporate culture built around technology and the permanently employed professional management staff, which was influenced by humanism, permanent employment, seniority, and industry-specific associations. Although the Japanese system was different from the neoclassical model, it created an environment of continuous technological innovation and fierce competition…In comparison to the neoclassical competition of the invisible hand, Hiroyuki Itami characterized the B2B system of the keiretsu as competition guided by the "visible hand" and skillfully described its characteristics. Compared with market competition, the keiretsu system had certain shortcomings, such as the limited freedom allowed to individual companies, strong group management, and a tendency to become rigid over the medium to long term. On the other hand, the advantages of technology and information sharing were numerous."[66]

Today, like many Asian economies, Japan follows a model of state capitalism, though to a lesser extent than China does. State-owned enterprises (SOEs) in Japan include Nippon Telegraph and Telephone Corporation (NTT), Japan Tobacco Inc. (JT), Narita International Airport Corporation, Kansai International Airport Co., Ltd., INPEX Corporation, and Japan Petroleum Exploration Co. Ltd. All shares of Hokkaido Railway Company, Shikoku Railway Company, Kyushu Railway Company, and Japan Freight Railway Company are held by Japan Railway Construction, Transport and Technology Agency, a government affiliated corporation.

Japan's trade policy serves the objective of long-term prosperity and growth. According to the WTO's most recent trade policy review, Japan has refrained from introducing new trade barriers, "notwithstanding the onset of the global financial crisis" but it has also introduced few measures furthering trade liberalization.

Aside from financial crisis and recession-induced imbalances, Japan has suffered for more than a decade from stagnated productivity growth – some say because of its state-directed picking of winners in the 70s and 80s (though to be fair, a number of the world's largest and most successful companies are Japanese). In an effort to jump-start productivity growth, in June 2010 Japan introduced the New Growth Strategy to support the development of seven strategic industries: environment and energy; medical and health care; economic integration with other Asian countries; tourism and revitalization of regional economies; science and technology; human resources; and financial services.

The Innovation Network Corporation of Japan (INCJ) was established in 2009, with 89 percent of its capital financed by the government. "The INCJ aims to promote innovation by investing in what is deemed as promising projects in areas of environment, energy, infrastructure, and others."[67]

[66] Sakakibara, Eisuke. Structural Reform in Japan: Breaking the Iron Triangle. Washington, DC, USA: Brookings Institution Press, 2003. p 64.
[67] Until June 2010, the INCJ had invested in five companies, including an aqueduct company and a wind electricity company. See the INCJ online information. Viewed at: http://www.incj.co.jp/english/ news. html [18.06.2010].

At the same time, Japan plans to reduce its corporate tax rate and generally increase the transparency and reduce the complexity of its tax incentives in an effort to attract more foreign direct investment, which has to date been much smaller than other large OECD economies. Japan is also pursuing 21 specific national strategic projects, which include a feed-in tariff system to promote the adoption of clean energy; infrastructure projects; developing the Free Trade Area of the Asia-Pacific (FTAAP); and enhancing R&D investment.[68]

According to the WTO, "Japan is currently a party to eleven Economic Partnership Agreements (EPAs) which include elements of Free Trade Agreements and institution-building covering areas such as investment, competition, intellectual property rights and human resources development. Japan is also involved in several on-going negotiations for EPAs. Japan believes that these agreements will serve as building blocks to reach higher trade liberalization at the multilateral level."[69]

For more detail on Japan's foreign trade and industrial policies, based on the last WTO trade policy review, see Table 6: Japan's Foreign Trade and Industrial Policies (2011) in Appendix 1.

3.6. United States' Foreign Trade and Industrial Policies

The United States is the global poster child for free market capitalism. According to the last U.S. trade policy review by the WTO, "The U.S. trade and investment regimes are among the most open in the world." Yet while the U.S. is at the "invisible hand" end of the spectrum, there is still clear government involvement in many aspects of private enterprise in America. "Every country to a certain extent has the government involved in the economy. Look at the aerospace industry in the U.S. – through programs like NASA and various defense programs, the government has had a very beneficial role in developing the industry," explains Keith Rockwell, director of the Information and External Relations Division at the World Trade Organization.[70]

Rather than using trade policy and heavy-handed industrial policy to drive national economic goals, as state capitalist countries generally do, the U.S. generally focuses government support on maintaining an environment in which private enterprise can thrive. For example, a recent report from the National Academy of Sciences, National Academy of Engineering, Institute of Medicine, and National Research Council, *Technology and the Nation's Future*, begins "Private firms have the primary responsibility for the development and adoption of technology in this country, but federal and state governments play an important role in enhancing civilian technology development and adoption through their economic, regulatory, and trade policies, their support for research and development, and their own procurement of technology."[71]

Other examples of a focus on government support for an environment in which private enterprise can thrive include a strong equal opportunity education system; strict adherence to the rule of law (including IP protection); government investment in research and development; spillovers from public sector R&D to the commercial sector; and government procurement. For example, the 2005 "Rising Above the Gathering Storm" report included four recommendations for how the U.S. federal government could promote economic competitiveness. None involved state direction of resources or even capital:

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[68] Yukio Edano, "Initiatives toward the Creation of the New Industries and New Markets," March 2, 1012. http://www.meti.go.jp/english/policy/economy/growth/pdf/120302_01.pdf
[69] World Trade Organization, "Japan Trade Policy Review," 17 February 2011.
[70] Keith Rockwell, Interview by Molly Castelazo, September 2012.
[71] National Academy of Sciences, National Academy of Engineering, Institute of Medicine, and National Research Council, "Technology and the Nation's Future," 1997. http://www.nas.edu/21st/technology/

1. Move the United States K-12 education system in science and mathematics to a leading position by global standards.
2. Double the real federal investment in basic research in mathematics, the physical sciences, and engineering over the next seven years (while, at a minimum, maintaining the recently doubled real spending levels in the biosciences).
3. Encourage more United States citizens to pursue careers in mathematics, science, and engineering.
4. Rebuild the competitive ecosystem by introducing reforms in the nation's tax, patent, immigration and litigation policies.[72]

For the most part, state ownership of enterprise is not a feature of the American policy landscape. There are some exceptions; Congress has created "government corporations" to achieve certain public policy objectives. 28 entities fall into that category, including the Federal Deposit Insurance Corporation, Tennessee Valley Authority, and the Federal Prison Industries in the Department of Justice. In addition, there are government-sponsored enterprises (GSEs) – five financial institutions chartered by Congress for a public purpose, but privately owned, for-profit firms.

As part of its response to the financial crisis and recession, the U.S. government acquired an equity stake in several companies through the Troubled Asset Relief Program. Its equity interest is approximately 80 percent in American International Group (AIG), 60 percent in the reconstituted General Motors (GM), 56 percent in General Motors Acceptance Corporation (GMAC, now Ally Financial), 10 percent in the reconstituted Chrysler, and 27 percent in Citigroup. The Government plans to dispose of its equity stake in those companies "as soon as practicable."[73]

Though party to the Government Procurement Agreement, the United States' American Recovery and Reinvestment Act of 2009 (ARRA), signed into law in February 2009, contains two 'buy American' provisions. One requires the Department of Homeland Security to acquire textile and apparel goods manufactured in the United States, subject to certain exceptions. The other "establishes a domestic preference" for iron, steel, and manufactured goods produced in the United States and used as construction material in public buildings and public works funded by the ARRA.

The U.S. maintains strict control on inward foreign direct investment; all foreign investors are required to be approved by the Committee for Foreign Investment in the United States. Like many other developed countries, the U.S. also maintains sector-specific market access restrictions on FDI.

For more detail on the United States' foreign trade and industrial policies, based on the last WTO trade policy review, see Table 7: United States' Foreign Trade and Industrial Policies (2010) in Appendix 1.

[72] National Academy of Sciences, National Academy of Engineering, Institute of Medicine, "Rising Above the Gathering Storm, Revisted," 2010. http://www.uic.edu/home/Chancellor/risingabove.pdf
[73] Congressional Oversight Panel (2009).

4. What is the State of Global Trade Today – What are the Successes and Failures of the Global Trading System?

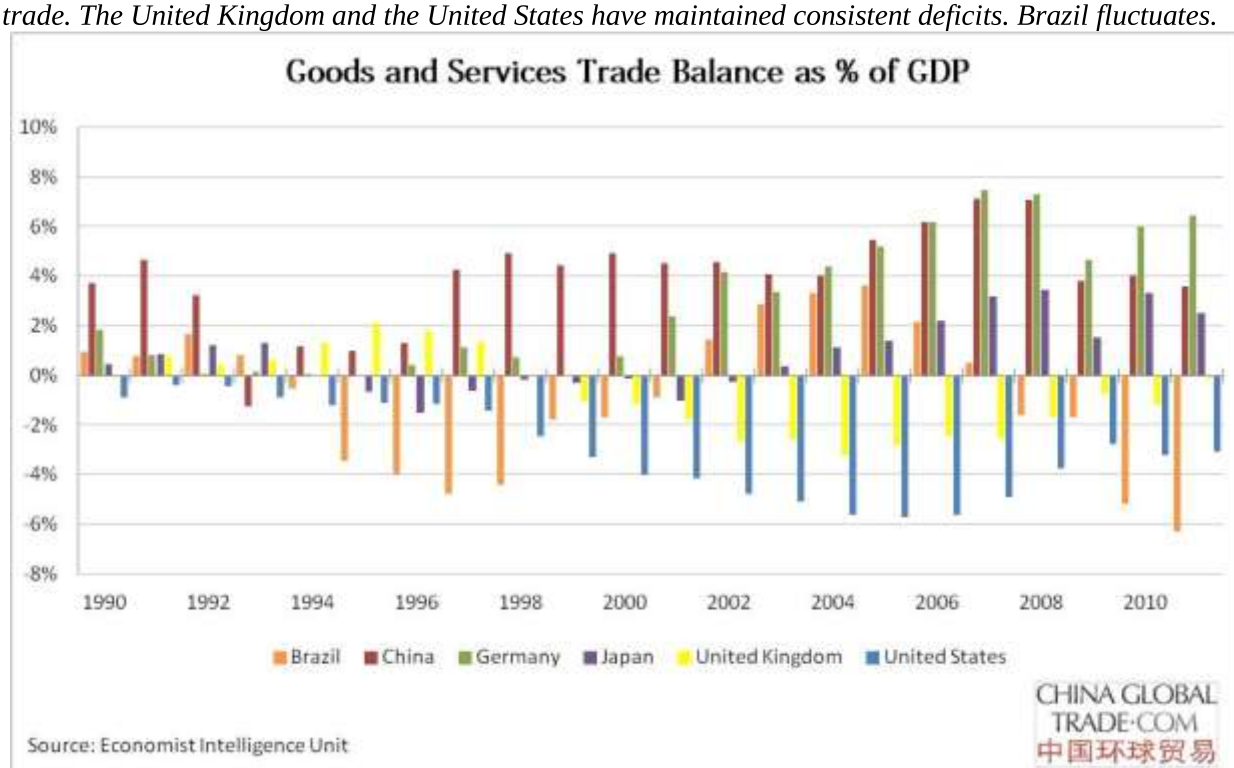
Do fundamentally different philosophies, of the kind detailed in the previous section, lead to problems in globalization? Clyde Prestowitz certainly thinks so, "The fundamental premise of all U.S trade/globalization talks and discussions is that the participants are all playing the same game of liberal, neo-classical, free market, resource endowment and comparative advantage based free trade. This is a totally false premise that immediately gets the discussions off in irrelevant directions. The global economy is, in fact, sharply divided between those who are playing the free trade game and those who are playing some form of mercantilism."[74]

4.1.1. Trade Imbalances Are Huge, and Growing

Data showing huge imbalances demonstrate that trade is not at all mutually beneficial. Consider that in 2011 China had a $244 billion annual trade surplus, 9.3 percent annual growth, and $3.2 trillion in foreign reserves. The U.S. has a $738 billion trade deficit, 1.8 percent annual growth, and a national debt of $10 trillion and counting.

Figure 6: Goods and Services Trade Balance as a Percentage of GDP, 1990-2011

Since 1990, China, Germany, and Japan have maintained consistent surpluses in goods and services trade. The United Kingdom and the United States have maintained consistent deficits. Brazil fluctuates.



[74] Clyde Prestowitz, "China's not breaking the rules. It's playing a different game," ForeignPolicy.com, 17 Feb 2012. http://prestowitz.foreignpolicy.com/posts/2012/02/17/chinas_not_breaking_the_rules_its_playing_a_different_game

4.2. Is Trade Always Mutually Beneficial?

Why do different philosophies lead to trade imbalances? Here a metaphor can be helpful: Imagine that one country has a team on the field playing by the rules of American football. The other country has a team on the field playing by the rules of soccer. So one team picks up the ball and runs with it, throws it, and knocks other players down. That's all fair play according to the rules of American football, but according to the rule of soccer, picking up the ball to run with it and rough contact with other players is illegal. Imagine which team will win: it's the team playing by the rules of American football, of course. But that outcome is not determined by which team plays soccer or football better; it is determined, rather, by which rules the teams adhere to.

As Prestowitz and others translate that metaphor to global trade, when one country adheres to the rules of laissez faire free market capitalism (no touching the ball, no knocking down other players), it is handicapped against the country playing by the rules of mercantilism (basically, anything goes as long as it furthers your economic development). What's the outcome of that match-up? The Prisoner's Dilemma illustrates it well: when one country is committed to the free market (collaboration) and the other is committed to state capitalism (protection), the outcome is grossly imbalanced (see Figure 7).

The Anglo-American view of the world – on which the World Trade Organization is founded – is one based on comparative advantage. Not only is the world better with free trade, the theory goes, but individual countries are better too. It doesn't much matter whether Country A makes wine or wool; by specializing in one and trading with Country B for the other, everyone is better off.

Yet Ralph Gomory, research professor at NYU Stern School of Management, says that's not the way the real world works.[75] What if, he posits, Country A decides to produce wine *and* wool. Then what? That is what many see happening with China and its trading partners: China is sucking all of the production from the U.S., for example. First it was just toys and clothes, which was fine, Americans said, "Because we don't really have a comparative advantage at producing those low-value added goods." But now it's semiconductors and airplanes – the very goods that the U.S. used to claim a comparative advantage in.

"Now in that imaginary world of perfectly free trade, what if one of the trading partners starts to get better at a lot of stuff?" Gomory asks. "For some reasons some people say that's great, productivity has risen and the global pie is bigger. But that's not true. Let's make it simple and say one trading partner started from a relatively underdeveloped state, as China did, and the other started from a developed state. When the underdeveloped country starts out and improves, it's good for both countries. But when it gets closer to where the developed country is, it turns bad for the developed country and continues to be good for the developing country. That's not mercantilism, that's just free trade – the natural course of development can have a negative impact."

Gomory continues, "Now I want to state this very, very carefully: it might still be true that although China's growth has a negative impact on the U.S., total world production may have continued to go up. It's really good for the developed country to have an undeveloped trading partner, but the world total is better when you're both developed. So that would be a great place to go for the world, but here's the catch: the newly developed country (e.g. China) could gain if the formerly developed trading partner lost its industries and became undeveloped. So there is a certain instability in what is otherwise a very desirable outcome (a bigger pie for all)."

Not every expert believes that trade can benefit one country at the expense of another. "[If it were true that globalization with China or the EU or anyone else essentially steals American jobs], the

[75] Ralph Gomory, Interview by Molly Castelazo, March 2012.

consequences of that argument being won – as it is being won – is inevitably protectionism," argues Peter Sutherland, who was Director General of GATT from 1993 to 1995.[76] "And we just see where that leads us. It's so incredibly short-sighted and politically and economically incorrect to advance those arguments; they have to be stopped and the only way to do that is political leadership. What I'm decrying seems to be the absence of that leadership."

Trade, as Gomory explains it, is the prisoner's dilemma. Both countries can win 10 points if they collaborate to make trade mutually beneficial. But one country can win 25 points if the other trading partner plays by the rules of collaboration and it doesn't. Yet if both countries don't play by the rules of collaboration, then they both lose five points. So the outcome that is best for everyone is not best for the individuals, which incentivizes players to cheat. That makes maximizing the mutual benefits of global trade quite difficult – especially when there aren't just two players, but more than two hundred.

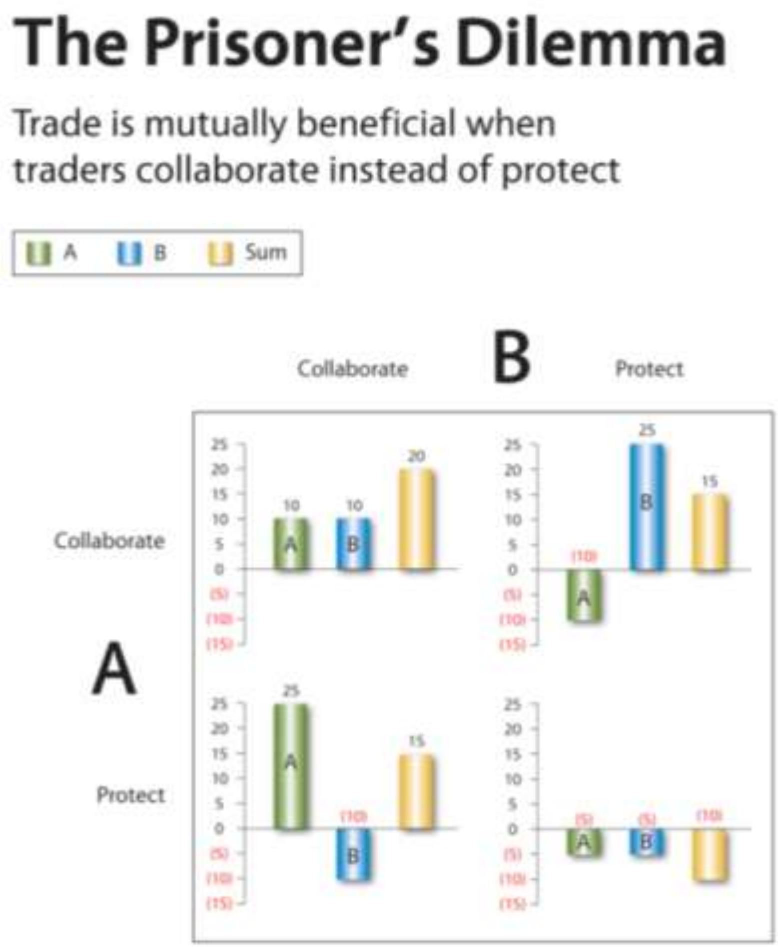
According to experts including Pat Mulloy, Dick Nanto, and Rob Atkinson, the gains to countries like China that embrace mercantilist policies to advance their economies at the expense of laissez faire economies like the U.S. and Western Europe are magnified by foreign direct investment flows into those developing countries (most notably China). By very successfully attracting the investment of multinational corporations that had been invested in developed countries, a developing country like China can dramatically magnify the imbalances associated with globalization, in its favour, these experts say. The World Trade Organization, and policymakers in developed countries, have been complicit in allowing this to happen. These concepts are further articulated in sections 4.3 and 6.1.

"Collaboration" in the context of the Prisoner's Dilemma (see Figure 7)Figure 7: The Prisoner's Dilemma, is partly about agreeing to and abiding by a set of rules that "level the playing field" of global trade, but it is also more generally about agreeing to and abiding by a set of rules that facilitate global business. Rules about imports and exports are critical, of course, but in a world with such huge FDI flows, rules about foreign direct investment, intellectual property, subsidies, incentives, and the like are critical as well.

[76] Peter Sutherland, Interview with Molly Castelazo, October 2012.

Figure 7: The Prisoner's Dilemma

In the Prisoner's Dilemma, when both parties agree to cooperate (in this case, trade according to a set of pre-defined rules), the outcome is equally beneficial. However, one country can generate greater gains for itself if it does not cooperate (in this case, puts up protectionist barriers); however, that generates a loss for the other country. What ends up happening, then, is that both countries opt to agree to a set of pre-defined rules but then eschew the rules and erect projectionist barriers. That leads to a loss for both countries.



Like the country that collaborates on the assumption that its trading partners will too, Western policymakers still view trade as unconditionally beneficial – even though it is clearly not. Rob Atkinson, president of the Information Technology and Innovation Foundation, explains, "When trade is discussed, it's discussed as if there are only opportunities and no threats. So even today you'll hear people saying, 'America has to be more globalized because 95 percent of the world's consumers are outside of the U.S.' Well, that's true but so are 95 percent of our competitors. So you want to open up to them so you gain their markets, but they gain your markets. I'm not saying it's bad, I'm actually very much pro free trade, but people tend to think of trade as a one-way opportunity and they forget that the Chinese now have the capability to come into our market."

Clyde Prestowitz, president of the Economic Strategy Institute and author most recently of *The Betrayal of American Prosperity* says, "The U.S. has adopted a doctrine, an ideology of free trade which holds that it doesn't matter what a country does, any intervention is bad. We've adopted a policy of laissez faire –

whatever happens, happens. If they want to subsidize, let them because in our ideology they're only hurting themselves. I think it's a very mistaken ideology, but it's what we have." [77]

As Prestowitz and Atkinson suggest, it is hard to imagine how a global trading system like the WTO – founded on principles of rules-based trade and the philosophy that when free, trade is always mutually beneficial – could function in a world that has shifted so dramatically away from Western laissez-faire philosophies toward "state capitalism," from Adam Smith and David Ricardo to Lee Kuan Yew.[78] And that is in fact the crux of the problem, according to experts including Mulloy, Atkinson, and Nanto: the WTO was not set up to deal with massive flows of foreign direct investment into countries with state-owned enterprises, with implicit but not explicit technology transfer requirements, with lax intellectual property protection (see Section 6.1). It was set up to deal with the kind of subsidies the U.S. and EU give to Boeing and Airbus, not the billions China makes available to its solar manufacturers. Says Atkinson, "The WTO can't work to fully implement its promises; it works at suboptimal level and allows only certain disputes to be resolved. That's not to say that it's completely ineffective, but it cannot achieve its promise."

According to *The Economist*, "Charlene Barshefsky, American's trade negotiator at the time when China's entry into the WTO was being considered, fears that the rise of state capitalism may be undermining the post-war trading system. China's ability to make huge strategic investments, even to the point of creating new industries, puts private companies at a severe disadvantage." The article continues, "Peter Mandelson, a former EU trade commissioner, thinks that the 'huge and very real benefits of globalisation are being undermined by the distorting interventions of state capitalism from one direction and by the anxious politics of an increasingly defensive and fearful developed world from the other.'"[79]

So the global trading system, as Mandelson explains, is undermined not only by the "distorting interventions of state capitalism" in China, Brazil, and elsewhere, but also by the developed world's response to it – the "anxious politics" that lead to protectionist policies and a 2012 U.S. presidential candidate to feel compelled to make labeling China a currency manipulator one of the first things he would do if elected.

As Mulloy and others contend, policymakers negotiating China's accession did not fight for WTO rules that would limit those "distorting interventions of state capitalism," and policymakers do not fight for them today. That's in part because of the profound influence of multinational corporations (who have gained a lot from China's accession), as is explained in detail in sections 6.1.4 and 6.3.

4.3. Does FDI Distort the Benefits of Trade?

Some observers will argue that China's trade surplus comes from the fact that China is good at making stuff, and America and Europe seem content to just consume it. But in reality, there are other forces at work that have led to the huge trade imbalance.

One of the most significant has been foreign direct investment in China. Adam Hersh, an economist at Center for American Progress, explains that role: "China began its period of economic reform actually having a very highly devolved industrial economy, which was the result of the era of central planning and pushes under the Mao regime for China to stand up on its own and be a strong country and economy. Foreign investment was important during that central planning era; at that time it was coming from the

[77] Clyde Prestowitz, Interview by Molly Castelazo, August 2012.
[78] Lee Kuan Yew is considered the "founding father" of the "new kind of state capitalism" that started in Singapore. See *The Economist*, "Something old, something new," 21 Jan 2012, Special Report p. 5.
[79] *The Economist*, "The world in their hands," 21 Jan 2012, Special Report pp. 16-17.

Soviet bloc. But as the Soviet Union went into economic decline, so did China in terms of its ability to incorporate new technology into the industrial economy. When the reform period began in the late 1970s, China was able to bring in more foreign knowledge and technology and incorporate them into their production systems. This was one of the key factors driving growth after 1980."[80]

After China acceded to the WTO in 2001, FDI inflows increased dramatically. Explains Keith Rockwell, director of Information and External Relations at the WTO, "Another reason why China was able to do well out of membership in the WTO is that when you become a member of the WTO it is expected that you will adhere to WTO rules... [that] gives a certain assurance to foreign investors. After China's accession to the WTO, inward foreign investment went through the roof and that led to all kinds of enhanced production capacity. I would say that those two things – the reforms that the China engaged in and the flow of inward investment, coupled with the fact that you had obviously a lot of very intelligent, hard-working people there and a massive domestic market – have been a key reason that China has grown as quickly as it has."[81]

Pat Mulloy, former commissioner on the US-China Economic & Security Review Commission, attributes much of the trade imbalance and associated distortions to the flow of FDI into China: "The whole purpose of the global trading system that we put into place after World War II is being undermined now by the policies of the mercantilist countries in Asia – Japan set the example. Singapore said 'Let the foreigners in!' and Deng Xiaoping did let them in, but it was part of an export-led growth strategy. When the U.S. Congress voted to give China permanent normal trade relations in 2000, our trade deficit was about $60 billion. Now it's $295 billion; we've had over $2.3 trillion in trade deficits with China in the past 10 years. People wonder why we don't have a healthy job base in this country for our people. Well, that's why!"[82]

Figure 8 and Figure 9 highlight the massive inflows of foreign direct investment (FDI), much of it from the U.S. and Europe, into China.

[80] Adam Hersh, Interview by Molly Castelazo, March 2012.
[81] Keith Rockwell, Interview by Molly Castelazo, September 2012.
[82] Pat Mulloy, Interview by Molly Castelazo, March 2012.

Figure 8: Annual Foreign Direct Investment Flows into China, 1982-2011

Since China acceded to the WTO in 2001, the dollar value of foreign direct investment flows into China has increased substantially – from $38 billion in 2000 to $244 billion in 2009 (a 542 percent increase).

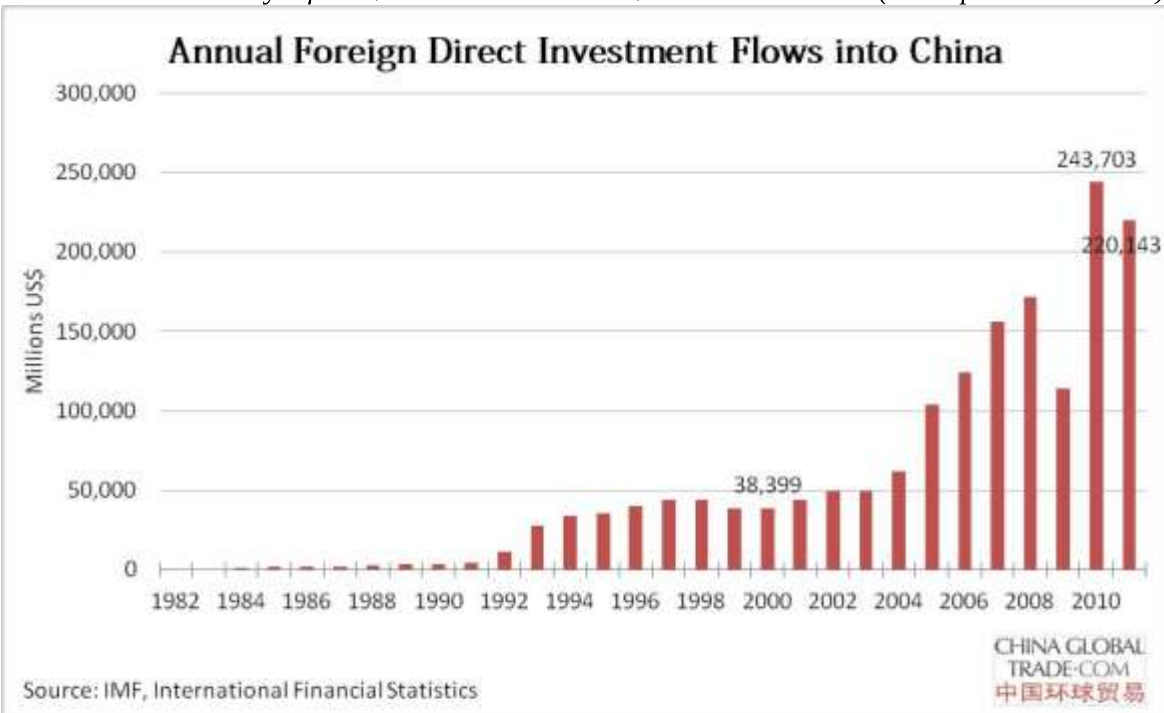


Figure 9: FDI into China by Originating Country[83]

Most of the foreign direct investment (FDI) that had flowed into China by 2010 came from Hong Kong and the British Virgin Islands. The U.S., Japan, and the EU had been significant sources of FDI as well. (The figure shows FDI stock, which is accumulated FDI, not annual flows.)

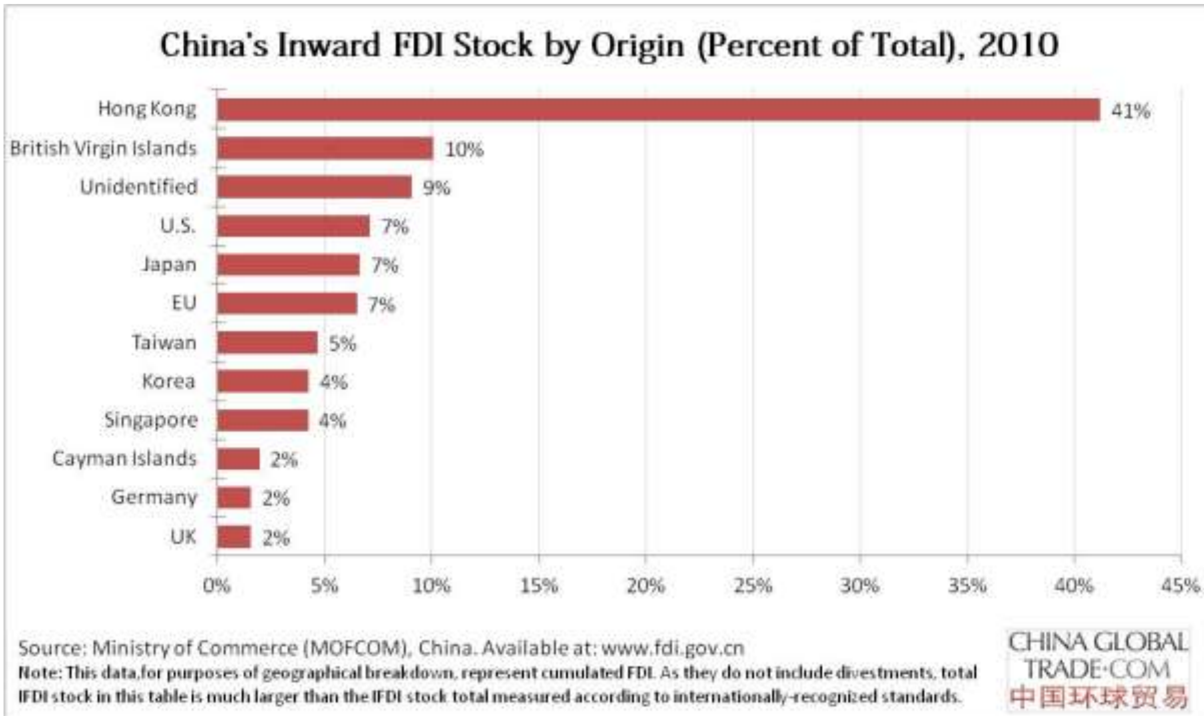
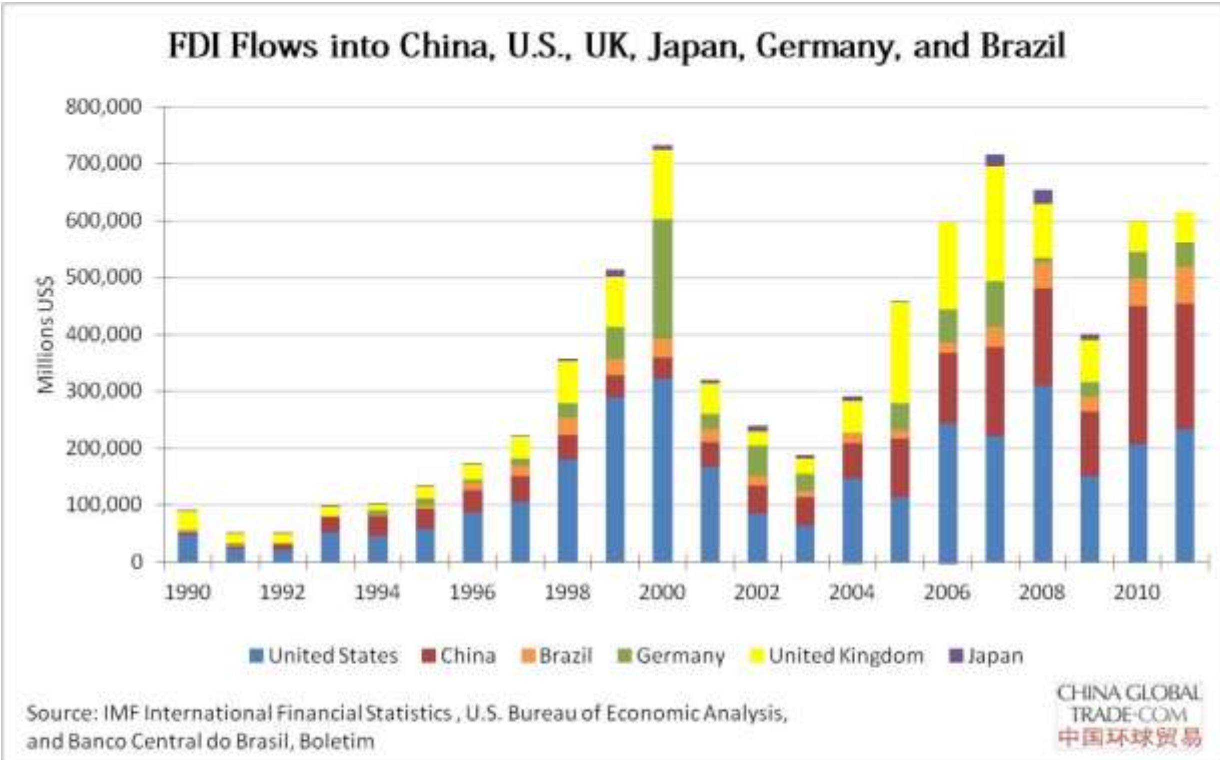


Figure 10 shows FDI into China relative to FDI flows into other countries, and makes clear that FDI inflows into China have grown much more rapidly than FDI flows into other countries, and now make up a much larger share of total inflows into those six countries.

[83] Ken Davies, "Inward FDI in China and its policy context, 2012," Columbia FDI Profiles, Vale Columbia Center, 24 Oct 2012. http://www.vcc.columbia.edu/files/vale/documents/Profiles_China_IFDI_24_Oct_2012_-_FINAL.pdf

Figure 10: FDI Flows into China, U.S., UK, Japan, Germany, and Brazil, 1990-2011

Among China, the U.S., UK, Japan, Germany, and Brazil, the U.S. has consistently been a significant source of foreign direct investment. Since China acceded to the WTO in 2001, however, China has risen as a prominent FDI destination as well, outpacing the U.S. in 2010.



What has China done with all that foreign investment? They've used it to build technological capabilities in key industries. In fact, data on the Chinese exports by type of enterprise show that foreign-invested enterprises (FIEs) in China account for a huge percentage of the country's exports (consistently well over half; see Figure 11).

The percentage of *high-tech* exports accounted for by FIEs is even higher – more than 90 percent. According to a study by the U.S. International Trade Commission (USITC), in 2002 more than 99 percent of computer exports out of China were from FIEs.[84] According to a 2011 report by the Congressional Research Service, "China's accession to the WTO (with the reduction of trade and investment barriers) appears to have been a major factor behind the migration of computer production from other countries to China."[85]

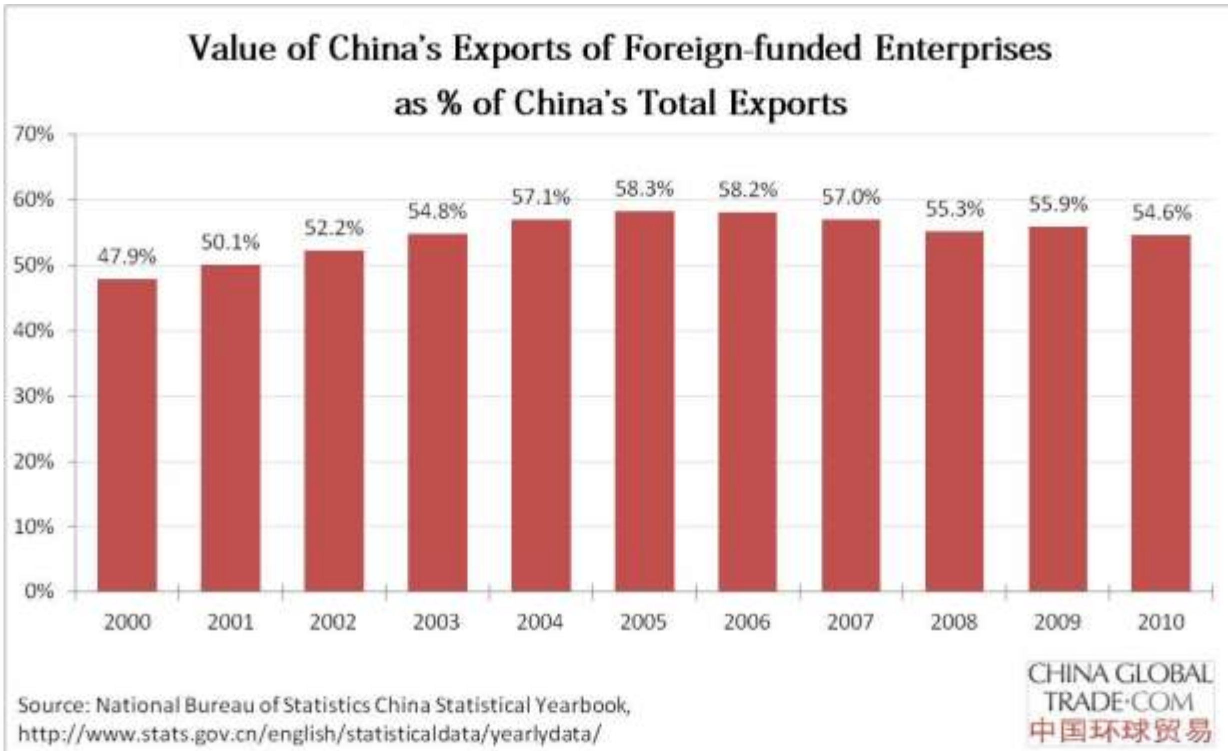
Foreign direct investment has been an important part of the development of China's auto industry as well. According to another Congressional Research Service report, "Unlike Korea or Japan, China's automotive industry has developed extensively through foreign direct investment. This investment has

[84] USITC, How Much of Chinese Exports Is Really Made In China? Assessing Foreign and Domestic Value-Added in Gross Exports, report number 2008-03-B, March 2008, p. 21.
[85] Wayne M. Morrison, "China-U.S. Trade Issues," Congressional Research Service (August 2011), p. 9.

come in the form of alliances and joint ventures between international automobile manufacturers and Chinese partners."[86]

Figure 11: Exports from Foreign-Invested Enterprises in China, as a Percentage of Total Exports from China

Foreign-funded enterprises have long been critical elements of China's export industry, accounting for more than half of the value of all exports out of China. Since 2006, however, the percentage of export value accounted for by foreign-funded enterprises has been shrinking – reflecting the "taking back" of industry by state-owned enterprises (see Section 4.3.2).



So what the data show us is that the huge trade imbalances between China and its developed partners don't come from the fact that China is so good at trading, but rather from the fact that China has been so good at attracting FDI – at attracting multination corporations that used to be in the U.S. and Europe to manufacture and export from China.

4.3.1. Who Has Benefited From and Who Has Been Hurt by FDI into China?

According to a number of experts, the massive inflows of FDI – and the trade imbalances they have created – have been very good for China (Adams, et al), and they have been very good for the multinational corporations (Hindery, Mulloy). They have been very bad for the domestic workers in the U.S. and Europe that used to do those jobs (Lee), and for the domestic companies that can no longer compete with China-based multinationals (Gomory, Mulloy).

[86] Rachel Tang, "The Rise of China's Auto Industry and Its Impact on the U.S. Motor Vehicle Industry," Congressional Research Service (November 2009).

Apple, for example, generated nearly 20 percent of its revenue from China in the first quarter of 2012, and sales were growing by 300 percent compared to the previous year. The company's CEO Tim Cook said during the first quarter 2012 earnings conference that the company expects to keep generating outstanding growth rates from China for a long time.[87]

General Motors (GM), which sells more cars in China than in the U.S., also benefits very obviously from its investments in China.[88] From the company's 2011 annual report: "We will continue to grow our business under the Baojin, Jiefang, and Wuling brands. We operate in Chinese markets through a number of joint ventures and maintaining good relations with our joint venture partners, which are affiliated with the Chinese government, is an important part of our Chinese growth strategy."[89]

F. Gerard Adams, Byron Gangnes, and Yochanan Shachmurove explained the role of FDI in China's development – and the impact it has on developed economies – in their 2006 paper in *World Economy*: "In the 1980s, American concerns were of an increasingly wealthy Japanese economy that appeared poised to overtake the U.S. as a leader in key technologies and in overall wealth and prestige. In the current situation, it is instead the multinational corporations of the United States, Japan and other economies who are shifting their own production into China either through foreign direct investment or outsourcing. The issues are less about technological supremacy than they are about the implications for developed country economies of a continuing outflow of investment and labour market displacements from the associated shifts in production and trade."

The authors continue, "Foreign direct investment is likely to be the most important contribution to [China's] competitiveness through the introduction of new production methods, world market product specifications, and advanced management procedures. Prior to the 1990s, China was selling simple goods of relatively low quality. Since then, in part as a result of the intervention of foreign investors from Hong Kong and Taiwan and more recently from Europe, North America and Japan, China has become a focus for foreign direct investment. China offers a special advantage over other East Asian countries in that many foreign producers view their entry as export producers in China only as a first step, hoping ultimately also to sell in the huge and growing Chinese domestic market. Others, like the automobile industry, are producing for the domestic market, with the ultimate objective of also using China as an export platform."[90]

In their research, Adams, Gangnes, and Shachmurove demonstrate a strong positive relationship between foreign direct investment and "China's export prowess," as demonstrated in Figure 12. "The role of Gaungdong province is dominant with 30 percent of China's FDI imports and 40 percent of Chinese exports."[91]

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[87] Andrés Cardenal, "Four Global Companies Benefiting from China," The Motley Fool, 2 May 2012. http://beta.fool.com/acardenal/2012/05/02/four-global-companies-benefitting-china/4162/

[88] Charles Riley, "Obama hits China with trade complaint," CNN Money, 17 Sept 2012. http://money.cnn.com/2012/09/17/news/economy/obama-china-trade-autos/index.html

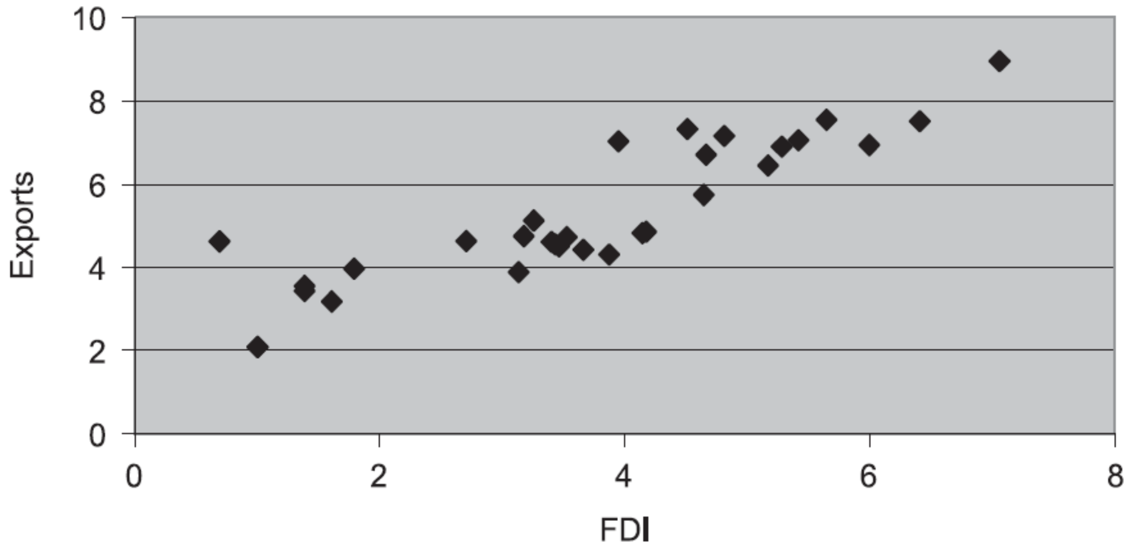
[89] General Motors Company, 2011 Annual Report. http://www.gm.com/content/dam/gmcom/COMPANY/Investors/Stockholder_Information/PDFs/2011_GM_Annual_Report.pdf

[90] Adams, F. G., Gangnes, B. and Shachmurove, Y. (2006), Why is China so Competitive? Measuring and Explaining China's Competitiveness. World Economy, 29: 95–122.

[91] ibid

Figure 12: The Relationship between FDI and Exports in China

Plotting Chinese Provinces in 1999 log data, this figure demonstrates that those provinces with higher levels of foreign investment have higher levels of exports – confirming the relationship between FDI and China's export capabilities.



Source: Adams, F. G., Gangnes, B. and Shachmurove, Y. (2006), Why is China so Competitive? Measuring and Explaining China's Competitiveness. World Economy, 29: 95–122.

4.3.2. "Re-Sinofication" and Role Reversal

But the story doesn't end there. It was never China's endgame to have its highest-end export industries run by foreign-invested enterprises (typically foreign-Sino joint ventures), say Dick Nanto and Rob Atkinson. Phase 2, currently underway, is for China's own private (and, more often, state-owned) enterprises to take over from those foreign firms, now that they have the technological capability and human capital.

> *For Chinese policymakers, foreign direct investment is a tool, not an end in itself."*
> *--Dick Nanto, Specialist in Industry and Trade, Congressional Research Service*

It's a phenomenon that Dick Nanto, a specialist in industry and trade with the Congressional Research Service, calls re-Sinofication. "For Chinese policymakers, foreign direct investment is a tool, not an end in itself. Foreign investment solved critical pieces of the development puzzle. It provided capital, technology, managerial expertise, and links to international markets. Without FDI, China would still be recovering from the Great Leap Forward and Cultural Revolution," explains Nanto.

Nanto continues, "Now that foreign investors have played their key role in modernizing and industrializing the economy, Beijing is trying to reclaim business from the foreign investors. It reflects a deep-seated nationalism and distrust of foreigners. The current policy seems to be to invite the foreigners in, see how they do it, transfer their technology to local firms, and then beat them at their own game.

Beijing wants its own national champion companies, such as Huawei and Lenovo, competing in international markets with their own brand name products and technology."[92]

China has benefited tremendously from the intellectual property, distribution channels, and other expertise that FDI has brought in; now SOEs are trying, some say, to "become the GEs of the Chinese economy." James McGregor, formerly the head of the American Chamber of Commerce in China, doesn't see that happening – but sees a lot of damage in front of multinational corporations regardless. "Are SOEs ultimately going to be the new General Electrics in 10 or 20 years? I don't see that happening. But they can destroy a lot of companies and distort global markets and business practices along the way."[93]

According to Information Technology and Innovation Foundation president Rob Atkinson, "China's strategy is to accelerate what would normally be a 40-year process of industrial modernization and technological advancement into a 10-year window. The only way to do that is through intellectual property theft and forced technology transfer. China basically takes the technological capabilities that industrialized nations have developed over a century of hard work and an enormous amount of effort and money. The only way for them to get those capabilities in such a short timeframe is to take what we have – and that's the strategy that they're engaged in now."[94]

What Nanto labels "re-Sinofication" Atkinson calls a shift from China as FDI attractor to China Inc. To accomplish that shift, China has a number of strategies, according to Atkinson. Some of those strategies are:

- **Government (and SOE) procurement.** According to a Congressional Research Service report, "China fully intends to use its domestic market for aircraft where Chinese airlines will buy COMAC [the state-owned Chinese commercial aircraft company] airplanes – even if they prove to be inferior to competing products…The Chinese commercial aircraft industry is currently at a stage of developing domestic capabilities that require complex cooperative partnerships with foreign (chiefly European and American) suppliers. But COMAC's principles suggest an agenda that envisions a national policy of economic independence for its aircraft industry and possibly its aircraft market – a more autarkic vision that appears to differ from those of companies that are pursuing market opportunities within a free trade context in China and elsewhere.'[95] In other words, writes Atkinson, "China not only has no intention in the future of importing airplanes and airplane parts, it actively seeks to dominate global export markets."[96]

  China is not party to the WTO government procurement agreement (GPA), which broadly requires governments to treat foreign and domestic vendors equally in procurement negotiations. But China has applied, and revised its application twice to date. "Although some analysts viewed China's latest GPA offer as an improvement over its previous offer, they contend that it fell far short of being acceptable to all the current GPA members. For example, the offer excluded purchases by local and provincial governments as well as state-owned enterprises. During the December 2010 U.S.-China JCCT meeting, China agreed to submit a robust, new offer to the

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92 Dick Nanto, Personal Communication, 1 Nov 2012.
93 Wall Street Journal China RealTime Report, "Eight Questions: James McGregor, 'No Ancient Wisdom, No Followers'," 1 Oct 2012. http://blogs.wsj.com/chinarealtime/2012/10/01/eight-questions-james-mcgregor-no-ancient-wisdom-no-followers/?mod=WSJBlog
94 Rob Atkinson, Interview by Molly Castelazo, September 2012.
95 Glennon J. Harrison, "Challenge to the Boeing-Airbus Duopoly in Civil Aircraft: Issues for Competitiveness" (Congressional Research Service, July 25, 2011), p. 11, http://www.fas.org/sgp/crs/misc/R41925.pdf.
96 Robert D. Atkinson. "Enough is Enough: Confronting Chinese Innovation Mercantilism." The Information Technology & Innovation Foundation, (2012), p. 25.

WTO Government Procurement committee before the Committee's final meeting in 2011."[97] China did, and the members party to the GPA once again deemed China's offer insufficient. According to the WTO, "At the meeting of the WTO Committee on Government Procurement on 18 July 2012, China announced that it will make a new revised offer of market access by the end of 2012."[98]

- **Forced technology transfer.** "China's accession agreement to the WTO contains rules forbidding them from tying foreign direct investment to requirements to transfer technology to the country.[99] Yet, in China it is commonplace to require that firms transfer technology in exchange for being granted the ability to invest in China. In the Catalogue for the Guidance of Foreign Investment Industries (2007) joint ventures with foreign firms have to be approved, and technology transfer agreements reached within joint venture contracts must also be submitted for approval. The guidelines encourage transfer of technology[100]… In almost all cases, these are not explicit written demands, for China knows that this would violate its WTO accession agreement. Rather, they are implicit, hidden agreements. Small nations lack the market power to make these kinds of demands, but China offers the prospect of a growing market of 1.3 billion consumers for foreign companies that find it difficult to resist the quid pro quo of technology for sales."[101]

"China's strategy is to accelerate what would normally be a 40-year process of industrial modernization and technological advancement into a 10-year window. The only way to do that is through intellectual property theft and forced technology transfer." -- Rob Atkinson, President, Information Technology and Innovation Foundation

- **IP theft.** "Even though China signed on to the TRIPS (Trade-Related Aspects of Intellectual Property Rights) agreement, it helps its domestic firms and hurts foreign firms by turning a blind eye to intellectual property theft, even within its own government agencies. The U.S. International Trade Commission estimates that – in 2009 alone – Chinese theft of U.S. intellectual property cost almost one million U.S. jobs and caused $48 billion in U.S. economic losses.[102],[103]

[97] Wayne M. Morrison, "China-U.S. Trade Issues," Congressional Research Service (August 2011).
[98] WTO, "China announces next step in joining Government Procurement Agreement," 18 July 2012. http://www.wto.org/english/news_e/news12_e/gpro_18jul12_e.htm
[99] "China's Working Party Report," (Congressional-Executive Commission on China, November 2011) p. 49, http://www.cecc.gov/pages/selectLaws/WTOimpact/wkptrptPRCWTO.php.
[100] Terence P. Stewart, et. al., China's Support Programs for High-Technology Industries Under the 12th Five-Year Plan, (Washington, D.C.: Law Offices of Stewart and Stewart, June 2011) p. 13.
[101] Atkinson, 2012, p. 33.
[102] Katherine Linton, Alexander Hammer, and Jeremy Wise, China: Effects of Intellectual Property Infringement and Indigenous Innovation Policies on the U.S. Economy, (Washington, D.C.: U.S. International Trade Commission, May 2011), http://www.usitc.gov/publications/332/pub4226.pdf.
[103] Atkinson, 2012, p. 38.

What is the end result of the shift from China as FDI attractor to China Inc., of the government's "re-Sinofication"? Taken to its logical conclusion, it's a role reversal: China would become a highly developed leader in high value added production, and the U.S. would be the world's factory. Says NYU Stern School of Management research professor Ralph Gomory, "I think the *optimal* outcome would be for the all the countries to develop quite rapidly but not to destroy each other's industries. I don't think it's the primary goal, but in fact China's growth is destroying major portions of the U.S. economy."[104]

[104] Ralph Gomory, Interview with Molly Castelazo, March 2012.

5. What is the Mission of the World Trade Organization (WTO)?

Huge and growing trade imbalances, as well as foreign direct investment that many experts see as having lopsided benefits for China, lead many experts to conclude that the global trading system is not working as it could be. Is it the responsibility of the WTO to ensure that the global trading system does work well?

According to the organization's mission: "The WTO is the international organization whose primary purpose is to open trade for the benefit of all."[105]

A statement from the director-general begins with: "The WTO provides a forum for negotiating agreements aimed at reducing obstacles to international trade and ensuring a level playing field for all, thus contributing to economic growth and development. The WTO also provides a legal and institutional framework for the implementation and monitoring of these agreements, as well as for settling disputes arising from their interpretation and application."[106]

So is the World Trade Organization supposed to give oversight to global trade such that the kinds of imbalances and distortions highlighted in Section 4 are minimized – to be a sort of referee among trading partners with very different philosophies? That question is explored in detail in this section.

5.1. History and Structure of the WTO – The Role it Was Designed to Play

Malfunctions in the global trading system evidenced as described in Section 4 can be resolved; the prisoner's dilemma can be solved and mutual benefits can be maximized. *When* there is a system to detect and punish cheaters. Some say that is what the WTO is supposed to do.

The WTO is the international organization whose primary purpose is to open trade for the benefit of all.
-- About the WTO — a statement by the Director-General

Norm Augustine, retired chairman and CEO of the Lockheed Martin Corporation and author of *Rising Above the Gathering Storm: Energizing and Employing America for a Brighter Economic Future* explains, "If you're not playing the same game and you're playing by different rules it's very hard for the referee…But yet I think we're better off with the WTO than without one. The reason I say that is if you play by different rules and let's say one nation really does try to seek a level playing field (I'm not sure that any nation truly does that, but some try harder than others), but the other nations won't play on anything approaching a level playing field, one alternative for that first nation is to say, 'Okay, we'll not play on a level playing field either; we'll play to an extreme in our best interest. If you do that you sort of end up with the lowest common denominator." That is, in other words, the prisoner's dilemma. Augustine continues, "So I think it's important to have a stabilizing effect like the WTO, as imperfect as it is, to at least try to bring people together as opposed to letting each nation go out on its own."

Wall Street Journal reporter Bob Davis agrees that the WTO is beneficial. "I think the WTO in this instance plays a very important and positive role. First of all I think people are overplaying the power of the WTO. It is still a system that works by cooperation, so it can't impose its role. So it depends on the

[105] WTO, "About the WTO — a statement by the Director-General" http://www.wto.org/english/thewto_e/whatis_e/wto_dg_stat_e.htm
[106] ibid

good will of the members. So yes, China and America are very different systems; Russia is getting into the WTO and it has a very different system; France is no China but it has a lot more state-owned companies than the U.S. and has a more positive view toward subsidies than the U.S. government does – but that's why you have international organizations like the WTO."

The WTO's Keith Rockwell describes the birth of the WTO: "The principle architect, the driving force, of the entire multilateral system was Franklin Roosevelt and his various and ministers and aids. The rational at that time in the U.S. was that leadership is much easier to exert in the context of multilateral framework so they came up with the UN, the World Bank and the IMF and something called the international trade organization which never came to be because President Truman was of the view that congress would not pass it, so instead what happened was this General Agreement on Tariffs and Trade, which to this day is the basic treaty that forms the foundation for the WTO, created with 24 signatories back in 1948."

Rockwell continues, "Over time there were measures to reduce trade obstacles; it took course over eight so-called rounds of negotiation, the Doha Round being the ninth. In 1995 the WTO itself came into being and it was in some ways similar to the GATT but different in some very important ways, notably a much strengthened settlement dispute system, an inclusion of agriculture, services, and intellectual property protection in the mandate of the organization – we have an agreement that covers these things. And those were really the key issues…The basic principle of the WTO is non-discrimination. The reason why Roosevelt and others felt it was so important to have global rules for trade is that the rules of the game changes quite a lot historically and there was often an effort to use trade policy to pick some groups of countries or some countries against others."

"So I think it's important to have a stabilizing effect like the WTO, as imperfect as it is, to at least try to bring people together as opposed to letting each nation go out on its own."
--Norm Augustine, Retired Chairman and CEO of the Lockheed Martin Corporation

Like its predecessor GATT, the WTO is a consensus-based organization. Explains Rockwell, "We have 157 member countries, and we have just taken on 4 more countries in the last year, notably Russia. The organization operates on the basis of consensus which doesn't mean everybody agrees but no one can disagree. Any government has the right to hold something up if its national interests are being adversely affected. And this happens. You sometimes have cases where there's only one country that stands up and says 'I'm sorry we can't do this.' You've had the U.S. do it, but you've also had St. Lucia do it. Generally speaking though that doesn't happen very often – you tend to have much more often groups of countries that might not go along and sometimes that group is relatively small, a dozen or so countries but that doesn't always matter; if those countries are not prepared to go along with something it does not happen. This consensus based system of decision making has been with us since the organization began and it was the case with the predecessor organization, the GATT. It is something that is considered absolutely essential by all members. There is no possibility that this system of consensus will ever vanish because all governments really depend on the right to be able to, at the end of the day, stand up for their national interests, even in the face of a large majority of other countries favoring some kind of a measure."

WTO cases as adjudicated by a panel. Rockwell explains, "Normally what happens is the two governments [the complainant and the respondent], if the two parties can reach an agreement [they choose the panellists]. If they can't – and increasingly that's the case – they go to the director general and he does it. The lawyers who work here will bring a roster of panellists: normally you have to have a mix of developed and developing countries; you can't have someone from the party countries on the panel; you look at who has relevant experiences and an understanding of the specific topic at hand."

5.1.1. China's Accession

WTO rules are typically different for developed and developing nations. According to WTO rules, developing countries are allowed to provide less than full reciprocity, meaning that they are required to open their markets, but not as much as the developed nations are. China has been different. Explains Rockwell, "China is different from other developing countries in that it went through a very rigorous process of accession and the Chinese opened their markets as an acceding country to a much, much bigger extent than almost any other developing country. Their average tariff ceilings on goods are about 9 percent, their average tariff ceilings on agricultural products are about 16 percent – a lower average tariff ceiling than Japan, Switzerland, or the European Union. When you compare China with other developing countries, in India the average tariff ceiling for agricultural products is 113 percent and for goods it's about 34-35 percent. In Brazil the tariff ceiling average is 35 percent for agricultural products and 31 percent for industrial goods. And both India and Brazil were founding members of the GATT."

Yet while China does not have the same level of less than full reciprocity as other developing countries, it does still have more leeway than developed countries do. Says Rockwell, "China has greater scope for subsidizing than do industrial countries, although under the terms of their accession they have greater restrictions than many other developing countries. They were also subjected to a special annual trade policy review that no other country had to go through. We have a trade policy review specifically for every member – big countries go every couple years, medium sized every four years and the poorer countries every eight years – but China was subjected to a special transitional review every year for 10 years after accession. In addition, governments can apply certain kinds of countervailing measures against Chinese actions that they cannot apply with respect to any other country because this was written into China's accession protocol. So while on the one hand China has more flexibility, they've also had to encounter specific circumstances which they viewed to be more onerous than those other countries face."

5.2. Has the WTO Fulfilled Its Mission?

A number of observers decline to assign blame for a broken global trading system to the WTO, but they also don't assign much responsibility or power. Says Bob Davis, "The WTO isn't an alliance; it's a system that tries to reach common rules and understandings and then have the different countries live up to them. Does it do a great job? No. Does it play a useful role? I think it does. It's amazing to me, given that the WTO has no power whatsoever and can't force a country to do anything, that countries generally live up to their obligations under the WTO."

For example, Davis says, "There was one WTO case that required the U.S. Congress to repeal a tax having to do with foreign corporations and replace it with a different tax. You know how hard it is to get the U.S. Congress to do anything when it comes to taxes and this is a foreign entity saying the U.S. has to change its rules? Congress laughs at foreign entities telling them what to do, but they did in fact change its rules. That's quite impressive."

Some argue that while the WTO is by no means perfect, it's fairly good at keeping countries playing by the rules. Says Davis, "There are things that one could criticize China quite a bit for, but imagine the system without the WTO; China would be able to do anything it wanted to do without any recourse from the U.S. other than unilateral sanctions."

Davis continues, "If we scrapped the WTO, you'd have individual countries fighting individual countries. It would be much more politically fraught; it would be much more a system of big country vs. little country where the little country has absolutely no recourse…So again, do I think its perfect? Not remotely. Is it barely effective? Yeah, probably, but I think it has some value."

The point of the WTO is to provide an environment in which trade disputes can be adjudicated, so that they don't spiral into trade wars. Rockwell argues that the WTO has succeeded in that mission. "When China joined the WTO the notion of arbitration was a very foreign concept to the Chinese. I used to get phone calls from people saying 'This is an insult to our country' and I would say 'Well no it isn't, it's a very good way of taking a lot of steam out of these disputes. You bring it here, it gets resolved here, it doesn't get dragged on endlessly – you don't have Hu Jintao and Barack Obama talking about solar panels because they don't need to. You've got a system where it can be dealt with by lawyers and technicians and settled in a way that is in line with the rules.' Now not everyone likes the rulings, people tend to like the rulings when they win much more than when they lose but that's part of the system and I think that there is a certain order that has been brought about by this – you don't have countries responding to alleged rules of trade violation by taking unilateral trade actions, which could quickly spiral out of control."

> *"It's amazing to me, given that the WTO has no power whatsoever and can't force a country to do anything, that countries generally live up to their obligations under the WTO."*
> *-- Bob Davis, Senior Editor, Wall Street Journal*

Except, other experts argue, that countries are responding to alleged rules of trade violation by taking unilateral trade actions – like imposing anti-dumping and countervailing duties (see Section 5.3.1). Imposing such contingency measures, within certain guidelines, is allowed by the WTO, but those actions are nonetheless unilateral.

A number of experts, including Pat Mulloy, a former commissioner on the US-China Economic & Security Review Commission, argue that it's probably true that the WTO succeeds fairly well within its framework at adjudicating WTO rules. But it hasn't succeeded in preventing a breakdown of the global trading system. That's because the framework and the rules of the WTO don't match the reality of the world today.

The WTO (as well as the IMF) was designed to facilitate mutually-beneficial global engagement – something that, in the post-World War II world, was clearly needed. Neither organization has achieved its purpose, according to Mulloy. "If you look at Article 1 of the IMF charter for example, the purpose of the IMF is to facilitate the expansion and balanced growth of international trade."[107] Mulloy continues, "But we don't have balanced growth of international trade; we have very one-sided growth. Now what did the GATT talk about? The GATT, which is now in the WTO charter as well, talks about entering into reciprocal and mutually advantageous arrangements. Yet today our global trading relationships are not reciprocal and they're not mutually advantageous."

The failure of the Doha Round exemplifies the problems with the WTO in today's world. "The greatest threat to the Doha Round, the WTO, and the multilateral trading system is the failure of political leaders to understand why it matters for the growth and the governance of the 21st century economy and why it is worth fighting to defend. There has always been and probably will always be trade. A system of trade

[107] Pat Mulloy, Interview by Molly Castelazo, March 2012.

based on rules that bind the big as well as the small is a public good without historical precedent, and probably the most successful experiment in multilateralism ever undertaken."[108]

Some experts argue that Western policymakers should have known better than to agree to China's accession without much more defined commitments on economic liberalization. Others say that hindsight is 20/20, that there was no precedent for what China would become, and how quickly. Still others argue that even if policymakers had understood how China's accession to the WTO would change global trade, they would have allowed it to happen anyway, under the mistaken assumption that China will engage in mercantilist practices for a while – just like most countries have during their development stages – and then come around to a more liberalized economy.

Says Rob Atkinson of the Information Technology and Innovation Foundation, "even if policymakers were to have forecast how the Chinese system has hurt [the U.S.] economy, many of them still would have [agreed to accession] because they had this belief that if we engage China in global trade systems that they will move away from their communist dictatorship ways and become a democracy and this is good for the global economy and if we have to pay the price and suffer the pain then so be it. [China doesn't] show any evidence that they are doing this, and anyway I think it's too high a price to pay."

"The greatest threat to the Doha Round, the WTO, and the multilateral trading system is the failure of political leaders to understand why it matters for the growth and the governance of the 21st century economy and why it is worth fighting to defend." -- The Future of the WTO: Addressing institutional challenges in the new millennium

Augustine believes that there is plenty of blame to go around for the current broken state of global trade, and that U.S. policymakers at the negotiating table certainly deserve some of it. But, he said, it's time to move on. "What's history is history and I think what we should try to do is, given where we are, to make the most of it…I'm sure there are things that we would do differently today than how we did them in the past so yes I suspect there is some blame in that regard but I don't think that's an excuse for continuing to pursue bad policies."

5.2.1. Is It Worse with the WTO than Without It?

The global trading system might be even worse off with an ineffective WTO than it would be with no WTO at all – because the existence of the WTO allows countries to pretend like they're playing by the rules, when they're not. In the case of China, the WTO is very clearly an abettor of the kinds of policies that are not "technically" against WTO rules but are protectionist in spirit. Says Atkinson, "China gained the benefits of the WTO – which is to get access to markets – but they also got protection from the WTO. The U.S. cannot now unilaterally go after China because they're in the WTO. So they got a great deal: they got protection from being gone after and then on top of that there's a whole set of non-tariff barriers that they are the masters of. They could write a book on how to manipulate the trade system to your own advantage."

[108] Peter Sutherland, Jagdish Bhagwati, Kwesi Botchwey, Niall FitzGerald, Koichi Hamada, John H. Jackson, Celso Lafer and Thierry de Montibrial. "The Future of the WTO: Addressing institutional challenges in the new millennium." *World Trade Organization,* (2004): 0-86.

Pat Choate, who wrote *Saving Capitalism* agrees, "What [the WTO] does is give [policymakers in the U.S. and other rules-based economies] an excuse to go for process instead of results. They'll take the issue to the WTO through a procedure and then they'll go through an appeal and they'll have a decision and they'll quibble about it for years and they kick the can down the road and the problem to their successor."

The prisoner's dilemma illustrates that when one prisoner plays by the rules and the other doesn't, that yields the very worst outcome for the prisoner playing by the rules and the very best outcome for the one who cheated. Similarly, a world in which China gets to benefit from most-favored nation (MFN) status under the WTO, but isn't held to its own WTO obligations, is very good for China and very bad for the countries playing by the rules.

"China gained the benefits of the WTO – which is to get access to markets – but they also got protection from the WTO."
-- Rob Atkinson, President, Information Technology and Innovation Foundation

Pat Mulloy says that is exactly China's strategy. "China provides subsidies, they provide tax forgiveness, they want multinational companies to go there and build China's technological and industrial base. I wouldn't blame China for that, if they weren't violating their WTO obligations, but they are. The exchange rate is one clear violation – export subsidies are illegal under the WTO, so we should be after them, and we should be much more aggressive. Every day we're obligated to give China MFN and we do so. With MFN the average tariff rate on a good coming to the U.S. from China is about 2.5 percent; if they don't have MFN it's about 42 percent. So it's an enormous gift we give them every day because we're obligated to under the WTO. They are obligated to protect intellectual property rights, they don't; they're obligated not to provide export subsidies, they give them; they're obligated not to underprice their currency to gain trade advantage, but they continue to do it."

5.3. Has Something Else Replaced the WTO to Level the Playing Field of Global Trade?

So, the WTO is supposed to be the arbiter of "free" trade, but many believe it hasn't been working as well it can or should. What has taken its place? The answer could be protectionist domestic policies, as well as bilateral and regional trade agreements.

5.3.1. Rising Domestic Protection ("If the WTO Can't Protect Us, We'll Do It Ourselves")

If it is true that the WTO has failed to ensure a level playing field for all, one theoretical response from countries would be to stop trading. But that hasn't happened. So if the WTO is not effective, has something else filled the void – something else to "level the playing field" of global trade?

According to some of the experts interviewed, including Dick Nanto, domestic protectionism has been rising. The thinking is this: If the WTO won't protect economies against their partners' unfair trading practices, they'll protect themselves.

Says Nanto, "If we think one of our trading partners is not abiding by their WTO commitments, we can negotiate or file a case with the WTO, but these take a long time, they're very expensive and the outcome is not certain. It's much easier for companies to go through our section 301 antidumping or something like that than the free trade practices route, and it's a little surer in terms of the outcome." He adds, "The WTO is fairly toothless when it comes to enforcing trade agreements" – for as noted before it is voluntary.

5.3.1.1. Evidence of Rising Protectionism

Of the six countries profiled in this report – Brazil, China, Germany, Japan, the United Kingdom, and the U.S., plus the European Union[109] (of which Germany and the United Kingdom are part) – there were a total of 221 protectionist trade measures enacted since 2008. That is about a fifth of all protectionist trade measures implemented worldwide. As counted here, "protectionist measures" are those given a rating of Red by Global Trade Alert, meaning "The measure has been implemented and *almost certainly* discriminates against foreign commercial interests." See Appendix 4 for the full source data.

Table 1: Protectionist Trade Measures Implemented Since 2008[110]

WTO Members	# of measures	%of 7 total	%of all total
China	56	25%	5%
Brazil	47	21%	4%
European Communities	35	16%	3%
U.S.	25	11%	2%
Germany	20	9%	2%
UK	20	9%	2%
Japan	18	8%	2%
Total of 7 jurisdictions	**221**		**20%**
Total of all jurisdictions	**1,112**		

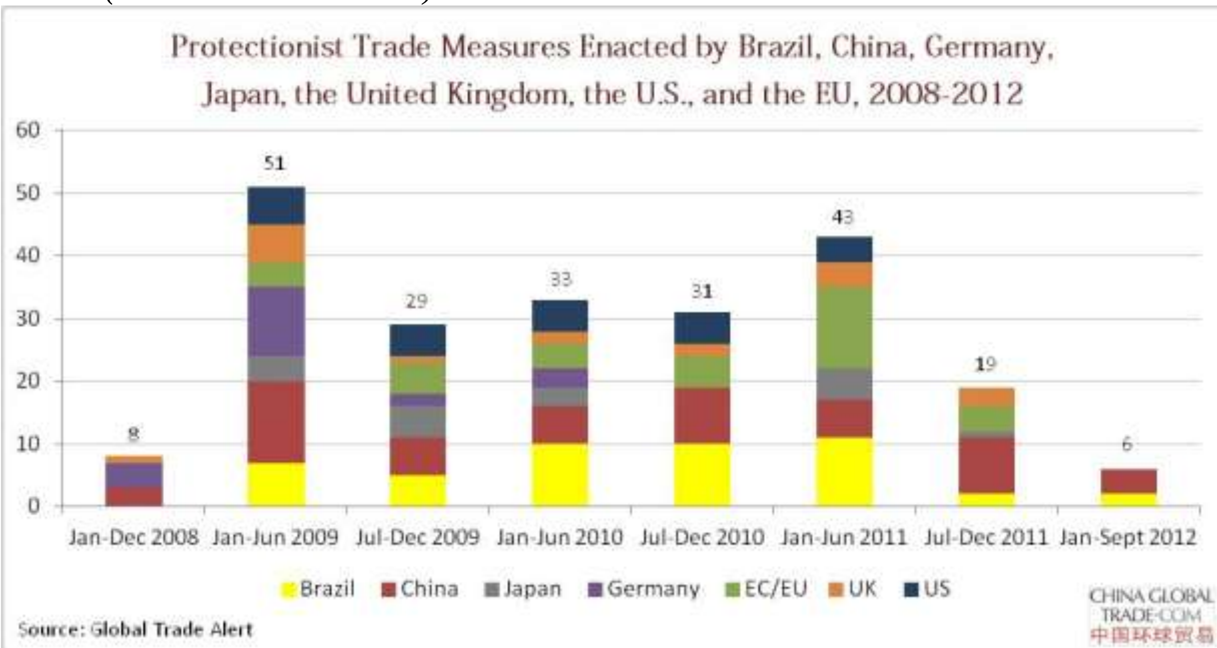
Source: *Global Trade Alert*

It is clear from Figure 13 that the enactment of protectionist measures was heaviest in 2009 and early 2011, and has since slowed dramatically. Enactment of protectionist policies in 2009 was largely due to the financial crisis and global recession as countries attempted to protect their economies. The decrease in protectionist measures since 2011 is less likely due to improvement in the health of the global economy than the fact that countries have already enacted the trade measures they feel are necessary to protect their domestic economies, and they have kept them in place.

[109] Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and United Kingdom of Great Britain and Northern Ireland.
[110] Those classified by Global Trade Alert as red, meaning "The measure has been implemented and almost certainly discriminates against foreign commercial interests."

Figure 13: Protectionist Trade Measures Enacted by Brazil, China, Germany, Japan, the United Kingdom, the U.S., and the EU, 2008-2012

Among the six countries plus European Union, China is the single largest source of protectionist trade measures (with Brazil a close second).



Illustrated in Table 2 are the types of protectionist trade measures enacted by Brazil, China, Germany, Japan, the UK, the U.S., and the EU between 2008 and 2012. In 2008 and through 2009 the most prevalent type of measure was bailouts and state aid. But beginning in late 2009 and continuing through 2012, "trade defense" has become a more common protectionist measure than bailouts and state aid. Trade defense measures include antidumping, countervailing, and safeguard duties designed to protect against the harmful trade practices of another country.

Table 2: Protectionist Trade Measures Enacted by Brazil, China, Germany, Japan, the United Kingdom, the U.S., and the EU, by Type of Measure, 2008-2012

Measure Type	Jan-Dec 2009	Jan-Jun 2009	Jul-Dec 2009	Jan-Jun 2010	Jul-Dec 2010	Jan-Jun 2011	Jul-Dec 2011	Jan-Sep 2012	Total
Bailout/state aid	5	18	6	3	2	2	1		**37**
Consumption subsidy							1		**1**
Export subsidy	3	5	2	2		1			**13**
Export taxes or restriction		2		1		3			**6**
Import ban					1				**1**
Inv measure		2	1		4				**7**
Local content req.				1		1			**2**
Migration measure		1		1	1	4	3		**10**
Non tariff barrier nes			1	2			1		**4**
Other service sector measure			1	1					**2**
Public procurement		5	2	1	1	1			**10**
Quota (incl tariff rate quotas)							2	1	**3**
Tariff		6	2	7	2	6	1		**24**
TBT			1			1			**2**
Trade defense		11	10	12	20	21	10	5	**89**
Trade finance		1	2	2		3			**8**
Total	**8**	**51**	**28**	**33**	**31**	**43**	**19**	**6**	**219**

Source: *Global Trade Alert*

Anti-dumping and countervailing duties cases

One marker of protectionism is "trade defense" measures – anti-dumping and anti-subsidy (countervailing) cases heard by domestic governments. Dick Nanto, a specialist in industry and trade with the Congressional Research Service, says, "The anti-dumping cases seem to be the vehicle of choice to getting protection. It used to be that anti-dumping cases were fairly few but they seem to be getting through now and there are dumping margins so it seems to be a better route for getting protection for your industry for Americans at least. The Chinese are doing the same thing against the U.S., believe it or not, American cars and various things."[111]

[111] Dick Nanto, Interview by Molly Castelazo, August 2012.

Figure 14: Countervailing Duties Actions Initiated by China, US, EU, Japan, and Brazil against All Trading Partners

The number of countervailing duties actions initiated by China, the U.S., the EU, Japan, and Brazil against all of their trading partners spiked in 1999, tapered off after China's accession to the WTO, and spiked again in 2009 and 2011 in response to the global recession.

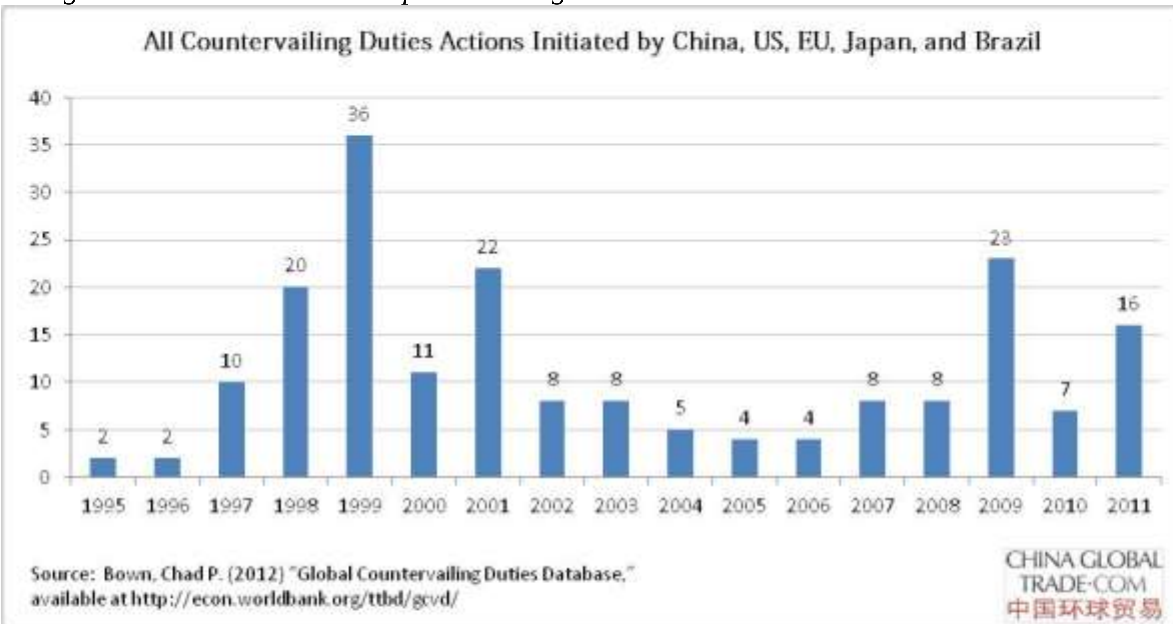
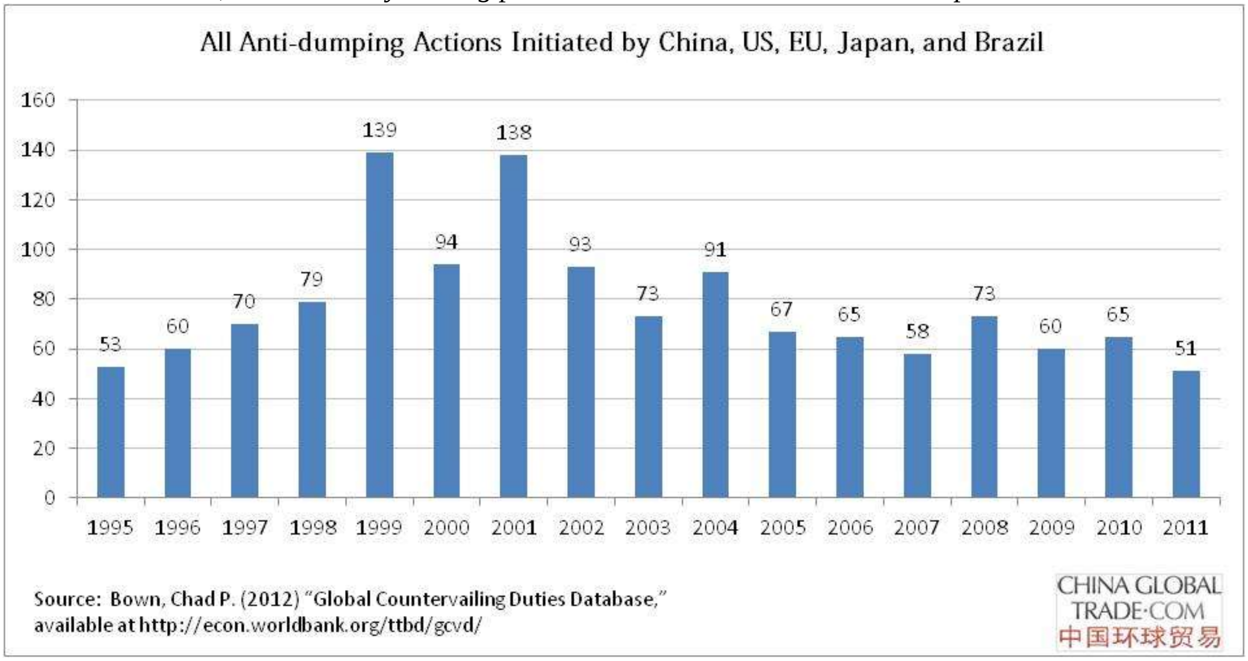


Figure 15: All Anti-Dumping Actions Initiated by China, US, EU, Japan, and Brazil against All Trading Partners

Antidumping actions initiated by China, the U.S., the EU, Japan, and Brazil against all of their trading partners followed a similar pattern as countervailing duties actions have, except that antidumping actions did not spike in response to the global recession; most traders saw countervailing (anti-subsidy) duties as more relevant then, because many trading partners had instituted subsidies in response to the recession.



Non-tariff measures

Increasingly, countries are turning to "murky" protectionism – the use of "non-tariff measures." The WTO warns that as fiscal stimuli around the world are scaled back (at the same time that unemployment remains high and economic growth slow), "murky" protectionism may rise. "Protection may then take

"Have governments used the pretext of these kinds of things to keep products out that are legitimately safe? Of course they have! That's one of our rules here is to try and provide some guidance in terms of rules of what you can and cannot do and then at the end of the day because there is a degree of uncertainty, not everything is cut and dry, there are gaps in the rules, that you bring a case here and a panel will have to take a ruling on it."
-- Keith Rockwell, Director, Information and External Relations Division, World Trade Organization

more complex and more subtle forms, imperfectly covered by WTO disciplines. This illustrates the need for strengthening and updating the WTO rule-book, in particular by drawing on lessons of the crisis and recent developments."[112]

Those non-tariff measures (NTMs), which include sanitary and phytosanitary (SPS) measures (concerning food safety and animal/plant health) and technical barriers to trade (regulatory measures), discriminatory public procurement policies, export restrictions, and domestic support schemes, may or may not "technically" be violations of WTO rules. According to the WTO, "To some respect, countries have exploited these loopholes and resorted to indirect protectionist measures."[113]

Figure 16 makes clear that a large percentage of new trade measures are NTMs. But their incidence, says the WTO, "is only half of the picture." The other half of the picture is the trade restrictiveness of these measures – the extent to which they distort trade. According to 2011 report of the high-level trade experts group, "The evidence reviewed in the Report has confirmed that NTMs significantly distort trade, possibly even more than tariffs."[114]

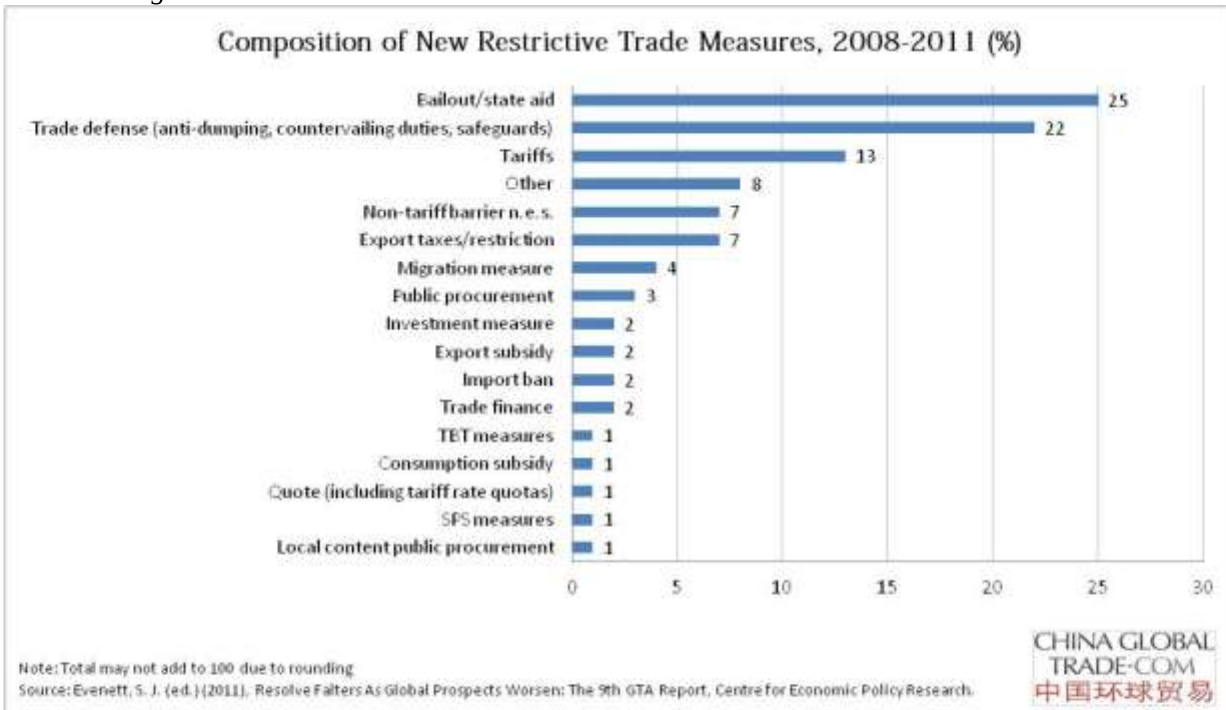
The difficulty associated with limiting the use of non-tariff measures is that in many cases they are important and legitimate aspects of public policy. Measures to restrict food imports are a good example: when restrictions are applied to food products and/or countries with a history of food safety violations they're clearly necessary, but the same measures could be used to discriminate against a country that has no such record. Yet identifying whether a NTM was intended to serve a legitimate public policy goal or a protectionist one can be difficult.

Explains Rockwell, "It's a very challenging debate because a lot of these standards that are being put into place by governments in countries around the world are very important – health and safety standards trump trade under WTO rules. If you have legitimate health and safety concerns, you keep a product or service out – it's that straightforward. Now, have governments used the pretext of these kinds of things to keep products out that are legitimately safe? Of course they have! That's one of our rules here is to try and provide some guidance in terms of rules of what you can and cannot do and then at the end of the day because there is a degree of uncertainty, not everything is cut and dry, there are gaps in the rules, that you bring a case here and a panel will have to take a ruling on it."

[112] "World Trade and the Doha Round: Final Report of the High-Level Trade Experts Group," World Trade Organization, May 2011.
[113] ibid
[114] WTO, "World Trade Report 2012."

Figure 16: Composition of New Restrictive Trade Measures, 2008-2011

There is a wide range of restrictive trade measures that countries have employed to protect their economies. Between 2008 and 2011, the most prevalent was bailouts and state aid – responses to the global recession, followed closely by trade defense measures, which include anti-dumping and countervailing duties.



Now, WTO members have agreed to reduce non-tariff barriers to trade, but as Dick Nanto explains, "it's so hard to specify what those non-tariff barriers are because they differ from country to country. So you can get around what we signed onto by doing something else, it's very easy. If a country wants to be protectionist, it can."

While the WTO has taken steps to deal with non-tariff barriers to trade including intellectual property rights, government procurement rules, technology transfer requirements, part of the problem is that China might simply put the "right" rules on the books – like laws giving IP protection – and pull the "wrong rules," like technology transfer requirements, off the books.

Rob Atkinson, president of the Information Technology and Innovation Foundation, says that, "We should be able to go to the WTO and say 'China is forcing American companies to transfer technology contingent upon market access' and the WTO will say 'Well China you're not allowed to do that,' but the China will say 'Oh were not doing that' and the WTO will say, 'Oh I guess you're not. We can't find a regulation, so we're not going to do anything.' Well the fact is China's not stupid, they're not going to have a regulation about it; they're just going to do it."[115]

But when many reports from multinational corporations operating in China talks about forced technology transfer, IP theft, and the like, it would be disingenuous for the WTO to not at least mention that in their trade report. Instead of saying "The authorities maintain that there are no mandatory requirements for

[115] Rob Atkinson, Interview by Molly Castelazo, August 2012.

technology transfer associated with FDI approval" and leaving it at that, add "To note, that is in direct conflict with a wide range of reports from businesses operating in China."[116]

Perhaps one of the most significant non-tariff barriers is exchange rate manipulation, which WTO rules don't address. That is the purview of the International Monetary Fund (IMF), which "has almost no power," says Nanto. It's also because WTO members have chosen not to bring a case to the WTO that would address currency manipulation as a trade distorting subsidy (which *is* against WTO rules). Says Nanto, "I think that one of the keys in China's accession to the WTO was that there was no exchange rate agreement with the IMF at the same time. Negotiators should have gone in and said, okay, you're going to have to let your currency respond to market forces at least within some range. If they had done that earlier on I think it would have been better, so that was a large flaw in the agreement."

5.3.1.2. Are There Problems With Domestic Protection Policies?

That ability for countries to apply anti-dumping and countervailing duties is an important concession to domestic interests that was purposefully built into the WTO. Says Keith Rockwell, "These measures provide a safety valve; if you're going to open trade you have to have in place certain measures …[where you can] say 'Okay these guys are doing something here that is probably not within the scope of the rules so we need to take action.' If that lever were not available to governments they'd be much more reticent to open markets."

On the other hand, the ability of countries to unilaterally impose tariffs is an ability to deal with trade disputes outside the WTO. And that weakens the power of the organization. An analogy is helpful: If mom says no, the kids can always go to dad to get what they want. Then no matter how good mom's rules are, they're useless because the kids aren't abiding by them. Worse, the WTO's existence gives cover for countries like China, Brazil, and Japan to circumventing the rules. When policies are made unilaterally – even when they're WTO-compliant – a lot is left to the country's discretion. That opens the door to the race to the bottom in terms of protectionist policies – exactly the kind of outcome that the WTO was designed to avoid.

Nanto explains, "Looking at it from an efficiency point of view, the problem of using an unfair trade practices route – especially with respect to China – is that it goes through the U.S. Department of Commerce. The Department of Commerce tends to side with the U.S. because there is a natural bias – they're in charge of U.S. commerce, right? … So I would guess that there would be greater protection in using domestic law as opposed to going through the WTO or free trade agreements. The other problem is that China tends to retaliate. We think our commerce department is pro-U.S., well China's bureaucracy is blatantly pro-China and they tend to retaliate very quickly; if we come up with an anti-dumping order they will come around and find something against us. So it tends to create these sorts of mini trade wars."

5.3.2. Bilateral and Regional Trade Agreements

In the absence of a successful Doha Round, and the general shortcomings of the WTO discussed here, a large number of bilateral and regional free trade agreements have emerged. According to the World Bank, the number of preferential agreements has increased from about 70 in 1990 to almost 300 today.[117]

That is in part, says Rockwell, because bilateral and regional trade agreements are much easier to implement. "[Bilateral and regional trade agreements] very often do not cover a lot of the issues that are

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[116] WTO, "China Trade Policy Review," 8 May 2012.
[117] "China 2030: Building a Modern, Harmonious and Creative High-Income Society." Development Research Center of the State Council, the People's Republic of China, (2012), p. 64.

problematic in the WTO context like agricultural subsidies for example, or subsidies generally. You do not have to take on things like tariffs for agriculture, you may but you don't have to, anti-dumping rules, subsidies rules, safeguard rules, all of these key rules in the WTO you don't have to deal with in bilateral or regional trade agreements. In other cases the agreement has WTO plus requirements. It may provide higher levels of intellectual property protection or environmental standards, labor standards, things like that which in the WTO context have not been employed to the same extent because getting a consensus of the 157 has proven to be too difficult."

Peter Sutherland, who headed the GATT from 1993-1995 (when it became the WTO), argues that "the Transpacific trade area, for example, or the even more incredible idea of a North Atlantic free trade area will end up being protectionist devices if they ever happen – they won't happen in my book, but they will divert attention from where attention should be given, which is toward multinationalism."

Sutherland explains that bilateral agreements hurt China, perhaps more than any other country. "All of this bilateralism creates, as far as China is concerned, a threat, not an opportunity. The bilateral treaties will be conducted not on a most favored nations basis but on a discriminatory basis and by setting up a web of bilateral trade negotiations which are not open, will ultimately be used to the disadvantage of the major trading countries themselves."[118]

5.3.2.1. Are There Problems With Bilateral and Regional Trade Agreements?

Like the use of domestic protection measures, the increasing prevalence of preferential agreements weakens the WTO. Explains Clyde Prestowitz, "When you don't have a well-functioning comprehensive global system, you wind up with various bilateral and mutual agreements, but those agreements tend to undermine the international system." The authors of the 2011 high-level trade experts group report on world trade and the Doha Round agree, "Preferential trade agreements are a distraction from the greater goal of a multilateral trade deal."[119]

> *"So I'm deeply disappointed with where we are and I blame the big traders, China and the U.S. in particular, for not pushing the multinational system forward. And a price will be paid for this; it's already beginning to be imminent in terms of protectionism."*
> *-- Peter D. Sutherland, S.C., K.C.M.G., Chairman and Managing Director of Goldman Sachs International, former Director General of the GATT*

As the authors of a report on Finland's trade policy program explain, "The fact that regional arrangements have become more common is creating a peculiar situation where the level of multilateral liberalization, based on WTO

[118] Peter Sutherland, Interview by Molly Castelazo, October 2012.
[119] "World Trade and the Doha Round: Final Report of the High-Level Trade Experts Group," World Trade Organization, May 2011, p. 11.

commitments, is an exception rather than a rule… The increase of regional and bilateral arrangements is conducive to a more complicated trading system and distortion of trade flows, increase of trade disputes and additional costs to companies."[120]

Sutherland, who also co-chaired that recent high-level trade experts group study, notes that "I would much prefer to have seen bilateral development taking place under the umbrella of the WTO than outside it. If we fail to recognize the enormous benefits that the GATT system brought to the whole globalization process – which is central to the ambitions of China – then we're missing the whole point. And I think the point is being missed in regards to the Doha round, which itself is emblematic of the WTO. If the WTO loses credibility then its dispute settlement mechanism and its potential as a negotiating forum based on the principal of most favored nation and non-discrimination will be eroded, and that will open up the opportunity for fractious trade disputes that cannot get resolved and for more protectionism. So I'm deeply disappointed with where we are and I blame the big traders, China and the U.S. in particular, for not pushing the multinational system forward. And a price will be paid for this; it's already beginning to be imminent in terms of protectionism."

[120] "Finland's Trade Policy Programme." UM: Publication of the Ministry for Foreign Affairs 15, (2005): 0-77

6. If the WTO Has Not Fulfilled Its Mission, Why Not?

Many experts agree, the global trading system is faltering, yet trade continues to flow – and facing mercantilist policies from their trading partners, free market countries need a way to protect themselves (given that the WTO has not fulfilled its role in that respect). In this environment, an increasingly powerful mercantilist China could be a very real threat to its trading partners around the world. According to the World Bank, "China is so large, and the pace of its growth so rapid, that expanding into new markets is likely to elicit protectionist responses, from both the high-income countries that traditionally have dominated these markets and from other rapidly-growing emerging economies who wish to promote domestic production."[121]

Yet that does not have to be the outcome. Assuming that global trade *can* be mutually beneficial, then the global community needs to find a way to facilitate it. That necessitates understanding *why* the WTO has not succeeded as it could as an arbitrator of global trade. Based on the insights of those experts who believe that the WTO has not lived up to its potential, there are three broad reasons why.

6.1. Has the WTO Dealt With the Most Fundamental Source of Imbalance (FDI)?

According to the experts who believe that the WTO has not fulfilled its mission to ensure a level playing field, one reason why is that the WTO doesn't deal adequately with a fundamental source of trade imbalance: foreign direct investment (FDI).Why not? Among those experts who believe that the WTO does not deal adequately with distorting FDI, the reasons why include that negotiators were working off of the "Japan model" (closed to FDI); China's policy direction is quite different today than at the time of the country's accession to the WTO; and negotiators side with MNCs, which derive huge benefits from FDI in China.

6.1.1. Do WTO Rules Adequately Address the Problems Associated with FDI into China, Namely Forced Technology Transfer and IP Theft?

According to the U.S. Trade Representative and the Information Technology and Innovation Foundation, the WTO doesn't adequately address FDI-related imbalances because it is not set up to do so.

According to the United States Trade Representative (USTR) in its review of China's WTO compliance, "China has revised many laws and regulations on foreign-invested enterprises to eliminate WTO-inconsistent requirements relating to export performance, local content, foreign exchange balancing and technology transfer, although some of the revised measures continue to 'encourage' one or more of those requirements."[122] As is discussed in detail in Section 5.1.1, China's WTO accession agreement does forbid China from mandating that foreign companies investing there must transfer technology. So China has taken technology transfer requirements off the books, but it is made clear to most executives in China that if they want access to China's market, the price is transfer of technology.

In addition, ineffective protection of intellectual property rights (IPR) in China remains a top concern for foreign executives there. In the 2011 China Business Climate Survey, conducted by the American Chamber of Commerce in China, when asked to rate China's enforcement of IPR, 55 percent of

[121] "China 2030: Building a Modern, Harmonious and Creative High-Income Society." Development Research Center of the State Council, the People's Republic of China, (2012), p. 413.
[122] "2011 Report to Congress On China's WTO Compliance," United States Trade Representative, Pg. 10, December 2011.

respondents said that it was ineffective (15 percent labeled it "totally ineffective" and 30 percent "effective or very effective").

China's inadequate property rights protection is similar to the case with technology transfer requirements that China has "officially" removed but are still understood to be very much in practice. While China has signed on to the Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement, according to the Information Technology and Innovation Foundation, China "helps its domestic firms and hurts foreign firms by turning a blind eye to intellectual property theft, even within its own government agencies."[123]

6.1.2. Were WTO Negotiators Working Off of the "Japan Model" (Closed to FDI)?

The WTO was not set up with strict, enforceable rules to address FDI-related imbalances in part because negotiators involved with China's WTO accession assumed that trade with China would be like trade with Japan had been, explains Information Technology and Innovation Foundation president Rob Atkinson. In the 1990s, when policymakers sat down at the table to discuss allowing China into the WTO, the model they had for trading on a MFN basis with a powerful, mercantilist economy was Japan. But Japan's relationship to its trading partners was very different than China's has been. Namely, where Japan was almost completely closed to foreign direct investment, China has welcomed it with open arms – and with some crucial caveats, like joint ventures and technology transfer.

In a February 2012 report, Atkinson explains: "By the mid-1990s and through the first half of the 2000s, Japan had receded as a perceived threat, in part due to the partial success of U.S. government trade and competitiveness policies, including in areas like autos and semiconductors, and also because of the fallout from the bursting of Japan's economic bubble. Now China has become the new focus of U.S. multinationals, especially after China's accession to the WTO in 2000. However, the Chinese development model was quite different than Japan's. While Japan was closed to inward foreign domestic investment (FDI), China was not only open to it; it actively encouraged FDI through a vast array of incentives for foreign firms to set up establishments there. While the consequences might not have always been good for the U.S. economy, especially for production workers in traded sectors, U.S. multinational corporations (MNCs) benefited through access to a global low-cost production platform and Americans in their role as consumers benefited from lower cost goods. And while China occasionally engaged in policies that brought complaints from U.S. industry, by and large U.S. industry was satisfied with the relationship in part because the potential market opportunities were so large. In short, while both China and Japan represented a threat to U.S. workers, only Japan represented a threat to U.S. multinationals."[124]

Because policymakers didn't account for these very important differences between China and Japan, they didn't insist on the kinds of protections (like a strong framework for dealing with technology transfer and intellectual property rights) that now are clearly so important.

6.1.3. Is China's Policy Direction Different Today Than at the Time of the Country's Accession to the WTO?

Another reason that the WTO may not have been set up with strict, enforceable rules to address FDI-related imbalances is that in the 1990s when policymakers were discussing China's possible accession to the WTO, China's path of economic reform looked much different than it does today. At the time,

[123] Robert D. Atkinson. "Enough is Enough: Confronting Chinese Innovation Mercantilism." The Information Technology & Innovation Foundation, (2012), p. 38.
[124] Atkinson, 2012, p. 21.

policymakers saw a China that was indeed implementing the rule of law and promoting market capitalism. But, according to Rob Atkinson, James McGregor, and other experts, that changed in 2006.

Information Technology and Innovation Foundation president Rob Atkinson explains that "People overestimated the part of the Chinese political system, which is there but a minority, that wanted to engage in more western style, market-oriented economics. They thought those voices in China would strengthen by the WTO accession; in fact they haven't been, mercantilism is still China's dominant strategy. So what's happened in the last few years is that U.S. companies are becoming much more concerned with China; they're really realizing that many of China's promises haven't materialized. Particularly what China did in 2006 [with the National Medium- and Long-Term Plan for the Development of Science and Technology (2006-2020), now known in the West as the MLP] to push their companies at the expense of our companies; now U.S. multinationals are getting more concerned about China than they were before."[125]

Since 2006, Atkinson says, China shifted away from its focus on FDI attraction: "In 2006, China made the strategic decision to shift to a 'China Inc.' development model focused on helping Chinese firms, often at the expense of foreign firms, even those with Chinese facilities. Chinese Communist Party leaders decided that being an economy based on attracting commodity-based production facilities from MNCs was no longer the goal, as it had been since the early 1980s when Deng Xiaoping made the strategic decision to open up China to international investment. The path to prosperity and autonomy was now to be one of 'indigenous innovation' with Chinese-owned firms the focus."[126]

"The path to prosperity and autonomy was now to be one of 'indigenous innovation' with Chinese-owned firms the focus."
-- Robert D. Atkinson, "Enough is Enough: Confronting Chinese Innovation Mercantilism

Economists Changyuan Luo and Jun Zhang also find evidence that China has shifted course: "[China] should take steps for further privatisation. In China, this has already gone a long way in the last 30 years. Nevertheless, the worrying cases of 'further nationalisation and lesser privatisation' have resurfaced during the financial crisis."[127]

James McGregor, formerly the head of the American Chamber of Commerce in China and author, most recently, of *No Ancient Wisdom, No Followers*, agrees that even since China's accession to the WTO in 2001, the country has changed its economic policies quite dramatically. In an interview with the *Wall Street Journal*, McGregor says the core finding of his latest book is "How much the Chinese economy has transformed since China joined the WTO in 2001. It was headed toward a more free market economy with more private companies. But the country has strongly reversed course to building up state-owned enterprise that is increasingly incompatible with global trade regimes and threatening to multinationals."[128] That "backward lurch" occurred in three steps, explains McGregor, "[Chinese leaders]

[125] Robert D. Atkinson. "Enough is Enough: Confronting Chinese Innovation Mercantilism." The Information Technology & Innovation Foundation, (2012).
[126] Atkinson, 2012, p. 21.
[127] Changyuan Luo and Jun Zhang, "China Trade Policy Review: A Political Economy Approach," *The World Economy* (2010).
[128]Wall Street Journal China RealTime Report, "Eight Questions: James McGregor, 'No Ancient Wisdom, No Followers'," 1 Oct 2012. http://blogs.wsj.com/chinarealtime/2012/10/01/eight-questions-james-mcgregor-no-ancient-wisdom-no-followers/?mod=WSJBlog

saw the Russian oligarchs taking over state assets as private individuals – and the party decided it would be the oligarchy. And so in 2003 they formed SASAC [State-owned Assets Supervision and Administration Commission] to bring the state shares under central control. Then in 2006 there was a directive that took about two dozen key industrial and technology sectors and made them fully state controlled or majority state controlled. Finally, you have the global financial crisis and the 600-billion-dollar stimulus program. That money flushed into SOEs – and they were off and running."

6.1.4. Did Negotiators Side with MNCs (Which Derive Huge Benefits from FDI in China)?

The fourth reason why the WTO may not adequately address FDI-related imbalances is that policymakers negotiating China's accession, and those who influence WTO decisions today, have sided and continue to side with the multinational corporations that still reap significant rewards from doing business in China. As is discussed in detail in Section 4.3.1, foreign enterprises that have set up shop in China have benefited not only from the incentives offered by China to produce there, but also from access to the huge and growing Chinese domestic market.

And while one might think that U.S. and European MNCs are powerful enough to demand their own concessions from China, in fact they lobby to sustain the status quo instead of enhancing trade because they want to appease China, the world's single largest consumer market. In Section 4.3.2, Rob Atkinson explains that China's quid pro quo of technology transfer in exchange for market access is seen by many multinational corporations as an offer they cannot refuse.

Do policymakers go along with the interest of the multinational corporations because those corporations supply primary funding for the policymakers' reelection campaigns? Even international trade agreements are influenced by MNC lobbyists. Former US-China Economic & Security Review Commission commissioner Pat Mulloy recounts international meetings at the WTO where he saw many of the same lobbyists as he ran into on Capitol Hill (see Section 6.3). A recent Reuters report finds the same: "Instead of issuing tirades, the Chinese hire top-notch lobbying firms whose ranks are filled with well-connected former U.S. and Canadian officials; buy TV advertisements to buff their image; and seek acquisitions less likely to stir nationalistic fervor."[129]

6.2. Do Western Nations Subscribe to Rules-based Trade While Others (including China, Brazil, and Japan) Subscribe to Results-based Trade?

The second reason why the WTO has not fulfilled its promise to ensure a level playing field, according to the experts who believe the WTO has not been effective, is that Western nations generally subscribe to rules-based trade, which is in alignment with the WTO framework, but other nations (including China, Brazil, and Japan) typically subscribe to results-based trade, which is not consistent with the WTO framework.

Leo Hindery, chairman of the US Economy/Smart Globalization Initiative at the New America Foundation, explains, "Trade is supposed to be balanced; if we go back into the 1700s the whole premise of trade is that countries would use their comparative advantage, but at the end of the day that advantage would bring everything in balance. Well it's so acutely out of balance. If [that were] because the premise of trade was simply wrong that's fine, but if it's out of balance because one country follows one rule of trade and the other country follows another, you have to find a common ground. For reasons that are hard

[129] Paul Eckert, Rachelle Younglai, and David Ljunggren, "Insight: China ups lobbying game, but faces key tests in U.S., Canada," Reuters, 22 Aug 2012. http://news.yahoo.com/insight-china-ups-lobbying-game-faces-key-tests-224321949.html

to understand, for decades now China seems to be allowed to follow one rule of trade and we follow another. We either need to acknowledge that that's an acceptable outcome, which I don't believe it is, or we need to seek a redress."[130]

Others don't subscribe to the notion that the breakdown in the multinational trading system is the result of players on the field playing different games. Says Peter Sutherland, former Director General of GATT, "[The idea that the Chinese have a different attitude toward multinational trade than they do in the West] is nonsense. I think that the letter of application by the Chinese to join the GATT was based upon and explicitly expressed the view that the system of the command economy and import substitute economy and the former regime didn't work and that what was required was an embracing of the global trading system and the process of globalization – that is the same motivation as the motivation in developed countries. So I just don't accept that there is a different attitude to trade; there's been no better beneficiary to multinational trade than China and to disregard it and to not become its primary advocate strikes me as strange."[131]

"That's why you have trade imbalances – because the system is not working. It's not working because the premises that the various parties have about the system are quite different."
-- Clyde Prestowitz, President, Economic Strategy Institute, author most recently of The Betrayal of American Prosperity

While some say that the WTO is supposed to be the system for detecting and punishing cheaters – so that the chances of the optimal mutually beneficial outcome is maximized – others say that was not the purpose of the WTO at all. According to Ralph Gomory, "The WTO as far as I understand it is more of a set of rules. They are trying to make everything like that perfect world with no mercantilism. But they don't say anything about the outcome. They just assume everything will come out good, but that isn't correct."

As experts including Clyde Prestowitz contend, the benefits of trade are so distorted because state capitalist countries like China, Brazil, and Japan are playing one game while the rest of the world plays another because they are founded on fundamentally different philosophical principles. And rather than be based on a middle-ground between the invisible hand and the heavy hand, the global trading system, with the WTO at its center, is founded on Anglo-American principles of laissez fair free market (invisible hand) capitalism. "That's why you have trade imbalances – because the system is not working. It's not working because the premises that the various parties have about the system are quite different," says Prestowitz.

Rob Atkinson explains, "China rejects the 200-year old framework of trade based on comparative advantage and is really seeking absolute advantage. Chinese don't think of themselves as engaged in global trade, they see themselves as engaged in global autarchy, self-sufficiency, domination. The Chinese are attempting to achieve that goal by a wide array of clearly unfair and in some cases inappropriate mercantilist trade practices."

In other words, if the WTO is based on the comparative advantage, everyone-wins sort of premise, how could it function in a world no longer founded on those rules? The WTO and its predecessor, the General Agreement on Tariffs and Trade (GATT), were founded on the Anglo-American principles of trade – that

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[130] Leo Hindery, Interview by Molly Castelazo, March 2012.
[131] Peter Sutherland, Interview by Molly Castelazo, October 2012.

when traders follow a set of pre-defined rules, trade benefits everyone individually *and* the group as a whole. Says Choate, "The American and English systems are really rules-based systems. They go back to Adam Smith, they go back to David Ricardo. Our leaders are talking Ricardian principles and it is a system that is based basically upon efficiency of resources. That's the foundation for the WTO and it was the foundation for the GATT; and that's simply because the U.S. and Great Britain dominated the global economy after World War II."

The growth of technology and transportation since the GATT was founded has brought profound changes in international business. When the founding members signed on to the GATT in 1947, the U.S. had "natural protection" because of the oceans that separates it from Europe and Asia, and because Western economies were so far ahead of non-rules-based economies (mostly in Asia) in terms of development.

But, Nanto explains, "Because of the Cold War we [the U.S.] opened our markets wide and sort of ignored the protection of highly protected economies like Japan and South Korea because we had security issues regarding those countries. Plus, all of the protectionism around the world didn't really affect us much. Then the U.S. started running trade deficits and the other countries started catching up so our access to their markets became very important. Under the WTO as well as our free trade agreements, those countries liberalized quite a bit."

"So the reality is that because the WTO is a rules-based system, the image of the Anglo-American model, it is structurally incompatible with the rising economic systems of the world."
-- Pat Choate, Economist, former vice presidential candidate, author most recently of Saving Capitalism

Despite the liberalization of countries like Japan, South Korea, China, and Brazil – from state-planned to state capitalism – their foreign trade and industrial policies remained very different than those of the U.S. and the U.K. In contrast to the Anglo-American model, the "Asian model" – followed by Japan, Singapore, South Korea, China, as well as Brazil to large extent – sees economics as a "strategic responsibility of industry and government," says Choate. "And with industry and government they focus on outcome. The Anglo-American system focuses on rules – and that's a big difference. So the reality is that because the WTO is a rules-based system, the image of the Anglo-American model, it is structurally incompatible with the rising economic systems of the world."

Initially, as Nanto explains, that didn't matter so much. But as those countries began to develop, it started to matter much more. Today, it matters a lot. So much so, in fact, that the same rules-based international trade organization that worked fine when outcomes-based economies were underdeveloped is relatively futile now that the outcomes-based economies are huge. (See Section 6.1.3 for a discussion of how China's policy direction has changed.)

But have policymakers gotten the message? "Again we come back to this ideological belief that if you get the rules right, by celestial mechanics, everything will work out," says Choate. Despite the fact that the world has changed – that countries with very different philosophies about the role of government have grown very big – many policymakers in the West seem blind to that. Says Atkinson, "There's a view among the economic policy elites that all economies operate along the same principles of markets, prices, and supply and demand. Because China has a market, the thinking goes, they must think about the economy and trade the way we do. But they don't. They are very, very different in their orientation. But there's almost an intellectual incapability of understanding these deep cultural, political differences."

6.3. Do Multinational Corporations Favor the Distorted Trade Status Quo Because it Benefits Them?

The third reason why the WTO has not fulfilled its promise to ensure a level playing field, according to the experts who believe the WTO has not been effective, is that multinational corporations favor the distorted trade status quo (with heavy FDI into China) because it benefits them; their interests are not aligned with national interests in the U.S. or Europe.

One would think that multinational corporations, the likes of Boeing or Airbus or GE or Siemens, would be able to force China into concessions – after all, China can't grow without their technology. Yet in reality the opposite is true. Says Atkinson, "You know these U.S. multinationals wouldn't put up with this nonsense from Rwanda or Peru; they would go on an investment strike and say 'You want to play these kinds of games you're not going to get a facility in your country; play by the rules or you get nothing.' They can't do that with China because China simply says to Boeing, 'Oh you don't want to invest here anymore? We're going to buy Airbus planes, goodbye.' They say to GE, 'Oh you don't want to sell to us, goodbye, we'll go to Siemens.'"

According to a 2011 report by Reuters, "Big American companies with investments in China are afraid to criticize Beijing because of the controls it has over just about any access to the Chinese market. They fear too strident a stance could mean they will lose contracts or even be ostracized as Google Inc was after a dispute with China over censorship and hacking." The report quotes Victor Shih, an assistant professor of politics at Northwestern University: "The Chinese government controls all the levers of the economy, from import and export licenses on up. There are so many ways for the Chinese government to retaliate it is no surprise businesses are so reluctant to criticize it." [132]

According to Prestowitz, "China's not a leading aircraft manufacturer, so on a free trade basis you wouldn't expect that aircraft manufacturers would be rushing to produce in China. But some of them are. It's clear that they are doing so because China has made it clear that if they want to sell in China they need to produce in China and need to transfer the technology. So if that's the way the game is being played then maybe you adopt policies that emphasize a lot of this aircraft development is funded by taxpayer dollars and the companies ought to pay back on those taxpayer dollars if they're going to move production to China."

Atkinson says that the reluctance of U.S. policymakers to go head-to-head with China – whereas policymakers did go head-to-head with Japan in the 1970s and 80s – is because China has let multinational corporations in; Japan did not. "There was an alignment between U.S. multinationals and the government and the labor unions back in the 80's against Japan, because it was our multinationals against their multinationals – they weren't letting us in. China didn't do that; they let our multinationals in." But that's changing, Atkinson says. "Really since 2006 when China shifted gears it's becoming more like a Japanese story of the 80s than the Chinese stories of the 90s."

So U.S. policymakers, according to Atkinson and other experts, kowtow to multinational corporations because that's where their campaign financing comes from. But have they always? Pat Mulloy says no. "We used to have a stakeholder theory of what a corporation was about; the corporation was supposed to serve the community, the employees – and the shareholders were somewhere among those listed. In the mid 1980's something morphed in our system, and the emphasis became solely shareholder value, and then the CEOs of the companies tied their own compensation to shareholder value. Their short-term motives are now to make as much money as quickly as they can, and the whole system drives them to do

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[132] Nick Carey and James B. Kelleher, "Special report: Does corporate America kowtow to China?" Reuters, 27 Apr 2011. http://www.reuters.com/article/2011/04/27/us-special-report-china-idUSTRE73Q10X20110427

that whether they want to or not. So now they have both an institutional and a personal motive to engage in activities that increase shareholder value in the short term but are not always good for the U.S. employees or the community."

Even international trade agreements, Mulloy says, are influenced by corporate lobbyists. "I went to the big Uruguay Round meeting going on in Brussels either in '90 or '91 and what I saw was all the lobbyists who were traditionally on Capitol Hill over there lobbying trade negotiators to get what they wanted into the trade agreements. Those weren't trade agreements; they were fixes to get some of the corporations what they wanted."

In addition to the fact that multinational corporations pour huge sums of money into political campaigns in the U.S., they also derive tremendous power from the fact that they're globally mobile, while citizens are not. "Internationalising companies will be less and less dependent on their original home States and on individual States in general. The mobility of companies has prompted States and regions to engage in competition on the location of the most favourable operating business environments. From the point of view of governments and nations, it is still essential where companies pay their taxes, where profits are repatriated, where investments are made and where people are employed."[133]

But, according to New America Foundation's, Leo Hindery, it's not true that all companies eschew the national interests of their home countries to chase profits wherever they are. There are a number of companies in the U.S. that could be called "good corporate citizens" – including, says Hindery, Microsoft (but not Apple). "I think Microsoft wakes up every morning and tries to be a good corporate citizen in America, while I think Chinese companies wake up every morning and try to be a good corporate citizen in China. Apple is a company that has always caused me grave concern because I think it doesn't have that attitude. Apple doesn't see the imperative of a low real unemployment rate, it doesn't see the imperative of balanced trade, of fair wages, so it moved over 250,000 jobs in effect to China – a quarter of a million jobs that could have been on the West Coast in the U.S. I think that draws a sharp distinction between Apple's business practices and Microsoft's. I can go throughout the West Coast and throughout the nation and find American workers that are committed to the Microsoft company. It's a global trader and a global citizen, but its primary responsibility is in the U.S."[134]

[133] "Finland's Trade Policy Programme." UM: Publication of the Ministry for Foreign Affairs 15, (2005): 0-77.
[134] Leo Hindery, Interview by Molly Castelazo, March 2012.

7. If the WTO Is Responsible for Protectionism, Are There Ways the Global Trading System Could Be Fixed?

The overwhelming consensus among the experts interviewed is that trade can be mutually beneficial with the right framework in place to do, in essence, what the WTO claims as its mission: ensure a level playing field. Across the experts interviewed, five ideas emerged for ways to fix the global trading system.

7.1. Multilateral Trade Agreements Must Address FDI (and Have Real Teeth for Punishing Transgressors)

Given that FDI into China is one of the primary causes of trade imbalances, and that the WTO has failed to adequately address FDI-related distortions, one of the most obvious ways to fix the broken global trading system is to ensure that there is a multinational framework in place that prohibits forced technology transfer, forced joint ventures, and adequately protects intellectual property. That framework would, of course, need to have real teeth for punishing transgressors.

Information Technology and Innovation Foundation president Rob Atkinson writes, "The WTO needs to focus on developing an enforceable regime that addresses the many non-tariff mercantilist actions nations take. The WTO system is still largely about 'trade' agreements relating mostly to imports and exports. Thus, it addresses export restraints and export quotas, but the root cause – a production cartel run by a government – is not addressed."

Atkinson continues, "One place to start to fix this would be to institute enforceable actions with regard to rules for joint venture requirements; and to base requirements on real conditions on the ground, not some provisions in a government legal code. There is no national security reason for China to extend joint venture requirements to as many industries as they do. A second area where new rules are needed regards SOEs. The idea that opaque, heavily subsidized, and favored SOEs compete in the global trading system competing with firms that must raise their own capital in the marketplace makes a mockery of the idea of fair and welfare enhancing competition. A third area is standards. Standards manipulation for competitive advantage should more easily be WTO-actionable."[135]

7.2. Multilateral Trade Frameworks Must be Based on a Middle-ground Philosophy to Focus on Outcomes Rather than Rules

A number of observers suggest the U.S. move more toward Germany and develop a trade policy that is subservient to industrial policy (which in turn is designed for one specific purpose: to promote national interest). According to Thea Lee, deputy chief of staff at the AFL-CIO, "Trade policy is a very important piece of a comprehensive overall economic and industrial strategy and we haven't done it very well. So I think we need to rethink our trade policies in terms of the so-called free trade agreements that the U.S. enters into – we need a set of policies that are going to incentivize companies to create good jobs here in the U.S. We need to rethink what is the model of trade agreement do we seek? What kind of protections for worker rights, for environmental standards, even for investment and intellectual property rights, financial services – we need to rethink those rules so that we are incentivizing job creation in the U.S."[136]

Lee continues, "Multinational corporations make money, that's what they do and there is nothing wrong with that, that's the kind of economy we live in. But the government's job is to create a framework of

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[135] Robert D. Atkinson. "Enough is Enough: Confronting Chinese Innovation Mercantilism." The Information Technology & Innovation Foundation, (2012), p. 82.
[136] Thea Lee, Interview by Molly Castelazo, March 2012.

rules that makes sense for the country as a whole that has a broader set of interests. So we regulate workplaces so they're safe, we regulate the environment so companies don't just poison the environment when they're producing just to make a buck, and we also regulate trade. We figure out what kinds of rules do we need as a nation to make sure trade is fair, that our producers and workers have a fair shot at being successful in a global economy."

Trade policy, Lee says, is an essential part of a success strategy. "Having an ideological position that free trade is a good policy when other countries are pursuing mercantilist strategies or industrial policies is a losing strategy in the global economy. So we need to make sure we are being responsive to what other countries do and we need to make sure we are building up our own infrastructure and our own workforces in order to be competitive and successful in the global economy."

Asked what the goal of that kind of framework should be, Lee said, "The ultimate goal is not to have more trade or more investments or more trade agreements, but to have more good jobs and broadly shared prosperity at home. A lot of other countries automatically see their policies in that lens; they think, 'What's going to keep jobs here in India or China or Germany or Japan' but in the U.S. our policymakers have for too long thought only about what allows our companies to make a lot of money – and that's a different question."

"The defining battle of the 21st century will be not between capitalism and socialism but between different versions of capitalism. And since state capitalism is likely to be around for some time yet, Western investors, managers, and policymakers need to start thinking more seriously about how to deal with it."
-- The Economist, "And the winner is…"

Andy Grove, the founder of Intel, has said "Our fundamental economic belief…is that the free market is the best of all economic systems – the freer the better. Our generation has seen the decisive victory of free-market principles over planned economies. So we stick with this belief largely oblivious to emerging evidence that while free markets beat planned economies, there may be room for a modification that is even better."[137]

As "state capitalism" has risen in Asia, Brazil, and Russia, Western Europe seems poised to follow suit. As *The Economist* describes, "The European Commission's directorate for enterprise and industry has mused on the need to create European champions to fight 'unfair competition' from overseas. Nicolas Sarkozy, [then] French president, has created a sovereign-wealth fund. Alexandre de Juniac, as chief of staff to Christine Lagarde, then France's finance minister, ascribed his country's renewed enthusiasm for dirigisme to China's influence. Japan's Ministry of Economy, Trade and Industry in 2010 named the rise of state capitalism as one of the drivers of a newly interventionist industrial strategy."[138]

Prestowitz sees the same trend. "All of the Asian countries are pursuing mercantilist policies of one kind or another, everybody's doing strategic export trade and in Europe the Germans have their own kind of industrial policy and export led strategy and the rest of Europe is kind of being forced to become more German. So yes, I think that's kind of the trend of the world."

[137] *The Economist*, "And the winner is…" 21 Jan 2012, Special Report p. 18.
[138] ibid

Not that the "modified system" should look like state capitalism. Instead, perhaps that modified system would be one like Sweden's. It's an idea Rob Atkinson raised in his February 2012 report "Confronting Chinese Innovation Mercantilism" when he juxtaposed the Washington consensus, the Beijing consensus, and what he calls the "Helsinki consensus," which is followed by countries that are "fundamentally committed to a vision of global integration and free trade, but at the same time recognize that 'good', non-mercantilist innovation policies are critical."[139]

So, experts suggest, the modified system would strike a balance between allowing for the realization of the very real benefits of global trade while also acknowledging that trade is not always mutually beneficial, and allowing countries to protect themselves accordingly. Striking that balance – within the WTO or elsewhere – benefits us all. The fundamental value of the WTO is to create a framework within which sovereign nations can cooperate such that the gains from trade are maximized for all (not just for one or a few). China has manipulated that value – and U.S. policymakers have allowed it – to the great detriment of manufacturers and workers in the United States and other developed economies.

But, experts say, there does exist some central point on the continuum where the needs of domestic producers and workers are met, the gains from global economic integration are distributed fairly, and trade is beneficial to all of the countries that engage in it (each is truly better off integrated than not). From the perspective of the laissez faire free traders, that central point is a less naïve, more rational view of the benefits of trade (and the foreign trade policies necessary to ensure that trade is sustainable and fair). For the mercantilists, it is a freer, fairer view of trade where trade is mutually beneficial. This central viewpoint is the one that trade systems – whether the World Trade Organization, regional trade agreements, or something else – should demand of its members.

Not that China or Japan or Brazil or South Korea is eager to give up state capitalism. Indeed, as *The Economist* suggests, "The defining battle of the 21st century will be not between capitalism and socialism but between different versions of capitalism. And since state capitalism is likely to be around for some time yet, Western investors, managers, and policymakers need to start thinking more seriously about how to deal with it."[140]

"We've got to move toward results-oriented trade," says Atkinson. "The U.S. is committed to a process-oriented trade regime and that works with Canada, it works with Europe mostly, because fundamentally those are rule-based countries. It doesn't work with non-rule based countries like China. We can keep trying to tweak the rules and keep trying to bring cases to the WTO – which we should – but fundamentally we need to say to our trading partners, 'These are the results we want. We expect them to happen and if they don't there will be penalties.'"

7.3. Multinational Corporations Could Form a Coalition to Insist on Fair Treatment in Emerging Markets

To resolve the problem of multinational corporations lobbying for the status quo, Atkinson suggests forming a coalition of MNCs to have real power to negotiate with state capitalist countries. Given that China gets away with mercantilist behavior in large part because MNCs feel powerless to stop it, with the threat of being pitted against each other and locked out of the world's fastest-growing market. Atkinson suggests that if the world's MNCs banded together to face China with a unified front, that would go a

[139] Robert Atkinson, Information Technology and Innovation Foundation, "Confronting Chinese Innovation Mercantilism," Feb 2012.
[140] *The Economist*, "And the winner is…" 21 Jan 2012, Special Report p. 18.

long way to reducing China's forced technology transfer, IP theft, domestic content mandates, and the like.

Says Atkinson, "[The Information Technology Innovation Foundation] has argued for a new law that would allow companies to get an anti-trust exemption with regard to their decisions to invest in China, to give companies the ability to ban together and say, 'We're all willing to invest in China but were not going to give them our technology.' They all agree on that ahead of time and then if the Chinese say, 'If you don't give us your technology you can't invest' then none of the companies invest. Then China can't play companies against one another."

Atkinson continues, "There can be free riders in that system, but I think in industries where there's a fair amount of concentration – where you have less than 10 or 15 dominant players – the risk of companies peeling off is lower. [Such a coalition] would have been hard to do 3-4 years ago but companies now are really seeing what damages to their long term prospects China is doing and I think they would be much more hesitant now to jump ship and cut their own deals."

> *"[Powerful interests] are advantaged by the disadvantage that has befallen the American worker and our trade deficit. Until we take multinational corporations' money out of our political system, the MNCs that like this outcome will continue to dominate the political responses." -- Leo Hindery, Chairman, US Economy/Smart Globalization Initiative at the New America Foundation*

Of course, a coalition of multinational corporations that have real bargaining power with China requires that industry players take their global industry associations more seriously and use them to protect their interests as a whole – this is one area in which the responsibility lies on the shoulders of the corporations, not the policymakers.

7.4. Policymakers Must Demonstrate Real Leadership

Even if the perfect solution is evident – and there are many good ones – it has to be implemented. And that's where the difficulty lies. Policymakers have been incredibly reluctant to make any meaningful change in either their own country's trade policy or WTO rules. "The solutions are not a problem," says Pat Choate. "The problem is politics."

Says Gomory, "I do think that [the solution] will require a raised consciousness outside of Washington D.C. In other words a wider assortment of people have to become active and say 'What we are doing right now is not good enough' – it will take almost a mass movement to overcome the financial power of the corporations."

Yet raising the consciousness outside or inside of Washington D.C. is not easy. Says Choate, "Fundamentally, our system is corrupt. That's the answer – 19th century corruption." Speaking about the U.S. congressional bill to impose tariffs on imports of Chinese goods affected by China's currency manipulation, which passed the Senate by a veto-proof margin in November 2011, Choate said that House speaker Boehner won't let the bill come to the floor because the business community doesn't want it. "The business community has put up the money for politicians' campaigns and they don't want it passed, so it doesn't get passed." Choate added, "There are many people who agree with my view on this, but we would never be appointed to positions to do anything about it."

Leo Hindery agrees. "[Powerful interests] are advantaged by the disadvantage that has befallen the American worker and our trade deficit. Until we take multinational corporations' money out of our political system, the MNCs that like this outcome will continue to dominate the political responses." Campaign finance reform, Hindery says, is a good place to start. (Unfortunately, the Supreme Court's ruling in Citizens United will make removing MNCs' money from the political process vastly more difficult.)

As to why the U.S. has not officially labelled China a currency manipulator, Atkinson says, "U.S. Treasury Secretary Geithner wants to be able to borrow at cheap rates. He's looking out for the Treasury Department's interest, not the national economic interest (which is why the treasury shouldn't run economic policies)." What's more, now that U.S.-based multinational corporations produce so much in China, there's a lot of pressure not to raise the relative costs of Chinese exports (which are really those MNCs' exports), which yuan appreciation would do. "That's partly why the Republicans at the house have sided against the currency manipulation bill."

Atkinson continues, "What I find troubling about both the Republican position and the Geithner position is if you're a free market advocate you fundamentally should believe that currency prices should be set by the market, not by the government. The Chinese are basically sticking their finger in our eye on that. It always amazes me why free market advocates allow this to happen, because it's the antithesis of a free market."

In the May 2011 report from the high-level trade experts group for the WTO, Peter Sutherland and his co-authors cite a dearth of political leadership as a primary reason for the failure of the Doha Round, which the authors call emblematic of the failure of the WTO. The authors write, "This report traces the imminent failure of the Doha Round back to a deficit of political leadership. It is a failure at the level of national governments to engage with a multilateral process that ranks alongside the emerging climate change negotiations and the global reform agenda for financial markets after the banking crisis in its capacity to shape the global economy for the better. It is a failure above all of national leaders, who are ultimately the only players who can provide the legitimacy and room for manoeuvre that is required to close a negotiation at a level of ambition that will require compromise from all."[141]

7.5. Policies Must Align What's Good for Multinational Corporations with What's Good For Their Home Countries

Another area where policymakers could make a difference is in setting policies that align what's good for multinational corporations with what's good for domestic businesses and workers. Speaking at a hearing of the U.S.-China Commission, NYU Stern School of Management research professor Ralph Gomory suggested: "We need to consider a U.S. national economic strategy that includes incentives for companies to have high value-added jobs in the United States. If we want high value-added jobs, let us reward our companies for producing such jobs – whether they do that through R&D and advanced technology, or by just plain American ingenuity applied in any setting whatsoever."

[141] Peter Sutherland, Jagdish Bhagwati, Kwesi Botchwey, Niall FitzGerald, Koichi Hamada, John H. Jackson, Celso Lafer and Thierry de Montibrial. "The Future of the WTO: Addressing institutional challenges in the new millennium." World Trade Organization, (2004): 0-86.

Gomory continues, "The Asian countries have attracted companies by individual deals with individual companies. We do not have either the tradition or the knowledge or the inclination in the U.S. government to do that. An approach that is better suited to what the United States can do is to use the corporate income tax. We have already used the corporate income tax to spur R&D, so let us use it to directly reward what we are aiming at: High value-added jobs…One way to do this is to give a corporate tax deduction proportioned to the value added created in the U.S. by a company. Consider two equal-size companies, one chooses to send half its work overseas; the other keeps the work in the U.S. The second company will receive double the deduction on its income tax that the offshoring one receives. The effect can be made as strong or as weak as is desired."[142]

[142] Ralph Gomory, Testimony before the U.S.- China Economic and Security Review Commission Hearing on China's Five-Year Plan, Indigenous Innovation and Technology Transfers, and Outsourcing (15 June 2011). http://www.uscc.gov/hearings/2011hearings/written_testimonies/11_06_15_wrt/11_06_15_gomory_testimony.pdf

8. Fixing the Global Trading System

For those experts who believe that the global trading system is broken – that the WTO has failed to ensure a level playing field for all and, in the absence of an effective multilateral trading system, domestic protectionism and regional and bilateral trade agreements that weaken multilateral trade have risen, the question becomes: How do we fix the global trading system?

Among the diverse viewpoints of the experts interviewed, a theme emerged: that whatever the answer is, it must acknowledge that free market capitalist economies (those on the “invisible hand” side of the spectrum) and state capitalist economies (those on the “heavy hand” side) are founded on fundamentally different philosophies about the roles of the state and the enterprise and the goal of trade policy.

The answer is certainly not to close borders to trade. But it is to insist that countries abide by a single set of rules that facilitate the outcomes that maximize benefits for all traders. It is to insist that mercantilism is not a sustainable growth strategy and that countries that engage in it will not be allowed to partake in the benefits of global trade. And, it is to insist that foreign direct investment be a vehicle for mutually beneficial growth among all parties, not a rise of one at the expense of the others. With a system that accounts for these issues, trade can be mutually beneficial.

Interviewee Biographies

At ChinaGlobalTrade.com, our mission is to encourage and foster open, honest, fact-based dialogue on issues relating to China's trade with the world. To accomplish that mission, we seek insights from a wide range of experts, across geographies and perspectives, to offer our readers a balanced portal into the issues. The author of this report, ChinaGlobalTrade.com director Molly Castelazo, is not the expert on these issues; her role, rather, is to seek out and interview those experts, then to compile their insights into a cohesive discussion of the issue.

Instead of assuming and then arguing one position or another, this report presents viewpoints from experts broadly considered to be authorities on these issues as well as books, monographs, and other works previously published on this topic. It is up to the reader, then, to determine a conclusion.

The following experts graciously agreed to be interviewed for this report. ChinaGlobalTrade.com sincerely appreciates their time and insight. ***To note, interviewees' viewpoints are expressed in quotations with attribution. Otherwise, the views expressed in this report are the views of the author alone; errors and omissions are the author's alone.*** While there is consensus among some of the experts interviewed in the areas where consensus is noted, not every interviewee shares the viewpoints of the other interviewees or of the report as a whole.

Robert D. Atkinson, President, Information Technology and Innovation Foundation – Mr. Atkinson has an extensive background in technology policy, he has conducted ground-breaking research projects on technology and innovation, is a valued adviser to state and national policy makers, and a popular speaker on innovation policy nationally and internationally. He is the author of *Innovation Economics: The Race for Global Advantage* (Yale, 2012) and *The Past and Future of America's Economy: Long Waves of Innovation That Power Cycles of Growth* (Edward Elgar, 2005). Before coming to ITIF, Atkinson was Vice President of the Progressive Policy Institute and Director of PPI's Technology & New Economy Project. Ars Technica listed Atkinson as one of 2009's Tech Policy People to Watch. He has testified before a number of committees in Congress and has appeared in various media outlets including CNN, Fox News, MSNBC, NPR, and NBC Nightly News. He received his Ph.D. in City and Regional Planning from the University of North Carolina at Chapel Hill in 1989.

Norman R. Augustine, retired chairman and chief executive officer of the Lockheed Martin Corporation and author of *Rising Above the Gathering Storm: Energizing and Employing America for a Brighter Economic Future* – Mr. Augustine has held numerous leadership positions in both government and private industry. In 1975 Augustine became Under Secretary of the Army, and later Acting Secretary of the Army. Joining Martin Marietta Corporation in 1977 as Vice President of Technical Operations, he was elected as CEO in 1987 and chairman in 1988, having previously been President and COO. He served as president of Lockheed Martin Corporation upon the formation of that company in 1995, and became CEO later that year. He retired as chairman and CEO of Lockheed Martin in August 1997, at which time he became a Lecturer with the Rank of Professor on the faculty of Princeton University where he served until July 1999. Augustine served on the President's Council of Advisors on Science and Technology under Democratic and Republican presidents and led the 1990 Advisory Committee on the Future of the U.S. Space Program and the 2005 National Academies commission that produced the landmark report, *Rising Above the Gathering Storm: Energizing and Employing America for a Brighter Economic Future*.

Pat Choate, Economist, former vice presidential candidate, author most recently of *Saving Capitalism* – Mr. Choate has been Director of Public Policy of Green Planet Group, Inc. since November 2009. Choate served as Vice President of Policy for TRW, a diversified multinational corporation since

1980. He has a varied career in the private and public sectors. Choate's public positions include that of economic advisor to two Governors of the State of Oklahoma, Commissioner of Economic Development for the State of Tennessee, and senior positions in the Federal Government at the US Commerce Department and the Office of Management and Budget. He directs Washington-based policy institute, the Manufacturing Policy Project, and teaches Advanced Issues Management at George Washington University's Graduate School of Political Management. Choate is political economist, think tank strategist, policy analyst, and author who studies U.S. competitiveness and public policy. (Source: Businessweek)

Bob Davis, Senior Editor, Wall Street Journal – Mr. Davis covers the Chinese economy from Beijing for the *Wall Street Journal*. Prior to his move to China, Davis served as an international economics correspondent.

Ralph Gomory, Research Professor, NYU Stern School of Management – Mr. Gomory joined New York University Stern School of Business as a Research Professor in April 2008. Prior to joining NYU Stern, Professor Gomory was President of the Alfred P. Sloan Foundation from 1989 to 2007. Before joining the Alfred P. Sloan Foundation, Gomory served as both head of IBM's Research Division and then as IBM Senior Vice President for Science and Technology. During his 30-year tenure at IBM, the firm's researchers invented what is now known as RISC architecture, and developed the concept, theory and first prototype of relational databases. They also won two successive Nobel Prizes in physics. (Source: NYU)

Adam Hersh, Economist, Center for American Progress – Mr. Hersh is an Economist at American Progress focusing on economic growth, macroeconomics, international economics, and China and other Asian economies. Hersh publishes articles in peer review economics journals and his writings have appeared in popular publications like The American Prospect, Challenge, and a number of newspapers and online journals. He earned a Ph.D. in economics from the University of Massachusetts, Amherst. Prior to joining American Progress, Hersh taught macroeconomics and money and banking at UMass; was a visiting scholar at the Shanghai University of Finance and Economics' Institute for Advanced Research; worked with the Asian Development Bank, the Political Economy Research Institute, the Center for Economic and Policy Research, and the Economic Policy Institute; was a consultant to New Rules for Global Finance and the Friedrich Ebert Stiftung; and earned a B.A. in international political economy at the University of Puget Sound. (Source: CAP)

Leo Hindery, Chairman, US Economy/Smart Globalization Initiative at the New America Foundation – Mr. Hindery is Managing Partner of InterMedia Partners, LP, a media industry private equity fund manager he first founded in 1988. Hindery is also Chairman of the US Economy/Smart Globalization Initiative at the New America Foundation and a Member of the Council on Foreign Relations. He is a member of the Board of Visitors of the Columbia School of Journalism; a Trustee of New School University; and a Director of the Huffington Post Investigative Fund, the Media Access Project, and Teach for America. Previously, he was an economic and trade advisor to Democratic presidential nominee Barack Obama, after earlier serving as Senior Economic Policy Advisor for presidential candidate John Edwards. From 2005 through 2007, he was Vice Chairman of the Presidential and Congressional HELP Commission which in December 2007 made recommendations to Congress for the reform of U.S. Foreign Assistance. (Source: USCC)

Thea Lee, Deputy Chief of Staff, AFL-CIO – Ms. Lee is Deputy Chief of Staff at the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), where she has also served as Policy Director and Chief International Economist. Previously, she worked as an international trade economist at the Economic Policy Institute in Washington, D.C. and as an editor at Dollars & Sense magazine in Boston. She received a Bachelor's degree from Smith College and a Masters degree in economics from the University of Michigan. Lee is co-author of A Field Guide to the Global Economy, published by the New Press. Her research projects include reports on the North American Free Trade Agreement, on the impact of international trade on U.S. wage inequality, and on the domestic steel and textile industries. (Source: USCC)

Patrick Mulloy, Former Commissioner, US-China Economic & Security Review Commission – Commissioner Mulloy served five two-year terms as a commissioner before retiring at the end of 2011. Mulloy served as Assistant Secretary of Commerce for Market Access and Compliance in the Department's International Trade Administration during the second Clinton Administration. As Assistant Secretary, Mulloy directed a trade policy unit of over two hundred international trade specialists, which focused worldwide on removing foreign barriers to U.S. exports and on ensuring that foreign countries complied with trade agreements negotiated with the United States. This activity involved discussions both in the World Trade Organization and with individual governments. (Source: USCC)

Dick Nanto, Specialist in Industry and Trade, Congressional Research Service –Mr. Nanto is a Specialist in Industry and Trade at Congressional Research Service and an Affiliate Faculty Member George Mason University. He has an MA and PhD in Economics from Harvard University and an MA in National Security Studies from National War College.

Clyde Prestowitz, President, Economic Strategy Institute, author most recently of *The Betrayal of American Prosperity* – Mr. Prestowitz is founder and president of the Economic Strategy Institute, which works in the areas of international trade policy, economic competitiveness and the effects of globalization. Prior to founding ESI, Prestowitz served as counselor to the Secretary of Commerce in the Reagan Administration. There, he led many U.S. trade and investment negotiations with Japan, China, Latin America and Europe. Before joining the Commerce Department, he was a senior businessman in the United States, Europe, Japan, and throughout Asia and Latin America.

Keith Rockwell, Director, Information and External Relations Division, World Trade Organization – Mr. Rockwell has had a distinguished career in journalism. Before joining the WTO as Director of the Information and External Relations Division in 1996, he had been with the New York Journal of Commerce since 1980. In addition to various editorial positions, Rockwell was the Journal's European Bureau Chief. From 1995 to 1996, he was Chief of the Journal's Washington Bureau. (Source: WTO)

Peter D. Sutherland, S.C., K.C.M.G., Chairman and Managing Director of Goldman Sachs International, former Director General of the GATT –Mr. Sutherland serves as an Advisory Director of The Goldman Sachs Group, Inc. He served as the Director General of GATT and Group Secretary and General Counsel of World Trade Organisation from 1993 to 1995. Sutherland served as an Attorney General of Ireland and also served as European Commissioner from 1985 to 1989 where he was responsible for competition policy. (Source: Businessweek)

We also sought the insights of experts in China. We reached out to a number of experts, and they have elected not to participate, which we find unfortunate. Our aim in these reports is to provide a balanced perspective on the issues. That balanced perspective is incomplete without the Chinese viewpoint. Our aim is to give a voice to the Chinese perspective, which is often not heard in these discussions. If you would like to participate in this or any other China Global Trade discussion, please email ChinaGlobalTrade.com director Molly Castelazo at molly@futureofuschinatrade.com.

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Appendix 1: Foreign Trade and Industrial Policy Tables

Table 3: China's Foreign Trade and Industrial Policies (2012)[143]

Contingency Measures (Anti-dumping/ Countervailing Duties)	• China "needs to issue additional procedural guidance such as rules governing expiry reviews and improve its commitment to the transparency and procedural fairness requirements embodied in WTO rules."[144] • As of June 2011, China had 115 anti-dumping measures in force and 2 countervailing duties measures in force.
Dispute Settlement (WTO)	• China became a member of the World Trade Organization on December 11, 2001. Its last trade policy review was published on May 8, 2012. • Since China acceded to the WTO it has submitted eight requests for consultation and has been the defendant in 26 complaints (see Appendix 2). • In many respects, China has brought its foreign trade and industrial policies into compliance with WTO rules, per the commitments China agreed to when it acceded to the WTO. Yet there are still a number of important areas where China has failed to uphold its commitments. Those are detailed here.
Exchange Rate Policy	• In what many analysts consider to be a massive export subsidy, China continues to hold the yuan within a very narrow trading band (it is a managed float with a basket of currencies, mostly the U.S. dollar)
Export Controls	• China imposes export constrains on a number of goods, most notably rare earth. *Chinese authorities claim* the rare earth quotas are designed to conserve natural resources and protect the environment. The WTO Secretariat questioned the economic effectiveness of these measures in its report for the last trade policy review of China.
Export Subsidies, Finance, Insurance, and Guarantees	• China provides export credit financing mainly through its official export credit agency, the Export-Import Bank of China (EXIM Bank), which is wholly owned by the Central Government.[145] "The Bank's main mandate is to facilitate the export and import of Chinese mechanical and electronic products, complete sets of equipment, and new- and high-tech products; assist Chinese companies with comparative advantages in their offshore contract projects and outbound investment; and promote its foreign relationship and international economic and trade cooperation." • China also provides export credit insurance through the China Export & Credit Insurance Corporation (SINOSURE). • *According to Chinese authorities*, both domestic and foreign firms receive export finance or export credit insurance from the EXIM Bank or SINOSURE under the same terms and conditions, and there is no local-content requirement to obtain export finance. • China also promotes exports by fully rebating the excise tax and rebating a portion of the value-added tax (VAT). "China adjusts VAT rebate rates as part of its industrial policies, to control, restrict, or otherwise 'manage' the export of certain products."
Government Financing	• In 2008 the U.S. filed a complaint with the WTO that China was providing grants, loans, and other incentives to enterprises in China on the condition

[143] The information in this table (including quotations) comes from China's WTO China Trade Policy Review, 8 May 2012, unless otherwise noted.
[144] "2011 Report to Congress On China's WTO Compliance," United States Trade Representative, Pg. 10, December 2011.
[145] The EXIM Bank has 18 branches in China and 3 overseas representative offices (in Johannesburg, Paris, and St. Petersburg) (EXIM Bank, 2010, p. 118. Viewed at: http://english.eximbank.gov.cn/annual/ 2010fm.shtml.

	that those enterprises meet certain export performance criteria. According to the USTR, "On December 18, 2009, the parties concluded a settlement agreement in which China confirmed that it had eliminated all of the export-contingent benefits in the challenged measures." • China continues to provide grants and loans to enterprises, especially within "strategic emerging industries."
Foreign Direct Investment Rules	• According to the USTR in its review of China's WTO compliance, "China has revised many laws and regulations on foreign-invested enterprises to eliminate WTO-inconsistent requirements relating to export performance, local content, foreign exchange balancing and technology transfer, although some of the revised measures continue to 'encourage' one or more of those requirements."[146] • Indeed, while foreign-invested enterprises in China continue to report technology transfer requirements, China seems to have taken all such regulations off the books. Says Adam Hersh, an economist with the Center for American Progress, "As a condition to gain access to production in Chinese market, foreign-owned companies will be required to move some kind of production that embodies some of their firm-specific technical knowledge to China. Once that is there the spillover from the information is very porous so it doesn't matter about intellectual property rights regimes, just the nature of the info that is there means that people can learn it very readily, people get trained in the production process or specific technologies that are in use and then they can go to other companies or start their own company so the info is very leaky. That has been an important part of how China has climbed up the technology ladder, but it's not the only part and there are other ways that China is increasing its technological capacity."[147] • In a number of industries, China has erected market access barriers (including but not limited to technology transfer requirements). Also, foreign-invested enterprises in China report discrimination against foreign enterprises. "China has added a variety of restrictions on investment that appear designed to shield inefficient or monopolistic Chinese enterprises from foreign competition."[148]
Government Procurement & Indigenous Innovation	• In June 2011, China announced the decoupling of its 'indigenous innovation' policy from government procurement provisions. *Chinese authorities maintain* that there is no longer any indigenous innovation condition attached to government procurement. • China is not a signatory to the Agreement on Government Procurement (GPA); it submitted a revised offer to join the GPA in December 2011 but movement toward accession to the WTO Government Procurement Agreement has been slow. • "The Government's objectives in procurement include improving efficiency in the use of public funds; protecting the rights and interests of the parties participating in government procurement; and promoting better governance." • The Government does not consider procurement by SOEs as government procurement.
Subsidies	• "Subsidies and other government assistance are important features of China's trade policy and industrial policy making…The main instruments of support

[146] "2011 Report to Congress On China's WTO Compliance," United States Trade Representative, Pg. 10, December 2011.
[147] Adam Hersh, Interview by Molly Castelazo, March 2012.
[148] "2011 Report to Congress On China's WTO Compliance," United States Trade Representative, Pg. 10, December 2011.

	are direct grants, subsidized loans, and tax benefits, which include exemption or reduction of value-added tax, enterprise income tax, and import duties." • Some of those subsidies appear to be in violation of WTO rules. In 2011 China filed a long-overdue WTO subsidies notification (see Appendix 3) but it did not include any information about the magnitude of subsidies, nor did it include subsidies given by provincial governments, which "are believed to be considerable." • China is certainly not the only country – developing or developed – to use subsidies as a form of trade and/or industrial policy. Yet while it's hard to get a firm handle on the amount of subsidies firms in China actually receive, evidence suggests that it is higher than in other countries. "We believe the preponderance of the cost differential of a good manufactured in the U.S .and its counterpart in China has nothing to do with labor, that's it's a composite of direct and indirect subsidies; the most notable of which is currency manipulation. But at the same time, there are financing subsidies, siting subsidies, tax subsidies and then indirectly there's this massive environmental subsidy, that if one country holds itself to an environmental standard that's more rigorous than the other than its in affect a subsidy," explains Leo Hindery, chairman of the US Economy/Smart Globalization Initiative at the New America Foundation.
Intellectual Property Rights Enforcement	• There continue to be serious problems with intellectual property rights enforcement in China. According to the WTO Trade Policy Review, "China is in the process of revising its legal regime and updating a comprehensive set of laws and regulations aimed at protecting the intellectual property rights of domestic and foreign entities in China, but some key improvements in China's legal framework are still needed, and China has continued to demonstrate little success in actually enforcing its laws and regulations in the face of the challenges created by widespread counterfeiting, piracy and other forms of infringement."[149]
Standards and Technical Regulations	• The imposition of national standards continues to be one way that China erects non-tariff barriers to trade. Despite the existence of well-established international standards, "China continues to pursue the development of unique Chinese national standards, apparently as a means for protecting domestic companies."[150] • China also continues to impose sanitary and phytosanitary (SPS) measures, including BSE-related bans on U.S. beef and beef products, pathogen standards and residue standards for raw meat and poultry products, and Avian Influenza bans on poultry in a non-transparent manner and without clear scientific bases.[151]
State Ownership of Enterprises	• See Section 3.1
Support for "Strategic" Industries	• One of the primary purposes of China's Five-Year Plan is to direct support to key industries in China. The current 12th Five-Year Plan identifies seven "strategic emerging industries." Eligible enterprises in those industries, including foreign-invested enterprises, can receive government support that includes preferential tax treatment (e.g. reductions or exemptions) and cash subsidies. In addition, certified high-tech enterprises are granted tax concessions.

[149] "2011 Report to Congress On China's WTO Compliance," United States Trade Representative, Pg. 10, December 2011.
[150] ibid
[151] ibid

Tariffs	• In 2010 the U.S.' simple average MFN applied tariff was 3.5 percent; its final bound rate is 3.5 percent. The U.S.' average MFN tariff on agricultural products was 4.9 percent and 3.3 percent on non-agricultural products.

Table 4: Brazil's Foreign Trade and Industrial Policies (2009)[152]

Contingency Measures (Anti-dumping/ Countervailing Duties)	• As of June 2011, Brazil had 75 anti-dumping measures in force, 1 countervailing duties measure in force, and 1 safeguard measure (which is not applied to MERCOSUR members nor to most developing countries).
Dispute Settlement (WTO)	• According to the WTO, "Brazil considers the multilateral trading system to be at the core of its trade regime, and preferential agreements as complements to the system. Brazil is an original Member of the WTO, and one of its most active participants." • Brazil is an original member of the World Trade Organization. Its last trade policy review was published on March 11, 2009. • Brazil has submitted 25 requests for consultation and has been the defendant in 14 complaints (see Appendix 3).
Exchange Rate Policy	• Brazil has maintained a floating exchange rate regime since 1999. The real appreciated sharply (by over 60 percent in nominal terms) between 2004 and mid-2008, but then depreciated by 30 percent between September and October of 2008. "In response, Brazil adopted a number of measures to increase liquidity in the domestic financial system, including auctions of U.S. dollars, the reduction of reserve requirements, and the purchase of debt titles." • Between WTO trade policy reviews in 2004 and 2009, Brazil liberalized its foreign exchange regulations, but reform has "run short of achieving full convertibility of the real."
Export Controls	• Brazil levies export taxes on cigars, leathers, and skins.
Export Subsidies, Finance, Insurance, and Guarantees	• Brazil engages a number of mechanisms to promote exports. The Export Financing Programme (PROEX) is one. According to the WTO, PROEX is "aimed at providing access to credit to companies that would otherwise have difficulties obtaining it, or would be able do so only at the high market interest rates prevailing in the domestic economy." Canada challenged Brazil's application of PROEX to aircraft exports; the WTO Dispute Settlement Board determined in that case that PROEX constituted an export subsidy; as result, Brazil modified its procedures. • In certain cases, BNDES-exim (the Brazilian development bank's export assistance arm) provides preferential export credits linked to domestic content. • Brazil seeks tax neutrality for its exports through schemes such as drawback systems, and by not imposing indirect taxation on exports.
Government Financing	• The Brazilian government provides most of its enterprise support through official credit. According to the WTO, "Some 30 percent of total credit in 2008 went to earmarked activities, with the national development bank (BNDES) managing more than half of it." That credit is made available at significantly below-market rates. In some cases, credit is linked to local content requirements.
Foreign Direct	• Brazil is quite open to FDI. Foreign investments into Brazil are not subject to preliminary review or verification by the Central Bank.[153] However, Brazil's

[152] The information in this table (including quotations) comes from Brazil's WTO Trade Policy Review, 11 May 2009, unless otherwise noted.

Investment Rules	regulations do not allow foreign participation in nuclear energy, health services (except insurance), hydraulic power generation, or postal and telegraph services.
Free Trade Zones	◆ Brazil's export-processing zones (EPZs) were designed to "promote the development and regional integration of border areas in the north region." Companies are offered fiscal incentives to locate there: enterprises established in EPZs are allowed to acquire or import goods and services with suspension of import duty and of the Tax on Industrial Products (IPI), and the Contribution to Social Security Financing (COFINS), the Contribution to the Social Integration Programme (PIS), and the Additional Freight for the Renewal of the Merchant Marine (AFRMM).
Government Procurement & Indigenous Innovation	◆ Brazil is a not a party to the GPA, but it has taken steps to increase transparency in its government procurement rules. From the WTO: "Procurement is based on best-price criteria when tendering is used, although in practice over 40 percent of procurement contracts take place under some kind of waiver from tendering requirements. In general national treatment is afforded to foreign suppliers legally established or represented in Brazil except when deciding between identical offers. A preference margin of up to 10 percent for micro and small enterprises was introduced in 2006."
Subsidies	◆ Brazil provides domestic producers support and incentives at both the federal and the state levels. In general, support for production and investment is provided primarily though official credit – 30 percent of total credit in 2008 went to earmarked activities, and the national development bank (BNDES) managed more than half of that. Such credit is offered at significantly below-market rates, and in some cases is linked to local-content requirements. ◆ Brazil has notified to the WTO about a number of subsidies for the development of particular regions, and for R&D. ◆ Brazil is a large exporter of agricultural products. So while the value of government assistance to agriculture is low there compared with OECD average, it is nonetheless a distorting form of support.
Import Controls	◆ "Brazil imposes import prohibitions on virtually all used consumer goods, including motor vehicles, as well as on certain grapes and grape juices to be used in the production of wine, and wine transported in containers larger than five litres." ◆ Brazil does not apply non-preferential rules of origin. ◆ The only import on which Brazil has imposed quotas is coconuts (the result of a safeguard measure). Along with other WTO members, Brazil has eliminated all quotas on imports of textiles and clothing.
Intellectual Property Rights Enforcement	◆ Brazil's IPR legislation covers all the major aspects mentioned in the TRIPS Agreement.
Public Financing of R&D	◆ The government provides technology training in industry and agriculture, and offers fiscal incentives to promote R&D programs in Brazilian enterprises.
State Ownership of Enterprises	◆ According to the WTO, "The State controls a significant number of entities covering a wide range of activities. State ownership reflects a policy decision that government control is appropriate to accomplish strategic objectives while not excluding privatization…Plans for future privatizations focus on granting concessions in electricity generation and transmission, oil exploration and transformation, and public services linked to modernization and expansion of railways, railroads, and port services." ◆ Brazil's state-trading enterprises are: PETROBRAS; BR Distribuidora;

[153] Central Bank of Brazil Circular No. 2,997 of 15 August 2000. Viewed at: https://www3.bcb.gov.br/normativo/prepararPesquisa.do?method=prepararPesquisa.

	COBRA; INB; CONAB (Companhia Nacional de Abastecimento); CMB; and the energy company ELETROBRÁS. • Since 2002, six state-owned enterprises operating in the financial sector have been privatized, one in the electrical sector was incorporated, and four were dissolved. But the State still controls a relatively large number of enterprises. In 2008, there were 135 majority government-owned enterprises covering a wide range of activities, including electricity, petroleum and petrochemicals, port services, transportation services, and health services. Twenty of these 135 government-owned enterprises operate abroad.
Support for "Strategic" Industries	• The WTO reports that "Brazil has historically given priority to the development of its manufacturing sector. To this end, it provides favorable conditions for long-term financing as well as assistance through border measures, such as tariff peaks and tariff escalation, and internal instruments like tax concessions."
Tariffs	• In 2010 Brazil's simple average MFN applied tariff on all goods was 13.7 percent; its final bound rate was 31.4 percent. Brazil's average MFN tariff on agricultural products was 10.3 percent and 14.2 percent on non-agricultural products. The highest rate applies to 4 percent of all tariff lines, including tires, textiles, clothing, and motor vehicles.

Tax Incentives	• Brazil offers a number of tax incentives designed to promote development in certain regions:
	  ○ SUDAM/ADA and SUDENE/ADENE programmes grant both tax incentives and financing (through the Amazon Development Fund and North East Development Fund).
	  ○ The FINAM/FINOR/FUNRES programme allows businesses to deduct 12 percent of their income tax to be invested in the Amazon and north-east regions.

Table 5: European Union's Foreign Trade and Industrial Policies (2011)[154]

Contingency Measures (Anti-dumping/ Countervailing Duties)	• As of June 2011, the EU had 140 anti-dumping measures in force and 11 countervailing duties measures in force. • Almost 45 percent of these measures are applied to China, according to the WTO.
Dispute Settlement (WTO)	• The European Union is an original member of the WTO. Its last trade policy review was published on July 8, 2011. • The EU has submitted 86 requests for consultation and has been the defendant in 70 complaints (see Appendix 3).
Export Controls	• EU member States maintain quantitative restrictions and controls on exports for "foreign policy and security reasons."
Export Subsidies, Finance, Insurance, and Guarantees	• The EU provides export subsidies to eligible exporters of certain agricultural products. • One of the most famous recent export subsidy disputes was filed against the EU by the United States, which claimed that financing by Germany, Spain, and the United Kingdom for the development of the A380 aircraft constituted prohibited export subsidies. The panel found in the United States' favor; the EU has appealed the panel report.[155]
Government Financing	• Individual EU member countries offer government financing to achieve

[154] The information in this table (including quotations) comes from the EU's WTO Trade Policy Review, 8 July 2011, unless otherwise noted.
[155] In parallel the EU challenged a number of U.S. measures affecting trade in large civil aircraft. In July 2010, the Chairman of the panel set up in the context of this dispute informed the Dispute Settlement Body that the panel expects to complete its work in the first half of 2011.

	specific means. During the recession and financial crisis, that kind of financing has skyrocketed – most notably to bail out failing banks, but for other sectors as well. In the UK, for example, the Automotive Assistance Programme included €2.5 billion in loans and guarantees to the automotive sector.
Foreign Direct Investment Rules	• Several member States, including France, Germany, and the United Kingdom maintain FDI review procedures for national security purposes. But they have long maintained a policy of national treatment of foreign direct investment, subject to some sector-specific restrictions.
Government Procurement & Indigenous Innovation	• The EU is a key player in the ongoing renegotiation of the Government Procurement Agreement in the WTO. • Government procurement in the EU accounts for a very significant proportion of total economic activity and "represents a core function of government, with major implications for economic structure and growth."[156] • EU member states, according to the Commission, did not introduce "buy local" procurement requirements at national or sub-national levels in response to the economic crisis.
Subsidies	• The "extraordinary" intervention by EU member states in the wake of the financial crisis and global recession went primarily to the financial sector, though automotive, construction, and tourism industries received significant support as well. According to the WTO, the United Kingdom granted the largest amount of state aid in 2009 (€124 billion), followed by Germany (€116.8 billion). • Excluding crisis-related aid, most of the subsidies given by EU member states were directed at manufacturing, followed by agriculture. According to the WTO, grants and tax exemptions were the most common instruments for provision of state aid, accounting for approximately 93 percent of the total in 2009.[157] Both Germany and the United Kingdom relied most heavily on tax exemptions, which comprised at least 50 percent of state aid.
Import Controls	• The EU applies non-preferential and preferential rules or origin. • The EU does not maintain quantitative restrictions on imports from WTO members. Certain steel products from Russia and Kazakhstan, and certain textiles from Belarus and the Democratic People's Republic of Korea are subject to import quotas.
Intellectual Property Rights Enforcement	• Between its last trade policy reviews, the EU lowered the registration cost for Community trademarks, strengthened IPR enforcement by setting up an EU Observatory on Counterfeiting and Piracy, and initiated a review of its Customs Regulations on IPR enforcement.
Standards and Technical Regulations	• During the last trade policy review of the EU (in 2008), "some members stated that the EU's regulatory practices, and its technical regulations and conformity assessment procedures had become increasingly important in determining access to the EU market, sometimes creating, in their view, unnecessary obstacles to trade." • Between October 2008 and mid-January 2011, the EU notified the WTO of 56 regular and 3 emergency sanitary and phytosanitary (SPS) measures. According to the EU, of the 35 for which there was a relevant international standard, 27 conformed to that standard.
State Ownership of Enterprises	• The EU, by its own reporting, does not maintain any state trading enterprises. • State ownership of enterprises varies significantly across member states.

[156] In total, government procurement has been estimated to account for 15-20 percent of GDP in OECD economies, on average. See OECD (2002).
[157] The total comprises aid for industry and services only.

Tariffs	• In 2011 the EU's simple average MFN applied tariff was 6.4 percent. The applied average MFN tariff on agricultural products was 15.2 percent and 8.6 percent on non-agricultural products.

Table 6: Japan's Foreign Trade and Industrial Policies (2011)[158]

Contingency Measures (Anti-dumping/ Countervailing Duties)	• As of June 2011, Japan had just 6 anti-dumping measures in force and no countervailing duties or safeguard measures. According to the WTO, "Japan makes little use of contingency measures."
Dispute Settlement (WTO)	• Japan has submitted 15 requests for consultation and has been the defendant in 15 complaints (see Appendix 3). • Japan is an original Member and active participant in the WTO. According to the WTO, Japan "undertook commitments as a result of the post-Uruguay Round negotiations on telecommunications and financial services. Japan is a party to the Agreement on Government Procurement and the Agreement on Trade in Civil Aircraft, and a participant in the Information Technology Agreement."
Export Subsidies, Finance, Insurance, and Guarantees	• Export finance, insurance, and guarantees are available. But according to the WTO, "The authorities indicate that Japan has no subsidy or tax concession schemes to promote exports." • According to the WTO, "Japan provides medium- and long-term export credits. These are administered by the Japan Bank for International Cooperation (JBIC) (a government-affiliated financial institution), and Nippon Export and Investment Insurance (NEXI) (an independent administrative institution, insuring risks not covered by existing private insurance institutions). The authorities maintain that provision of these credits is based on the terms and conditions of the OECD Arrangement on Officially Supported Export Credits."
Government Financing	• The Innovation Network Corporation of Japan (INCJ) was established in 2009, with 89 percent of its capital financed by the government. "The INCJ aims to promote innovation by investing in what is deemed as promising projects in areas of environment, energy, infrastructure, and others."[159]
Foreign Direct Investment Rules	• According to the WTO, "Inward FDI in Japan remains substantially lower than outward FDI, and is relatively low compared with that in other large OECD economies. The continued low level of FDI into Japan may be attributed to macroeconomic factors such as the exchange rate, high costs of business, and regulatory barriers." • Through its Project to Promote Foreign Direct Investment in Selected Areas the Japanese government "supports investment promotion activities by selected regional governments; these activities include planning strategies to attract FDI, public relations, inviting potential investors, and helping the start-up process of selected companies."
Government Procurement & Indigenous Innovation	• Japan is a party to the Government Procurement Agreement, and as such no preferences are granted to domestic suppliers. However, according to the WTO, it would appear that government procurement is used as an instrument of economic policy, particularly in some sectors (e.g. timber) and for SMEs."

[158] The information in this table (including quotations) comes from Japan's WTO Trade Policy Review, 17 February 2011, unless otherwise noted.
[159] Until June 2010, the INCJ had invested in five companies, including an aqueduct company and a wind electricity company. See the INCJ online information. Viewed at: http://www.incj.co.jp/english/ news. html [18.06.2010].

Subsidies	• In its latest subsidy notification to the WTO, Japan indicated 68 subsidy schemes to assist agriculture, forestry, and fisheries, industry, finance, and transport sectors.[160]
Import Controls	• Japan's non-tariff border measures include some import prohibitions and quantitative import restrictions (including on some fish). • Japan has preferential rules of origin under various free-trade agreements (FTAs), in addition to those under the Generalized System of Preferences.
Intellectual Property Rights Enforcement	• According to the WTO, Japan amended various intellectual property rights laws "with a view to strengthening the role of Customs in enforcement and expanding the scope of application of criminal penalties for infringement of trade secrets. Japan remains an active participant in multinational and regional discussions on agreements to promote international harmonization of regimes protecting IPRs."
Standards and Technical Regulations	• Just under half of Japan's industrial standards were aligned to international standards.
State Ownership of Enterprises	• Japan is involved in state trading of leaf tobacco, opium, rice, wheat and barley, and milk products. According to the WTO, "While the authorities maintain that the aims of Japan's state-trading activities are to 'stabilize the supply and price of these commodities and protect consumer interests,' prices of these commodities in Japan tend to be higher than the world prices." • In Japan the state owns enterprises in several sectors, "through which it may directly affect production and trade." It also influences various semi-governmental bodies.[161] • SOEs in Japan include Nippon Telegraph and Telephone Corporation (NTT), Japan Tobacco Inc. (JT), Narita International Airport Corporation, Kansai International Airport Co., Ltd., INPEX Corporation, and Japan Petroleum Exploration Co. Ltd. All shares of Hokkaido Railway Company, Shikoku Railway Company, Kyushu Railway Company, and Japan Freight Railway Company are held by Japan Railway Construction, Transport and Technology Agency, a governmentaffiliated corporation."
Support for "Strategic" Industries	• Beginning in 2010 with the New Growth Strategy, Japan has focused on the development of seven strategic areas: environment and energy; medical and health care; economic integration with other Asian countries; tourism and revitalization of regional economies; science and technology; human resources; and financial services.
Tariffs	• In 2010 Japan's simple average MFN applied tariff on all goods was 4.4 percent; its final bound rate is 4.9 percent. Japan's average MFN tariff on agricultural products was 17.3 percent and 2.5 percent on non-agricultural products. According to the WTO, "The tariff continues to be Japan's main border instrument."
Tax Incentives	• According to the WTO, in Japan the consumption tax is "zero-rated on exported goods, international aviation and transportation services, and selling or licensing patents to foreigners; domestic components and raw materials used in exported goods are eligible for refund of consumption tax.[162] For a refund of the consumption tax, a declaration must be made to the tax authorities with the proof of export." • Japan's system of tax incentives "remains complex and opaque, and thus

[160] WTO document G/SCM/N/186/JPN, 25 June 2009.
[161] A list of these entities was not made available in English to the Secretariat. The authorities find it difficult to prepare such a list because of the vast number of such entities.
[162] JETRO online information (in Japanese). Viewed at: http://www.jetro.go.jp/world/japan/qa/ export_10/04A-011045 [26.08.2010].

	perhaps distorting. The focus of the incentives is on achieving various policy objectives, including investment to address environmental concerns or promote R&D."

Table 7: United States' Foreign Trade and Industrial Policies (2010) [163]

Contingency Measures (Anti-dumping/ Countervailing Duties)	• As of June 2011, the U.S. had 253 anti-dumping and 50 countervailing duties measures in effect, more than any other country. • In 2007, the U.S. changed its long-standing policy of not applying countervailing duties on China. Since then, CVD investigations on China tripled.
Dispute Settlement (WTO)	• As of June 2011, the U.S., an original WTO member, had submitted 100 requests for consultation and had been the defendant in 114 complaints (see Appendix 3). • As of the last WTO trade policy review, the U.S. had not yet implemented the WTO Dispute Settlement Body's (DSB) recommendations and rulings relating to: Section 110(5) of the U.S. Copyright Act; some aspects of the U.S. antidumping investigation of certain hot rolled steel products from Japan; and Section 211 of the Omnibus Appropriations Act of 1998.[164] The implementation of the recommendations and rulings in disputes on Section 211 and hot rolled steel has been outstanding for 88 months, and the Copyright Act dispute for 63 months (March 2010).[165]
Export Subsidies, Finance, Insurance, and Guarantees	• The United States provides export subsidies to eligible exporters of agricultural commodities. • The U.S. provides export financing through the ExportImport Bank (ExIm Bank), a wholly owned U.S. government corporation. It is mandated to "provide loans, loan guarantees, and insurance at rates and terms that are fully competitive with those supported by governments in the principal countries whose exporters compete with U.S. exporters."[166] • In the context of the National Export Initiative launched in early 2010, the President instructed the ExIm Bank to "take steps" to increase the availability of credit to small and medium-sized enterprises.[167]
Foreign Direct Investment Rules	• The U.S. required foreign investors to be approved by the Committee for Foreign Investment in the United States. Like many other developed countries, the U.S. also maintains sectorspecific market access restrictions on FDI.
Government Procurement & Indigenous Innovation	• The United States is a party to the WTO Agreement on Government Procurement (GPA). According to the WTO, the U.S. government procurement policy is "to strive for an open and competitive process, subject to certain preferences for domestic goods." • The American Recovery and Reinvestment Act of 2009 (ARRA), signed into law in February 2009, contains two 'buy American' provisions. One requires the Department of Homeland Security to acquire textile and apparel goods manufactured in the United States, subject to certain exceptions. The other "establishes a domestic preference" for iron, steel, and manufactured goods

[163] The information in this table (including quotations) comes from the United States' WTO Trade Policy Review, 1 October 2010, unless otherwise noted.
[164] Respectively, WTO document series WT/DS160, WT/DS184, and WT/DS176.
[165] WTO document series WT/DS176/11/Add, WT/DS184/15/Add, and WT/DS160/24/Add.
[166] 12 USC 635, subchapter I, b(1)(A).
[167] The White House online information. "Executive Order – National Export Initiative", 11 March 2010. Viewed at: http://www.whitehouse.gov/the-press-office/executive-order-national-export-initiative.

	produced in the United States and used as construction material in public buildings and public works funded by the ARRA.
Subsidies	• Government assistance to businesses is granted at the federal level, as well as by state and local governments. The main instruments of support are tax benefits, direct payments, and credit programs. Tax benefits have traditionally been the primary form of federal government support to business. • Recession-related government support includes the Consumer Assistance to Recycle and Save (CARS) Act of 2009 ("cash for clunkers"); the Automotive Industry Financing Program (AIFP) in December 2008 (through which the government took majority ownership of General Motors; and the American Recovery and Reinvestment Act, which included a range of incentives, grants, and loan guarantees.
Import Controls	• The average release time for U.S. imports is among the shortest in the world.[168] • The United States applies nonpreferential and preferential rules of origin. In addition, according to the WTO, the U.S. does maintain quantitative restrictions and controls on imports to "protect health, safety, or the environment, or for foreign policy purposes."
Intellectual Property Rights Enforcement	• The United States has a comprehensive and highly developed system for the protection of intellectual property rights and is active in protecting its rights abroad, including through dispute settlement in the WTO.
Standards and Technical Regulations	• WTO Members have used the sanitary and phytosanitarty (SPS) Committee to raise specific concerns with the U.S. on a number of issues. China, in particular, raised a number of concerns, including: Christmas trees and wooden handicrafts; potted dwarf plants in growing media; cooked poultry products; delays in the risk assessment process for apples; and issues related to catfish. In addition, the EU raised concerns about import restrictions on dairy products related to Grade A milk, and Brazil raised concerns about the economic analysis requirement in proposals for changes in SPS regulations and import restrictions on pork and beef.[169]
State Ownership of Enterprises	• In June 2008, the United States notified seven entities or programmes as state trading enterprises.[170] • For detail on SOEs, see Section 3.6
Tariffs	• In 2011 the U.S.' simple average MFN applied tariff was 9.5 percent; its final bound rate is 9.9 percent. China's average MFN tariff on agricultural products was 15.1 percent and 8.6 percent on non-agricultural products.

[168] World Bank online information, Doing Business: Measuring Business Regulations. Viewed at: http://www.doingbusiness.org.
[169] WTO documents G/SPS/R/45, 46, 49, 51, 53, 54, 55, and 56.
[170] WTO document G/STR/N/12/USA, 23 June 2008.

Appendix 2: WTO Cases to which China was a Complainant or a Respondent and All Cases to which the U.S., EU, Japan, or Brazil was a Respondent

Table 8: WTO Cases to which China was a Complainant or a Respondent and All Cases to which the U.S., EU, Japan, or Brazil was a Respondent

Complainant	Respondent	Start Date	Title	Current Status
Venezuela, Bolivarian Republic of	United States	24-Jan-95	United States – Standards for Reformulated and Conventional Gasoline	Implementation notified by respondent on 25 September 1997
Brazil	United States	10-Apr-95	Standards for Reformulated and Conventional Gasoline	Implementation notified by respondent on 25 September 1997
Japan	United States	17-May-95	Imposition of Import Duties on Automobiles from Japan under Sections 301 and 304 of the Trade act of 1974	Settled or terminated (withdrawn, mutually agreed solution) on 19 July 1995
Canada	EC / European Union	19-May-95	Trade Description of Scallops	Settled or terminated (withdrawn, mutually agreed solution) on 5 July 1996
European Communities	Japan	21-Jun-95	Taxes on Alcoholic Beverages	Mutually acceptable solution on implementation notified on 9 January 1998
Canada	EC / European Union	30-Jun-95	Duties on Imports of Cereals	Panel established, but not yet composed on 11 October 1995
Canada	Japan	7/7/1995	Taxes on Alcoholic Beverages	Mutually acceptable solution on implementation notified on 9 January 1998
United States	Japan	7/7/1995	Taxes on Alcoholic Beverages	Mutually acceptable solution on implementation notified on 9 January 1998
Peru	EC / European Union	18-Jul-95	Trade Description of Scallops	Settled or terminated (withdrawn, mutually agreed solution) on 5 July 1996
United States	EC / European Union	19-Jul-95	Value-Added Tax on Integrated Circuits	Settled or terminated (withdrawn, mutually agreed solution) on 2 May 1997
Chile	EC / European Union	24-Jul-95	Trade Description of Scallops	Settled or terminated (withdrawn, mutually agreed solution) on 5 July 1996

European Communities	Japan	18-Aug-95	Measures Affecting the Purchase of Telecommunications Equipment	In consultations on 31 August 1995
Guatemala; Honduras; Mexico; United States	EC / European Union	28-Sep-95	Regime for the Importation, Sale and Distribution of Bananas	In consultations on 28 September 1995
Thailand	EC / European Union	5-Oct-95	Duties on Imports of Rice	In consultations on 3 October 1995
Philippines	Brazil	30-Nov-95	Measures Affecting Desiccated Coconut	Report(s) adopted, no further action required on 20 March 1997
Uruguay	EC / European Union	14-Dec-95	Implementation of the Uruguay Round Commitments Concerning Rice	In consultations on 12 December 1995
Costa Rica	United States	22-Dec-95	Restrictions on Imports of Cotton and Man-Made Fibre Underwear	Implementation notified by respondent on 10 April 1997
United States	EC / European Union	26-Jan-96	Measures Concerning Meat and Meat Products (Hormones)	Mutually acceptable solution on implementation notified on 25 September 2009
Ecuador; Guatemala; Honduras; Mexico; United States	EC / European Union	5-Feb-96	Regime for the Importation, Sale and Distribution of Bananas	Compliance proceedings completed with finding(s) of non-compliance on 11 December 2008
United States	Japan	9-Feb-96	Measures Concerning Sound Recordings	Settled or terminated (withdrawn, mutually agreed solution): On 24 January 1997, both parties informed the DSB that they had reached a mutually satisfactory solution to the dispute.
Sri Lanka	Brazil	23-Feb-96	Countervailing Duties on Imports of Desiccated Coconut and Coconut Milk Powder from Sri Lanka	In consultations on 23 February 1996

India	United States	14-Mar-96	Measures Affecting Imports of Women's and Girls' Wool Coats	Settled or terminated (withdrawn, mutually agreed solution) on 25 April 1996
India	United States	14-Mar-96	Measures Affecting Imports of Woven Wool Shirts and Blouses from India	Mutually acceptable solution on implementation notified on 23 May 1997
European Communities	United States	18-Apr-96	Tariff Increases on Products from the European Communities	Settled or terminated (withdrawn, mutually agreed solution) on 16 July 1996
European Communities	United States	3-May-96	The Cuban Liberty and Democratic Solidarity Act	Settled or terminated (withdrawn, mutually agreed solution) on 22 April 1998
European Communities	Japan	28-May-96	Measures Concerning Sound Recordings	Settled or terminated (withdrawn, mutually agreed solution): On 7 November 1997, both parties notified a mutually agreed solution.
United States	Japan	13-Jun-96	Measures Affecting Consumer Photographic Film and Paper	Report(s) adopted, no further action required on 22 April 1998
United States	Japan	13-Jun-96	Measures Affecting Distribution Services	In consultations on 13 June 1996
Canada	Brazil	19-Jun-96	Export Financing Programme for Aircraft	Compliance proceedings completed without finding of non-compliance on 23 August 2001^
Mexico	United States	1-Jul-96	Anti-Dumping Investigation Regarding Imports of Fresh or Chilled Tomatoes from Mexico	In consultations on 1 July 1996
Canada	EC / European Union	28-Jul-96	Measures Concerning Meat and Meat Products (Hormones)	Mutually acceptable solution on implementation notified on 17 March 2011
Japan	Brazil	30-Jul-96	Certain Automotive Investment Measures	In consultations on 30 July 1996
United States	Brazil	9-Aug-96	Certain Measures Affecting Trade and Investment in the Automotive Sector	In consultations on 9 August 1996
India; Malaysia; Pakistan; Thailand	United States	8-Oct-96	Import Prohibition of Certain Shrimp and Shrimp Products	Compliance proceedings completed without finding of non-compliance on 21 November 2001

Philippines	United States	25-Oct-96	Import Prohibition of Certain Shrimp and Shrimp Products	In consultations on 25 October 1996
United States	EC / European Union	8-Nov-96	Customs Classification of Certain Computer Equipment	Report(s) adopted, no further action required on 22 June 1998
European Communities	United States	28 November 1996	Anti-Dumping Measures on Imports of Solid Urea from the Former German Democratic Republic	In consultations on 28 November 1996
United States	Brazil	10-Jan-97	Certain Measures Affecting Trade and Investment in the Automotive Sector	In consultations on 10 January 1997
European Communities	Japan	25-Jan-97	Measures Affecting Imports of Pork	In consultations on 15 January 1997
Brazil	EC / European Union	24-Feb-97	Measures Affecting Importation of Certain Poultry Products	Report(s) adopted, with recommendation to bring measure(s) into conformity on 23 July 1998
New Zealand	EC / European Union	24-Mar-97	Measures Affecting Butter Products	Settled or terminated (withdrawn, mutually agreed solution) on 11 November 1999
European Communities	Japan	26-Mar-97	Procurement of a Navigation Satellite	Settled or terminated (withdrawn, mutually agreed solution): On 31 July 1997, the EC notified the Secretariat that a mutually agreed solution had been reached with Japan in this dispute.
United States	Japan	7-Apr-97	Measures Affecting Agricultural Products	Mutually acceptable solution on implementation notified: On 23 August 2001, Japan and the U.S. notified to the DSB that they had reached a mutually satisfactory solution with respect to conditions for lifting import prohibitions on the fruits and nuts at issue in the dispute.
Colombia	United States	28-Apr-97	Safeguard Measure Against Imports of Broom Corn Brooms	In consultations on 28 April 1997
European Communities	Brazil	7-May-97	Measures Affecting Trade and Investment in the Automotive Sector	In consultations on 7 May 1997

European Communities	United States	22-May-97	Measures Affecting Textiles and Apparel Products	Settled or terminated (withdrawn, mutually agreed solution) on 11 February 1998
European Communities	United States	20-Jun-97	Measure Affecting Government Procurement	Settled or terminated (withdrawn, mutually agreed solution) on 11 February 2000
Korea, Republic of	United States	10-Jul-97	Anti-Dumping Duties on Imports of Colour Television Receivers from Korea	Settled or terminated (withdrawn, mutually agreed solution) on 15 September 1998
Japan	United States	18-Jul-97	Measure Affecting Government Procurement	Settled or terminated (withdrawn, mutually agreed solution) on 11 February 2000
Chile	United States	5-Aug-97	Value-Added Tax on Integrated Circuits	In consultations on 5 August 1997
Korea, Republic of	United States	14-Aug-97	Anti-Dumping Duty on Dynamic Random Access Memory Semiconductors (DRAMS) of One Megabit or Above from Korea	Mutually acceptable solution on implementation notified on 20 October 2000
European Communities	United States	18-Aug-97	Measures Affecting Imports of Poultry Products	In consultations on 18 August 1997
United States	EC / European Union	8-Oct-97	Measures Affecting the Exportation of Processed Cheese	In consultations on 23 October 1997
Panama	EC / European Union	24 October 1997	Regime for the Importation, Sale and Distribution of Bananas	In consultations on 24 October 1997
European Communities	United States	18-Nov-97	Tax Treatment for "Foreign Sales Corporations"	Mutually acceptable solution on implementation notified on 17 May 2006
Argentina	United States	19-Dec-97	Tariff Rate Quota for Imports of Groundnuts	In consultations on 19 December 1997
United States	EC / European Union	6-Jan-98	Measures Affecting the Grant of Copyright and Neighbouring Rights	Settled or terminated (withdrawn, mutually agreed solution) on 6 November 2000
European Communities	Brazil	8-Jan-98	Measures Affecting Payment Terms for Imports	In consultations on 9 February 1998

European Communities	United States	6-Feb-98	Harbour Maintenance Tax	In consultations on 6 February 1998
United States	EC / European Union	30-Apr-98	Enforcement of Intellectual Property Rights for Motion Pictures and Television Programs	Settled or terminated (withdrawn, mutually agreed solution) on 20 March 2001
India	EC / European Union	27-May-98	Restrictions on Certain Import Duties on Rice	In consultations on 27 May 1998
Canada	EC / European Union	28-May-98	Measures Affecting Asbestos and Products Containing Asbestos	Report(s) adopted, no further action required on 5 April 2001
European Communities	United States	4-Jun-98	Anti-Dumping Act of 1916	
European Communities	United States	12-Jun-98	Imposition of Countervailing Duties on Certain Hot-Rolled Lead and Bismuth Carbon Steel Products Originating in the United Kingdom	Implementation notified by respondent on 5 July 2000
Canada	EC / European Union	17-Jun-98	Measures Affecting Imports of Wood of Conifers from Canada	In consultations on 17 June 1998
India	EC / European Union	3-Aug-98	Anti-Dumping Investigations Regarding Unbleached Cotton Fabrics from India	In consultations on 3 August 1998
India	EC / European Union	3-Aug-98	Anti-Dumping Duties on Imports of Cotton-type Bed Linen from India	Compliance proceedings completed with finding(s) of non-compliance on 24 April 2003
Canada	United States	25-Sep-98	Certain Measures Affecting the Import of Cattle, Swine and Grain from Canada	In consultations on 25 September 1998
European Communities	Japan	8-Oct-98	Tariff Quotas and Subsidies Affecting Leather	In consultations on 8 October 1998
European Communities	United States	19-Nov-98	Measures Affecting Textiles and Apparel Products (II)	Settled or terminated (withdrawn, mutually agreed solution) on 24 July 2000
European Communities	United States	25-Nov-98	Sections 301–310 of the Trade Act 1974	Report(s) adopted, no further action required on 27 January 2000

Canada	EC / European Union	2-Dec-98	Patent Protection for Pharmaceutical and Agricultural Chemical Products	In consultations on 2 December 1998
Brazil	EC / European Union	7-Dec-98	Measures Affecting Differential and Favourable Treatment of Coffee	In consultations on 7 December 1998
Guatemala; Honduras; Mexico; Panama; United States	EC / European Union	20-Jan-99	Regime for the Importation, Sale and Distribution of Bananas	In consultations on 20 January 1999
European Communities	United States	26-Jan-99	Section 110(5) of U.S. Copyright Act	Authorization to retaliate requested (including 22.6 arbitration) on 7 January 2002
Japan	United States	10-Feb-99	Anti-Dumping Act of 1916	Implementation notified by respondent on 26 November 2004
European Communities	United States	4-Mar-99	Import Measures on Certain Products from the European Communities	Report(s) adopted, no further action required on 10 January 2001
European Communities	United States	17-Mar-99	Definitive Safeguard Measures on Imports of Wheat Gluten from the European Communities	Report(s) adopted, with recommendation to bring measure(s) into conformity on 19 January 2001
Canada	United States	19-Mar-99	Countervailing Duty Investigation with respect to Live Cattle from Canada	In consultations on 19 March 1999
United States	EC / European Union	21-May-99	Measures Relating to the Development of a Flight Management System	In consultations on 21 May 1999
United States	EC / European Union	1-Jun-99	Protection of Trademarks and Geographical Indications for Agricultural Products and Foodstuffs	Implementation notified by respondent on 21 April 2006
European Communities	United States	8-Jul-99	Section 211 Omnibus Appropriations Act of 1998	Report(s) adopted, with recommendation to bring measure(s) into conformity on 1 February 2002
New Zealand	United States	16-Jul-99	Safeguard Measure on Imports of Fresh, Chilled or Frozen Lamb from New Zealand	Implementation notified by respondent on 21 November 2001
Australia	United States	23-Jul-99	Safeguard Measure on Imports of Fresh, Chilled or Frozen Lamb from Australia	Implementation notified by respondent on 21 November 2001

Korea, Republic of	United States	30-Jul-99	Anti-Dumping measures on Stainless Steel Plate in Coils and Stainless Steel Sheet and Strip from Korea	Implementation notified by respondent on 10 September 2001
Canada	United States	6-Sep-99	Reclassification of Certain Sugar Syrups	In consultations on 6 September 1999
European Communities	Brazil	14-Oct-99	Measures on Import Licensing and Minimum Import Prices	In consultations on 14 October 1999
Japan	United States	18-Nov-99	Anti-Dumping Measures on Certain Hot-Rolled Steel Products from Japan	Report(s) adopted, with recommendation to bring measure(s) into conformity on 23 August 2001
European Communities	United States	12-Jan-00	Section 337 of the Tariff Act of 1930 and Amendments thereto	In consultations on 12 January 2000
Pakistan	United States	3-Apr-00	Transitional Safeguard Measure on Combed Cotton Yarn from Pakistan	Implementation notified by respondent on 21 November 2001
Canada	United States	19-May-00	Measures Treating Export Restraints as Subsidies	Report(s) adopted, no further action required on 23 August 2001
United States	Brazil	30-May-00	Measures on Minimum Import Prices	In consultations on 30 May 2000
United States	Brazil	30-May-00	Measures Affecting Patent Protection	Settled or terminated (withdrawn, mutually agreed solution): On 5 July 2001, the parties to the dispute notified to the DSB a mutually satisfactory solution on the matter.
European Communities	United States	5-Jun-00	Section 306 of the Trade Act 1974 and Amendments thereto	In consultations on 5 June 2000
Korea, Republic of	United States	13-Jun-00	Definitive Safeguard Measures on Imports of Circular Welded Carbon Quality Line Pipe from Korea	Implementation notified by respondent on 18 March 2003
India	United States	4-Oct-00	Anti-Dumping and Countervailing Measures on Steel Plate from India	Implementation notified by respondent on 19 February 2003
Brazil	EC / European Union	12-Oct-00	Measures Affecting Soluble Coffee	In consultations on 12 October 2000

European Communities	United States	10-Nov-00	Countervailing Measures Concerning Certain Products from the European Communities	Implementation notified by respondent on 19 June 2006
European Communities	United States	10-Nov-00	Countervailing Duties on Certain Corrosion-Resistant Carbon Steel Flat Products from Germany	Implementation notified by respondent on 20 April 2004
European Communities	United States	1-Dec-00	Definitive Safeguard Measures on Imports of Steel Wire Rod and Circular Welded Quality Line Pipe	Panel established, but not yet composed on 10 September 2001
Brazil	EC / European Union	21-Dec-00	Anti-Dumping Duties on Malleable Cast Iron Tube or Pipe Fittings from Brazil	Implementation notified by respondent on 17 March 2004
Australia; Brazil; Chile; European Communities; India; Indonesia; Japan; Korea, Republic of; Thailand	United States	21-Dec-00	Continued Dumping and Subsidy Offset Act of 2000	Authorization to retaliate granted on 26 November 2004
Brazil	United States	21-Dec-00	Countervailing Duties on Certain Carbon Steel Products from Brazil	In consultations on 21 December 2000
Canada	United States	17-Jan-01	Section 129(c)(1) of the Uruguay Round Agreements Act	Report(s) adopted, no further action required on 30 August 2002
United States	EC / European Union	25-Jan-01	Tariff-Rate Quota on Corn Gluten Feed from the United States	In consultations on 25 January 2001
Brazil	United States	31-Jan-01	U.S. Patents Code	In consultations on 31 January 2001
European Communities	United States	5-Feb-01	Anti-Dumping Duties on Seamless Pipe from Italy	In consultations on 5 February 2001
Peru	EC / European Union	20-Mar-01	Trade Description of Sardines	Mutually acceptable solution on implementation notified on 25 July 2003
India	Brazil	9-Apr-01	Anti-Dumping Duties on Jute Bags from India	In consultations on 9 April 2001

Canada; Mexico	United States	21-May-01	Continued Dumping and Subsidy Offset Act of 2000	Authorization to retaliate granted on 26 November 2004 Authorization to retaliate granted on 17 December 2004
Canada	United States	21-Aug-01	Preliminary Determinations with Respect to Certain Softwood Lumber from Canada	Mutually acceptable solution on implementation notified on 12 October 2006
Brazil	United States	18-Sep-01	Anti-Dumping Duties on Silicon Metal from Brazil	In consultations on 18 September 2001
Thailand	EC / European Union	7-Dec-01	Generalized System of Preferences	In consultations on 7 December 2001
India	United States	11-Jan-02	Rules of Origin for Textiles and Apparel Products	Report(s) adopted, no further action required on 21 July 2003
Japan	United States	30-Jan-02	Sunset Review of Anti-Dumping Duties on Corrosion-Resistant Carbon Steel Flat Products from Japan	Report(s) adopted, no further action required on 9 January 2004
United States	Japan	1-Mar-02	Measures Affecting the Importation of Apples	Mutually acceptable solution on implementation notified: On 30 August 2005, Japan and the United States informed the DSB that they had reached a mutually agreed solution pursuant to Article 3.6 regarding the matters raised by the United States in this dispute.
India	EC / European Union	5-Mar-02	Conditions for the Granting of Tariff Preferences to Developing Countries	Implementation notified by respondent on 20 July 2005
Canada	United States	6-Mar-02	Provisional Anti-Dumping Measure on Imports of Certain Softwood Lumber from Canada	Settled or terminated (withdrawn, mutually agreed solution) on 12 October 2006

European Communities	United States	7-Mar-02	Definitive Safeguard Measures on Imports of Certain Steel Products	Report(s) adopted, no further action required on 10 December 2003
Japan	United States	20-Mar-02	Definitive Safeguard Measures on Imports of Certain Steel Products	Report(s) adopted, no further action required on 10 December 2003
Brazil	United States	20-Mar-02	Equalizing Excise Tax Imposed by Florida on Processed Orange and Grapefruit Products	Settled or terminated (withdrawn, mutually agreed solution) on 28 May 2004
Korea, Republic of	United States	20-Mar-02	Definitive Safeguard Measures on Imports of Certain Steel Products	Report(s) adopted, no further action required on 10 December 2003
China	United States	26-Mar-02	Definitive Safeguard Measures on Imports of Certain Steel Products	Report(s) adopted, no further action required on 10 December 2003
Switzerland	United States	3-Apr-02	Definitive Safeguard Measures on Imports of Certain Steel Products	Report(s) adopted, no further action required on 10 December 2003
Norway	United States	4-Apr-02	Definitive Safeguard Measures on Imports of Certain Steel Products	Report(s) adopted, no further action required on 10 December 2003
Canada	United States	3-May-02	Final Countervailing Duty Determination with respect to certain Softwood Lumber from Canada	Mutually acceptable solution on implementation notified on 12 October 2006

New Zealand	United States	14-May-02	Definitive Safeguard Measures on Imports of Certain Steel Products	Report(s) adopted, no further action required on 10 December 2003
Brazil	United States	21-May-02	Definitive Safeguard Measures on Imports of Certain Steel Products	Report(s) adopted, no further action required on 10 December 2003
United States	EC / European Union	30-May-02	Provisional Safeguard Measures on Imports of Certain Steel Products	Panel established, but not yet composed on 16 September 2002
European Communities	United States	25-Jul-02	Value-Added Tax on Integrated Circuits	In consultations on 25 July 2002
Argentina	EC / European Union	4-Sep-02	Measures Affecting Imports of Wine	In consultations on 4 September 2002
Canada	United States	13-Sep-02	Final Dumping Determination on Softwood Lumber from Canada	Mutually acceptable solution on implementation notified on 12 October 2006
Australia	EC / European Union	27-Sep-02	Export Subsidies on Sugar	Report(s) adopted, with recommendation to bring measure(s) into conformity on 19 May 2005
Brazil	EC / European Union	27-Sep-02	Export Subsidies on Sugar	Report(s) adopted, with recommendation to bring measure(s) into conformity on 19 May 2005

Brazil	United States	27-Sep-02	Subsidies on Upland Cotton	Authorization to retaliate granted on 19 November 2009
Argentina	United States	7-Oct-02	Sunset Reviews of Anti-Dumping Measures on Oil Country Tubular Goods from Argentina	Authorization to retaliate requested (including 22.6 arbitration) on 21 June 2007
Brazil	EC / European Union	11-Oct-02	Customs Classification of Frozen Boneless Chicken Cuts	Implementation notified by respondent on 19 July 2006
Chinese Taipei	United States	1-Nov-02	Definitive Safeguard Measures on Imports of Certain Steel Products	In consultations on 1 November 2002
Canada	United States	20-Dec-02	Investigation of the International Trade Commission in Softwood Lumber from Canada	Mutually acceptable solution on implementation notified on 12 October 2006
Mexico	United States	21-Jan-03	Countervailing Duties on Steel Plate from Mexico	Panel established, but not yet composed on 29 August 2003
Mexico	United States	31-Jan-03	Anti-Dumping Measures on Cement from Mexico	Settled or terminated (withdrawn, mutually agreed solution) on 16 May 2007
Mexico	United States	18-Feb-03	Anti-Dumping Measures on Oil Country Tubular Goods (OCTG) from Mexico	Authority for panel lapsed on 6 July 2008
Antigua and Barbuda	United States	13-Mar-03	Measures Affecting the Cross-Border Supply of Gambling and Betting Services	Authorization to retaliate requested (including 22.6 arbitration) on 21 December 2007
Thailand	EC / European Union	14-Mar-03	Export Subsidies on Sugar	Report(s) adopted, with recommendation to bring measure(s) into conformity on 19 May 2005
Thailand	EC / European Union	25-Mar-03	Customs Classification of Frozen Boneless Chicken Cuts	Implementation notified by respondent on 19 July 2006

Australia	EC / European Union	17-Apr-03	Protection of Trademarks and Geographical Indications for Agricultural Products and Foodstuffs	Implementation notified by respondent on 21 April 2006
United States	EC / European Union	13-May-03	Measures Affecting the Approval and Marketing of Biotech Products	Authorization to retaliate requested (including 22.6 arbitration) on 17 January 2008
Canada	EC / European Union	13-May-03	Measures Affecting the Approval and Marketing of Biotech Products	Settled or terminated (withdrawn, mutually agreed solution) on 15 July 2009
Argentina	EC / European Union	14-May-03	Measures Affecting the Approval and Marketing of Biotech Products	Settled or terminated (withdrawn, mutually agreed solution) on 19 March 2010
European Communities	United States	12-Jun-03	Laws, Regulations and Methodology for Calculating Dumping Margins (Zeroing)	Report(s) adopted, with recommendation to bring measure(s) into conformity on 2 July 2012
Korea, Republic of	United States	30-Jun-03	Countervailing Duty Investigation on Dynamic Random Access Memory Semiconductors (DRAMS) from Korea	Implementation notified by respondent on 14 March 2006
Korea, Republic of	EC / European Union	25-Jul-03	Countervailing Measures on Dynamic Random Access Memory Chips from Korea	Implementation notified by respondent on 21 April 2006
Korea, Republic of	EC / European Union	3-Sep-03	Measures Affecting Trade in Commercial Vessels	Mutually acceptable solution on implementation notified on 20 July 2005
Korea, Republic of	EC / European Union	13-Feb-04	Aid for Commercial Vessels	In consultations on 13 February 2004
United States	China	18-Mar-04	Value-Added Tax on Integrated Circuits	Settled or terminated (withdrawn, mutually agreed solution) on 5 October 2005

Canada	United States	8-Apr-04	Determination of the International Trade Commission in Hard Red Spring Wheat from Canada	In consultations on 8 April 2004
Canada	United States	14-Apr-04	Reviews of Countervailing Duty on Softwood Lumber from Canada	Settled or terminated (withdrawn, mutually agreed solution) on 12 October 2006
India	EC / European Union	5-Jul-04	Anti-Dumping Duties on Certain Flat Rolled Iron or Non-Alloy Steel Products from India	Settled or terminated (withdrawn, mutually agreed solution) on 22 October 2004
United States	EC / European Union	21-Sep-04	Selected Customs Matters	Implementation notified by respondent on 11 December 2006
United States	EC / European Union	6-Oct-04	Measures Affecting Trade in Large Civil Aircraft	Compliance proceedings ongoing on 13 April 2012
United States	Germany	6-Oct-04	Measures Affecting Trade in Large Civil Aircraft	Compliance proceedings ongoing on 13 April 2012^^^
European Communities	United States	6-Oct-04	Measures Affecting Trade in Large Civil Aircraft	Panel composed on 20 July 2005
European Communities	United States	5-Nov-04	Section 776 of the Tariff Act of 1930	In consultations on 5 November 2004
European Communities	United States	8-Nov-04	Continued Suspension of Obligations in the EC – Hormones Dispute	Report(s) adopted, no further action required on 14 November 2008
Japan	United States	24-Nov-04	Measures Relating to Zeroing and Sunset Reviews	Authorization to retaliate requested (including 22.6 arbitration) on 23 April 2010
Korea, Republic of	Japan	1-Dec-04	Import Quotas on Dried Laver and Seasoned Laver	Settled or terminated (withdrawn, mutually agreed solution): On 23 January 2006, Korea and Japan informed the DSB of a mutually agreed solution under Article 3.6 of the DSU.

Thailand	United States	9-Dec-04	Provisional Anti-Dumping Measures on Shrimp from Thailand	In consultations on 9 December 2004
Mexico	United States	5-Jan-05	Anti-Dumping Determinations regarding Stainless Steel from Mexico	In consultations on 5 January 2005
Chile	EC / European Union	8-Feb-05	Definitive Safeguard Measure on Salmon	Settled or terminated (withdrawn, mutually agreed solution) on 12 May 2005
Norway	EC / European Union	1-Mar-05	Definitive Safeguard Measure on Salmon	In consultations on 1 March 2005
European Communities	Brazil	20-Jun-05	Measures Affecting Imports of Retreaded Tyres	Report(s) adopted, with recommendation to bring measure(s) into conformity on 20 August 2009
European Communities	United States	27-Jun-05	Measures Affecting Trade in Large Civil Aircraft – Second Complaint	Report(s) adopted, with recommendation to bring measure(s) into conformity on 23 March 2012
Ecuador	United States	17-Nov-05	Anti-Dumping Measure on Shrimp from Ecuador	Implementation notified by respondent on 31 August 2007
United States	EC / European Union	31-Jan-06	European Communities and Certain Member States – Measures Affecting Trade in Large Civil Aircraft (Second Complaint)	Authority for panel lapsed on 7 October 2007
United States	Germany	31-Jan-06	European Communities and Certain Member States – Measures Affecting Trade in Large Civil Aircraft (Second Complaint)	Authority for panel lapsed on 7 October 2007^^
Korea, Republic of	Japan	14-Mar-06	Countervailing Duties on Dynamic Random Access Memories from Korea	Authority for panel lapsed on 5 March 2010
Norway	EC / European Union	17-Mar-06	Anti-Dumping Measure on Farmed Salmon from Norway	Report(s) adopted, with recommendation to bring measure(s) into conformity on 8 January 2008
European Communities	China	30-Mar-06	Measures Affecting Imports of Automobile Parts	Implementation notified by respondent on 31 August 2009*

United States	China	30-Mar-06	Measures Affecting Imports of Automobile Parts	Implementation notified by respondent on 31 August 2009*
Canada	China	13-Apr-06	Measures Affecting Imports of Automobile Parts	Implementation notified by respondent on 31 August 2009*
Thailand	United States	24-Apr-06	Measures Relating to Shrimp from Thailand	Implementation notified by respondent on 20 April 2009
Mexico	United States	26-May-06	Final Anti-dumping Measures on Stainless Steel from Mexico	Compliance proceedings ongoing on 19 August 2009
India	United States	6-Jun-06	Customs Bond Directive for Merchandise Subject to Anti-Dumping/Countervailing Duties	Implementation notified by respondent on 20 April 2009
Argentina	United States	20-Jun-06	Anti-Dumping Administrative Review on Oil Country Tubular Goods from Argentina	In consultations on 20 June 2006
Argentina	EC / European Union	6-Sep-06	Measures Affecting the Tariff Quota for Fresh or Chilled Garlic	In consultations on 6 September 2006
European Communities	United States	2-Oct-06	Continued Existence and Application of Zeroing Methodology	Report(s) adopted, with recommendation to bring measure(s) into conformity on 2 June 2009
Argentina	Brazil	26-Dec-06	Anti-dumping Measures on Imports of Certain Resins from Argentina	Authority for panel lapsed on 5 February 2009^^
Canada	United States	8-Jan-07	Subsidies and Other Domestic Support for Corn and Other Agricultural Products	Panel established, but not yet composed on 17 December 2007
United States	China	2-Feb-07	Certain Measures Granting Refunds, Reductions or Exemptions from Taxes and Other Payments	Settled or terminated (withdrawn, mutually agreed solution): On 19 December 2007, China and the United States informed the DSB that they had reached an agreement in relation to this dispute, in the form of a memorandum of understanding.

Mexico	China	26-Feb-07	Certain Measures Granting Refunds, Reductions or Exemptions from Taxes and Other Payments	Settled or terminated (withdrawn, mutually agreed solution): On 7 February 2008, China and Mexico informed the DSB that they had reached an agreement in relation to this dispute, in the form of a memorandum of understanding.
Columbia	EC / European Union	21-Mar-07	Regime for the Importation of Bananas	In consultations on 21 March 2007
United States	China	10-Apr-07	Measures Affecting the Protection and Enforcement of Intellectual Property Rights	Implementation notified by respondent on 19 March 2010*
United States	China	10-Apr-07	Measures Affecting Trading Rights and Distribution Services for Certain Publications and Audiovisual Entertainment Products	Implementation notified by respondent on 24 May 2012*
Panama	EC / European Union	22-Jun-07	Regime for the Importation of Bananas	In consultations on 22 June 2007
Brazil	United States	11-Jul-07	Domestic Support and Export Credit Guarantees for Agricultural Products	Panel established, but not yet composed on 17 December 2007
China	United States	14-Sep-07	Preliminary Anti-Dumping and Countervailing Duty Determinations on Coated Free Sheet Paper from China	In consultations on 14 September 2007
Canada	EC / European Union	25-Sep-07	Certain Measures Prohibiting the Importation and Marketing of Seal Products	Panel established, but not yet composed on 25 March 2011
European Communities	China	3-Mar-08	Measures Affecting Financial Information Services and Foreign Financial Information Suppliers	Settled or terminated (withdrawn, mutually agreed solution) on 4 December 2008
United States	China	3-Mar-08	Measures Affecting Financial Information Services and Foreign Financial Information Suppliers	Settled or terminated (withdrawn, mutually agreed solution) on 4 December 2008

United States	EC / European Union	28-May-08	European Communities and its Member States – Tariff Treatment of Certain Information Technology Products	Implementation notified by respondent on 20 July 2011
Japan	EC / European Union	28-May-08	European Communities and its Member States – Tariff Treatment of Certain Information Technology Products	Implementation notified by respondent on 20 July 2011
Chinese Taipei	EC / European Union	12-Jun-08	European Communities and its Member States – Tariff Treatment of Certain Information Technology Products	Implementation notified by respondent on 20 July 2011
Canada	China	20-Jun-08	Measures Affecting Financial Information Services and Foreign Financial Information Suppliers	Settled or terminated (withdrawn, mutually agreed solution) on 20 June 2008
China	United States	19-Sep-08	Definitive Anti-Dumping and Countervailing Duties on Certain Products from China	Report(s) adopted, with recommendation to bring measure(s) into conformity on 25 March 2011
Mexico	United States	24-Oct-08	Measures Concerning the Importation, Marketing and Sale of Tuna and Tuna Products	Report(s) adopted, with recommendation to bring measure(s) into conformity on 13 June 2012
Thailand	United States	26-Nov-08	Anti-Dumping Measures on Polyethylene Retail Carrier Bags from Thailand	Implementation notified by respondent on 31 August 2010
Brazil	United States	27-Nov-08	Anti-Dumping Administrative Reviews and Other Measures Related to Imports of Certain Orange Juice from Brazil	Report(s) adopted, with recommendation to bring measure(s) into conformity on 17 June 2011
Canada	United States	1-Dec-08	Certain Country of Origin Labelling (COOL) Requirements	Report(s) adopted, with recommendation to bring measure(s) into conformity on 23 July 2012

India	EC / European Union	4-Dec-08	Expiry Reviews of Anti-dumping and Countervailing Duties Imposed on Imports of PET from India	In consultations on 4 December 2008
Mexico	United States	17-Dec-08	Certain Country of Origin Labelling Requirements	Report(s) adopted, with recommendation to bring measure(s) into conformity on 23 July 2012
Mexico	China	19-Dec-08	Grants, Loans and Other Incentives	In consultations on 19 December 2008******
United States	China	19-Dec-08	Grants, Loans and Other Incentives	In consultations on 19 December 2008******
United States	EC / European Union	16-Jan-09	Certain Measures Affecting Poultry Meat and Poultry Meat Products from the United States	Panel established, but not yet composed on 19 November 2009
Guatemala	China	19-Jan-09	Grants, Loans and Other Incentives	In consultations on 19 January 2009******
China	United States	17-Apr-09	Certain Measures Affecting Imports of Poultry from China	Report(s) adopted, no further action required on 25 October 2010
European Communities	China	23-Jun-09	Measures Related to the Exportation of Various Raw Materials	Report(s) adopted, with recommendation to bring measure(s) into conformity on 22 February 2012**
United States	China	23-Jun-09	Measures Related to the Exportation of Various Raw Materials	Report(s) adopted, with recommendation to bring measure(s) into conformity on 22 February 2012**
China	EC / European Union	31-Jul-09	Definitive Anti-Dumping Measures on Certain Iron or Steel Fasteners from China	Report(s) adopted, with recommendation to bring measure(s) into conformity on 28 July 2011
Mexico	China	21-Aug-09	Measures Related to the Exportation of Various Raw Materials	Report(s) adopted, with recommendation to bring measure(s) into conformity on 22 February 2012**

China	United States	14-Sep-09	Measures Affecting Imports of Certain Passenger Vehicle and Light Truck Tyres from China	Report(s) adopted, no further action required on 5 October 2011
Canada	EC / European Union	2-Nov-09	Measures Prohibiting the Importation and Marketing of Seal Products	Panel established, but not yet composed on 25 March 2011
Norway	EC / European Union	5-Nov-09	Measures Prohibiting the Importation and Marketing of Seal Products	Panel established, but not yet composed on 21 April 2011
Korea, Republic of	United States	24-Nov-09	Use of Zeroing in Anti-Dumping Measures Involving Products from Korea	Implementation notified by respondent on 19 December 2011
Viet Nam	United States	1-Feb-10	Anti-dumping Measures on Certain Shrimp from Viet Nam	Report(s) adopted, with recommendation to bring measure(s) into conformity on 2 September 2011
China	EC / European Union	4-Feb-10	Anti-Dumping Measures on Certain Footwear from China	Report(s) adopted, no further action required on 22 February 2012
Indonesia	United States	7-Apr-10	Measures Affecting the Production and Sale of Clove Cigarettes	Report(s) adopted, with recommendation to bring measure(s) into conformity on 24 April 2012
European Union	China	7-May-10	Provisional Anti-Dumping Duties on Certain Iron and Steel Fasteners from the European Union	In consultations on 7 May 2010******
India	EC / European Union	11-May-10	European Union and a Member State – Seizure of Generic Drugs in Transit	In consultations on 11 May 2010
Brazil	EC / European Union	12-May-10	European Union and a Member State – Seizure of Generic Drugs in Transit	In consultations on 12 May 2010
United States	China	15-Sep-10	Certain Measures Affecting Electronic Payment Services	Panel report circulated on 16 July 2012
United States	China	15-Sep-10	Countervailing and Anti-Dumping Duties on Grain Oriented Flat-rolled Electrical Steel from the United States	Panel report under appeal on 20 July 2012***
United States	China	22-Dec-10	Measures concerning wind power equipment	In consultations on 22 December 2010******

Korea, Republic of	United States	31-Jan-11	Anti-dumping measures on corrosion-resistant carbon steel flat products from Korea	Panel established, but not yet composed on 22 February 2012
China	United States	28-Feb-11	Anti-Dumping Measures on Shrimp and Diamond Sawblades from China	Report(s) adopted, with recommendation to bring measure(s) into conformity on 23 July 2012
European Union	United States	1-Apr-11	Anti-Dumping Measures on Imports of Stainless Steel Sheet and Strip in Coils from Italy	In consultations on 1 April 2011
European Union	China	25-Jul-11	Definitive Anti-Dumping Duties on X-Ray Security Inspection Equipment from the European Union	Panel composed on 15 March 2012****
United States	China	20-Sep-11	Anti-Dumping and Countervailing Duty Measures on Broiler Products from the United States	Panel composed on 24 May 2012****
Viet Nam	United States	20-Feb-12	Anti-Dumping Measures on Certain Frozen Warmwater Shrimp from Viet Nam	In consultations on 20 February 2012
European Union	China	13-Mar-12	Measures Related to the Exportation of Rare Earths, Tungsten and Molybdenum	Panel established, but not yet composed on 23 July 2012*****
Japan	China	13-Mar-12	Measures Related to the Exportation of Rare Earths, Tungsten and Molybdenum	Panel established, but not yet composed on 23 July 2012*****
United States	China	13-Mar-12	Measures Related to the Exportation of Rare Earths, Tungsten and Molybdenum	Panel established, but not yet composed on 23 July 2012*****
India	United States	12-Apr-12	Countervailing Measures on Certain Hot-Rolled Carbon Steel Flat Products from India	In consultations on 12 April 2012

China	United States	25-May-12	Countervailing Duty Measures on Certain Products from China	In consultations on 25 May 2012
United States	China	5-Jul-12	Anti-Dumping and Countervailing Duties on Certain Automobiles from the United States	In consultations on 5 July 2012******
Indonesia	EC / European Union	30-Jul-12	Anti-Dumping Measures on Imports of Certain Fatty Alcohols from Indonesia	In consultations on 30 July 2012

*The respondent has notified that it has implemented the DSB recommendation to bring the disputed measure into compliance with WTO law. No compliance proceeding initiated.
**Appellate Body and/or Panel finds the disputed trade measure(s) to be inconsistent with WTO law. Recommendation to bring the measure(s) into conformity with WTO law is adopted by the DSB.
***Cases currently being reviewed by the Appellate Body following appeal of the panel report.
****Panelists have been selected according to procedures laid down in Dispute Settlement Understanding Article 8. Panel report has not been adopted or appealed, and no mutually agreed solution has been notified.
*****The Dispute Settlement Body has agreed to create a panel, but the panelists have not yet been chosen.
******Complainant requests consultations with respondent, no dispute panel established, and no withdrawal or mutually agreed solution notified.
*******Appellate Body and/or panel reports adopted. Case resolved without need for respondent to take further action.
^Appellate Body and/or panel under Article 21.5 adopted, no finding of non-compliance or other inconsistency.
^^Panel proceedings suspended under Article 12.12 of the DSU, and not resumed after 12 months.
^^^If the parties disagree whether the respondent has implemented the recommendations and rulings, either party can request a "compliance" panel under Article 21.5 of the DSU.

Appendix 3: Status of Selected Central Government Assistance Measures (Subsidies) in China since 2005

Table 9: Status of selected central government assistance measures in China since 2005, as stipulated in relevant laws, regulations and rules, and circulars, March 2012

Measures	Incentives	Status of the programme, based on relevant laws, regulations, rules , circulars, or WTO notifications
Measures notified by China in October 2011 and information from other official and public sources[a]		
Assistance to the energy sector and to environmental protection under takings		
Currently in force		
Preferential tax policies for high or new technology enterprises	Preferential tax treatment	1 January 2008 to present
Preferential tax treatment for public infrastructure projects that are particularly supported by the State	Preferential tax treatment	1 January 2008 to present
Preferential tax treatment for projects for environmental protection, water and energy conservation	Preferential tax treatment	1 January 2008 to present
Preferential tax treatment for building material products produced with integrated utilization of resources	Preferential tax treatment	1 January 2008 to present
Preferential tax policies for Clean Development Mechanism	Preferential tax treatment	1 January 2007 to present
Full Purchase on Electricity Generated by Renewable Energy	Government guarantee	Effective 1 September 2007
Price Surcharge of Electricity Generated by Renewable Energy	Grants and other financial assistance by the State	Effective 11 January 2007
Golden Sun Demonstration Project	Grants and other financial assistance by the State	Effective 16 July 2009
Demonstration Project of Optoelectronic Application Buildings	Grants and other financial assistance by the State	Effective 23 March 2009
Energy Regeneration and Utilization of Straws and Stalks	Grants and other financial assistance by the State	Effective 30 October 2008
Promotion of high-efficient energy-saving products	Grants and other financial assistance by the State	Effective 18 May 2009
Assistance to research and development, support for specific industries, assistance for industrial development		
Currently in force		
Preferential tax policies for the research and development of enterprises	Preferential tax treatment	1 January 2008 to present

Preferential tax policies for enterprises transferring technology	Preferential tax treatment	1 January 2008 to present
Research and development fund for industrial technologies	Financial appropriation	1 January 2002 to present
Fund for promotion of coordinated development of foreign trade and economic relations among regions	Financial appropriation	1 January 2000 to present
Subsidy for scrapping old vehicles	Financial appropriation	1 January 2002 to present
Preferential tax policies for integrated circuit industry	Preferential tax treatment	1 July 2000 to present
Fund for research and development of integrated circuit industry	Financial appropriation	1 June 2005 to present
Fund for development of electrical information industry	Financial appropriation	1 January 1986 to present
Fund for high technology R&D for packaging industry	Financial appropriation	1 January 2005 to present
Foreign Trade Development Fund	Grants and other financial assistance by the State	Effective 20 February 1996
Promotion of new-energy and energy-saving automobiles	Grants and other financial assistance by the State	Effective 26 May 2010
Domestic appliance to countryside	Grants and other financial assistance by the State	Effective 1 December 2007
FDI and regional support		
Currently in force		
Preferential tax policies in the western regions	Preferential tax treatment	Effective for the sectors listed on the Catalogue of Advantageous Industries in Central and Western Regions. Others were abolished before 1 January 2011.
Assistance to agriculture and forestry		
Currently in force		
Preferential tax policies for enterprises engaged in projects of preliminary processing of agricultural, forest, animal and fishery products	Preferential tax treatment	1 January 2008 to present
Fund for specialized economic cooperatives of farmers	Financial appropriation	1 January 2003 to present
Fund for subsidizing the training of rural migrant labour force	Financial appropriation	1 January 2004 to present
Fund for popularization of agricultural technologies	Financial appropriation	1 January 1999 to present
Fund for subsidizing transformation of agricultural technology	Financial appropriation	1 January 2001 to present
Subsidy for promoting superior strains and seeds	Financial appropriation	1 January 2002 to present
Subsidy for purchasing agricultural	Financial	1 January 1999 to present

machinery and tools	appropriation	
Comprehensive subsidies for agricultural inputs	Financial appropriation	1 January 2006 to present
Direct subsidy to farmers	Financial appropriation	1 January 2004 to present
Fund for agricultural comprehensive development	Financial appropriation	1 January 1988 to present
Preferential tax treatment for imported products for the purpose of replacing the planting of poppies	Preferential tax treatment	1 January 2000 to present
Fund for interest discount of loans for the purpose of agricultural water-saving irrigation	Financial appropriation	1 January 1997 to present
Subsidy for national key construction projects on water and soil conservation	Financial appropriation	1 January 1983 to present
Subsidy for prevention from and control of pest and disease in forestry	Financial appropriation	1 January 1980 to present
Subsidy for grass seed sowing by airplanes	Financial appropriation	1 January 1984 to present
Preferential tax policies for enterprises of grain or oil reserves	Preferential tax treatment	1 January 1999 to present
Preferential tax policies for the relief grain and disaster relief grain, compensation grain for returning cultivated land to forests and to grassland, and the grain rations for the migrants from the reservoir areas	Preferential tax treatment	1 August 1999 to present

[a] The Secretariat identified relevant measures from various sources; it is not in a position to verify their existence or extent.

Source: WTO documents G/SCM/N/155/CHN, G/SCM/N/186/CHN, 21 October 2011 and G/SCM/Q2/CHN/42, 11 October 2011; China's various laws, regulations, rules, and circulars; and other official and public sources.

Appendix 4: Protectionist Trade Measures Implemented Since 2008 in Brazil, China, Germany, Japan, the United Kingdom, the U.S., and the EU

Table 10: Protectionist Trade Measures[171] Implemented by Brazil, China, Germany, Japan, the United Kingdom, the U.S., and the EU since 2008

Title	Date of inception	Implementing Jurisdiction(s)	Measure Type	Affected Jurisdiction(s)
United Kingdom: Restructuring aid to Northern Rock	12/18/07	UK	Bail out / state aid measure	
China: Increased VAT rebates for exports of food, mineral, chemical and wood products	1/11/08	China	Export subsidy	All
China: Increased VAT rebates for food, textiles, wood products, metals, chemicals and machinery	1/12/08	China	Export subsidy	All
China: Full VAT rebate for watch component exports	1/12/08	China	Export subsidy	Hong Kong, Pakistan, Russian Federation, Switzerland, United States of America
Germany: Rescue Aid for Delitzscher Schokoladen GmbH	8/14/08	Germany	Bail out / state aid measure	Austria, Belgium, Denmark, Finland, France, Hungary, Ireland, Italy, Lithuania, Netherlands, Poland, Slovakia, Spain, Sweden, Switzerland
United Kingdom: Restructuring and recapitalisation of Royal Bank of Scotland	10/13/08	UK	Bail out / state aid measure	
Germany: Rescue package for financial institutions in Germany - State Aid case N 625/2008	10/17/08	Germany	Bail out / state aid measure	
Germany: State aid to BayernLB	12/19/08	Germany	Bail out / state aid measure	
Germany: Restructuring of Sparkasse KÃ¶ln/Bonn	12/22/08	Germany	Bail out / state aid measure	
China: Increased VAT rebates for 553 products	1/1/09	China	Export subsidy	All
China: Elimination of lower Interim Import Tariff Rates on some agricultural products	1/1/09	China	Tariff measure	Canada, Denmark, France, India, Ireland
Germany: Organic Farming - R&D&I scheme	1/1/09	Germany	Bail out / state aid measure	Austria, Belarus, Belgium, Canada, China, Czech Republic, Denmark, Finland, France, Hungary, India, Italy, Japan, Latvia, Lithuania, Luxembourg, Netherlands,

[171] Those classified by Global Trade Alert as red, meaning "The measure has been implemented and almost certainly discriminates against foreign commercial interests."

				Norway, Poland, Republic of Korea, Romania, Slovakia, Spain, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America
Germany: "Aid for Young Innovative Enterprises in Rheinland-Pfalz"	1/1/09	Germany	Bail out / state aid measure	
Germany: Aid for research and development in the transportation and infrastructure sector	1/1/09	Germany	Bail out / state aid measure	
Germany: "FrÃ¼hphasenfonds Brandenburg - Aid for Young Innovative Enterprises	1/1/09	Germany	Bail out / state aid measure	
Germany: Technologiefonds Mecklenburg-Vorpommern	1/1/09	Germany	Bail out / state aid measure	
Germany: Scheme on the fiscal carry-forward of losses	1/1/09	Germany	Bail out / state aid measure	
China: VAT rebate of 15 percent for textile products	1/2/09	China	Export subsidy	All
Germany: SoFFin guarantee for private banking sector	1/2/09	Germany	Bail out / state aid measure	
Japan: "Buy Local" at the provincial level	1/3/09	Japan	Public procurement	
China: Increased VAT rebates for exports	1/4/09	China	Export subsidy	All
UK: More stringent rules on foreign workers gaining legal access to the UK labour market.	1/4/09	UK	Migration measure	Australia, China, India, New Zealand, Pakistan, Philippines, South Africa, United States of America
UK: Further interest rate subsidies for the construction sector	1/5/09	UK	Bail out / state aid measure	
China: Adjustment of import tariffs policy on key technical equipments	1/9/09	China	Tariff measure	Australia, Austria, Belgium, Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Chile, Croatia, Czech Republic, Denmark, Dominican Republic, Estonia, Finland, France, Germany, Hungary, Iceland, India, Indonesia, Ireland, Israel, Italy, Japan, Luxembourg, Malaysia, Mexico, Netherlands, New Zealand, Norway, Panama, Philippines, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Serbia, Singapore, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Thailand,

				Turkey, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United States of America, Viet Nam
United Kingdom: Welsh Assembly Government Rescue and Restructuring Scheme for SMEs	1/9/09	UK	Bail out / state aid measure	
Tariff increase on refractory bricks, valves for oleohydraulic or pneumatic transmissions and parts of the electric appliances	1/10/09	Brazil	Tariff measure	Australia, Austria, Belgium, Canada, China, Czech Republic, Denmark, Finland, France, Germany, Hong Kong, Hungary, India, Ireland, Israel, Italy, Japan, Luxembourg, Mexico, Netherlands, Norway, Poland, Republic of Korea, Slovenia, Spain, Sweden, Switzerland, Thailand, United Kingdom of Great Britain and Northern Ireland, United States of America
EU: Reintroduction of export refunds for milk and milk products, butter and butteroil	1/23/09	EU	Export subsidy	Algeria, Argentina, Armenia, Australia, Bolivia, Canada, Chile, China, Colombia, Costa Rica, Croatia, El Salvador, Guatemala, Honduras, Hong Kong, Iceland, Israel, Japan, Jordan, Lebanon, Macedonia, New Zealand, Nicaragua, Norway, Oman, Palestinian, Paraguay, Republic of Korea, Russian Federation, Saudi Arabia, Serbia, Singapore, South Africa, Switzerland, Thailand, Trinidad and Tobago, Turkey, United States of America, Uruguay, Zambia
China: Establishment of currency swaps	2/4/09	China	Trade finance	Argentina, Belarus, Hong Kong, Indonesia, Malaysia, Republic of Korea
Germany: Aid measures provided to Landesbank Baden-WÃ¼rttemberg	2/6/09	Germany	Bail out / state aid measure	
United States of America: Buy American provisions in stimulus package	2/17/09	U.S.	Local content requirement, Public procurement	All
China: VAT rebates for more than 2600 products	3/1/09	China	Export subsidy	All
EU: Final CVD duties imposed on imports of polyethylene terephthalate (PET) from Iran, Pakistan and the United Arab Emirates	3/9/09	EU	Trade defence measure (AD, CVD, safeguard)	Iran, Pakistan, United Arab Emirates

Japan: safeguards on milk food preparations	3/19/09	Japan	Trade defence measure (AD, CVD, safeguard)	Australia, Austria, Belgium, Brazil, Canada, China, Denmark, France, Germany, India, Indonesia, Italy, Malaysia, Netherlands, New Zealand, Philippines, Republic of Korea, Singapore, Sweden, Switzerland, Thailand, United Kingdom of Great Britain and Northern Ireland, United States of America, Viet Nam
Tariff increase on copper foil imports.	3/26/09	Brazil	Tariff measure	China, Germany, Macao, Netherlands, Republic of Korea, Sweden
United Kingdom: Liquidation aid to Bradford and Bingley plc.	3/27/09	UK	Bail out / state aid measure	
United Kingdom: Restructuring aid to Dunfermline Building Society	3/30/09	UK	Bail out / state aid measure	
United States of America: Support for General Motors and Chrysler.	3/30/09	U.S.	Bail out / state aid measure	Australia, Austria, Belgium, Canada, China, Finland, France, Germany, Hungary, Italy, Japan, Mexico, Portugal, Republic of Korea, Slovakia, South Africa, Sweden, United Kingdom of Great Britain and Northern Ireland
United States of America: Trade-remedy petitions against polyethylene retail carrier bags from Indonesia, Taiwan, and Vietnam, and market-economy status of Vietnam	3/31/09	U.S.	Trade defence measure (AD, CVD, safeguard)	Chinese Taipei, Indonesia, Viet Nam
China: Expansion of the government procurement catalogue	4/1/09	China	Public procurement	
Germany: Rescue aid (recapitalization and risk shield) to HSH Nordbank AG	4/3/09	Germany	Bail out / state aid measure	
China: Antidumping duty on coated high-quality paper from Japan and Korea	4/8/09	China	Trade defence measure (AD, CVD, safeguard)	Japan, Republic of Korea
United States and Korea: Joint financing initiative for trade and investment in "green" products	4/17/09	United States of America, Republic of Korea	Bail out / state aid measure, Trade finance	Australia, Austria, Belgium, Brazil, Bulgaria, Cameroon, Canada, China, Costa Rica, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Hong Kong, Hungary, India, Indonesia, Ireland, Israel, Italy, Japan, Luxembourg, Malaysia, Mexico, Morocco, Netherlands,

				New Zealand, Norway, Philippines, Poland, Romania, Russian Federation, Singapore, Slovakia, South Africa, Spain, Swaziland, Sweden, Switzerland, Thailand, United Kingdom of Great Britain and Northern Ireland, Viet Nam
Germany: Review of foreign investments on national security and public policy grounds.	4/18/09	Germany	Investment measure	China, Japan, Russian Federation, Saudi Arabia, United States of America
United States of America: Safeguards against imports of consumer tires from China	4/20/09	U.S.	Trade defence measure (AD, CVD, safeguard)	China
China: Ban on foreign investment in express postal services.	4/24/09	China	Investment measure	Germany, Netherlands, United States of America
Managed trade on powdered milk imports from Argentina.	4/30/09	Brazil	Export taxes or restriction	Argentina, Uruguay
Final antidumping duty on synthetic fiber blankets from China	5/5/09	Brazil	Trade defence measure (AD, CVD, safeguard)	China
Ad-valorem tariff increase for selected products	5/6/09	Brazil	Tariff measure	Austria, Belgium, Canada, China, Democratic People's Republic of Korea, Finland, France, Germany, Hong Kong, India, Italy, Japan, Malaysia, Mexico, Netherlands, Republic of Korea, Romania, Russian Federation, Slovenia, South Africa, Spain, Sweden, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America
Germany: Commerzbank	5/15/09	Germany	Bail out / state aid measure	Argentina, Australia, Austria, Azerbaijan, Bangladesh, Belarus, Belgium, Brazil, Bulgaria, Canada, Cayman Islands, Chile, China, Chinese Taipei, Colombia, Croatia, Czech Republic, Denmark, Egypt, Ethiopia, Finland, France, Greece, Guatemala, Hong Kong, Hungary, Iceland, India, Indonesia, Ireland, Italy, Japan, Kazakhstan, Kyrgyzstan, Latvia, Lebanon, Libyan Arab Jamahiriya, Liechtenstein, Luxembourg, Malaysia, Mexico, Mongolia,

				Netherlands, New Zealand, Nigeria, Norway, Oman, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Romania, Russian Federation, Saudi Arabia, Serbia, Singapore, Slovakia, Slovenia, South Africa, Spain, Sudan, Sweden, Switzerland, Tajikistan, Thailand, Turkey, Turkmenistan, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Uzbekistan, Venezuela, Viet Nam
United Kingdom: Rescue Aid for LDV Group Limited	5/18/09	UK	Bail out / state aid measure	Austria, Belgium, Czech Republic, Denmark, Finland, France, Germany, Ireland, Italy, Japan, Mexico, Netherlands, Poland, Portugal, Romania, South Africa, Spain, Sweden, Thailand, Turkey, United States of America
United States of America: Antidumping and countervailing duty investigation of oil country tubular goods (OCTG) imported from China	5/22/09	U.S.	Trade defence measure (AD, CVD, safeguard)	China
China: Implementation of State Council Opinions on imported goods	5/26/09	China	Local content requirement, Public procurement	Argentina, Australia, Austria, Belarus, Belgium, Brazil, Bulgaria, Canada, Costa Rica, Croatia, Cuba, Czech Republic, Democratic People's Republic of Korea, Denmark, Dominican Republic, El Salvador, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, India, Indonesia, Ireland, Israel, Italy, Japan, Latvia, Lithuania, Luxembourg, Malaysia, Malta, Mexico, Morocco, Myanmar, Netherlands, New Zealand, Norway, Philippines, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Thailand, Tunisia, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Viet Nam

Public Procurement ban and tariff increase on imported wind turbines	5/28/09	Brazil	Public procurement, Tariff measure	Denmark, Germany, Japan, Spain, Switzerland
Japan: Provision of long-term finance to own subsidaries abroad and their supply chains	5/28/09	Japan	Bail out / state aid measure	
Ad-valorem tariff increase for steel plates (NCM code 7214.20.00)	6/6/09	Brazil	Tariff measure	Argentina, China, Germany, Italy, United States of America
EU: Antidumping duties on aluminium foil from Armenia, Brazil and China.	6/10/09	EU	Trade defence measure (AD, CVD, safeguard)	Armenia, Brazil, China
EU: Final antidumping duties imposed on certain seamless pipes and tubes of iron and steel from China	6/10/09	EU	Trade defence measure (AD, CVD, safeguard)	China
Japan: Export ban of all items to North Korea	6/16/09	Japan	Export taxes or restriction	Democratic People's Republic of Korea
China: Definitive antidumping duty established on imports of Polyamide 6.6 originating in USA, Italy, UK, France and Chinese Taipei.	6/26/09	China	Trade defence measure (AD, CVD, safeguard)	Chinese Taipei, France, Italy, United Kingdom of Great Britain and Northern Ireland, United States of America
China: Final antidumping duty imposed on imports of Adipic Acid or AA from Republic of Korea, the EU and the U.S.	6/27/09	China	Trade defence measure (AD, CVD, safeguard)	Austria, Belgium, Germany, Italy, Netherlands, Republic of Korea, United Kingdom of Great Britain and Northern Ireland, United States of America
China: 'Buy local' clauses at the provincial level	7/1/09	China	Public procurement	
China: Antidumping duty on styrene butadiene rubber (SBR) originating from the South Korea, Japan and Russia imposed for another five years	7/9/09	China	Trade defence measure (AD, CVD, safeguard)	Japan, Republic of Korea, Russian Federation
EU: Measures to "stabilise" markets for certain dairy products	7/22/09	EU	Bail out / state aid measure, Export subsidy	Albania, Algeria, Argentina, Armenia, Australia, Belarus, Bolivia, Bosnia and Herzegovina, Brazil, Canada, Chile, China, Colombia, Costa Rica, CÃ´te d'Ivoire, Croatia, Cyprus, Dominican Republic, Egypt, El Salvador, Ghana, Guatemala, Hong Kong, Iceland, India, Indonesia, Israel, Jamaica, Japan, Kazakhstan, Kenya, Kyrgyzstan, Lebanon, Malaysia, Mali, Mauritius, Mexico, Morocco, Namibia, Netherlands Antilles, New

				Zealand, Nicaragua, Nigeria, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Republic of Korea, Republic of Moldova, Russian Federation, Senegal, Serbia, Singapore, South Africa, Sri Lanka, Switzerland, Thailand, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukraine, United Arab Emirates, United Republic of Tanzania, United States of America, Uruguay, Viet Nam, Yemen, Zambia, Zimbabwe
EU: Support for promotional activities of agricultural products in 12 member states	7/23/09	EU	Export subsidy	
Germany: Loan guarantees for Hapag-Lloyd.	8/10/09	Germany	Bail out / state aid measure	China, Chinese Taipei, Denmark, France, Greece, Japan, Republic of Korea, Singapore, Switzerland, United Arab Emirates, United States of America
Reduction in payroll taxes for exporters of IT services	8/21/09	Brazil	Export subsidy	Australia, Belgium, Canada, China, Denmark, Finland, France, Germany, Ireland, Luxembourg, Netherlands, Norway, Russian Federation, Singapore, Spain, Sweden, United States of America
China: Final Review of Antidumping Duty on Imported Catechol Originating from EU	8/25/09	China	Trade defence measure (AD, CVD, safeguard)	Belgium, Czech Republic, France, Germany, Italy, Netherlands, Poland, Spain
EU: Definitive antidumping duty imposed on certain tube and pipe fittings from China and Thailand for another five years following a review	8/27/09	EU	Trade defence measure (AD, CVD, safeguard)	China, Chinese Taipei, Thailand
Tariff increase from 2 percent to 14 percent on industrial fatty alcohols	8/31/09	Brazil	Tariff measure	China, Germany, India, Indonesia, Malaysia, Philippines, Singapore, South Africa, Thailand, United Kingdom of Great Britain and Northern Ireland, United States of America
United States of America: Reclassification subjecting certain solar panels to a 2.5 percent tariff	9/1/09	U.S.	Tariff measure	Canada, China, Chinese Taipei, Germany, Hong Kong, India, Japan, Mexico, Philippines, Sweden, Switzerland
Antidumping investigation on imports of tires from China	9/9/09	Brazil	Trade defence measure (AD,	China

			CVD, safeguard)	
Antidumping investigation on imports of syringes from China	9/18/09	Brazil	Trade defence measure (AD, CVD, safeguard)	China
China: Antidumping investigation concerning imports of polyvinyl chloride	9/28/09	China	Trade defence measure (AD, CVD, safeguard)	Chinese Taipei, Japan, Republic of Korea, Russian Federation, United States of America
Japan: Bailout of Japan Airlines	9/30/09	Japan	Bail out / state aid measure	
China: Automatic import license for fresh milk	10/7/09	China	Technical Barrier to Trade	Finland, Poland
Japan: Funding of Peruvian purchases of Japanese exports	10/12/09	Japan	Trade finance	
Tax on foreign capital inflows	10/20/09	Brazil	Investment measure	
Japan: State endorsement of private initiative to raise food self-sufficiency	10/20/09	Japan	Non tariff barrier (not otherwise specified)	Argentina, Australia, Austria, Belarus, Belgium, Belize, Bolivia, Brazil, Bulgaria, Burkina Faso, Canada, Chile, China, Colombia, Cook Islands, Costa Rica, CÃ´te d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, Egypt, Ethiopia, Fiji, Finland, France, Germany, Ghana, Greece, Guam, Guatemala, Honduras, Hong Kong, Hungary, Iceland, India, Indonesia, Iran, Ireland, Israel, Italy, Kazakhstan, Kenya, Kiribati, Latvia, Libyan Arab Jamahiriya, Lithuania, Madagascar, Malawi, Malaysia, Maldives, Malta, Marshall Islands, Mauritius, Mexico, Morocco, Mozambique, Myanmar, Namibia, Netherlands, Netherlands Antilles, New Caledonia, New Zealand, Nicaragua, Nigeria, Norway, Oman, Pakistan, Palau, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Russian Federation, Saint Helena, Senegal, Serbia, Seychelles, Singapore, Solomon Islands,

				South Africa, Spain, Sri Lanka, Sudan, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Thailand, Tonga, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Vanuatu, Venezuela, Viet Nam
Japan: price-based safeguard on rice	11/3/09	Japan	Trade defence measure (AD, CVD, safeguard)	Belgium, China, Netherlands, United States of America
United States of America: Access for Mexican trucks	11/3/09	U.S.	Other service sector measure	Mexico
China: Accreditation of suppliers of certain high-tech products.	11/15/09	China	Intellectual property protection, Local content requirement, Public procurement	Australia, Austria, Belgium, Canada, Costa Rica, Czech Republic, Denmark, Finland, France, Germany, Hungary, India, Indonesia, Ireland, Israel, Italy, Japan, Malaysia, Mexico, Netherlands, Norway, Philippines, Republic of Korea, Romania, Singapore, Slovakia, Spain, Sweden, Switzerland, Thailand, United Kingdom of Great Britain and Northern Ireland, United States of America, Viet Nam
United States of America: Antidumping and countervailing duty investigation of matchbooks from India	11/17/09	U.S.	Trade defence measure (AD, CVD, safeguard)	India
EU: Final antidumping duty on certain molybdenum wires from China	12/16/09	EU	Trade defence measure (AD, CVD, safeguard)	China
EU: Final antidumping duty on certain cargo scanning systems from China	12/17/09	EU	Trade defence measure (AD, CVD, safeguard)	China
Japan: Funding of Bulgarian purchases of Japanese exports	12/17/09	Japan	Trade finance	
Germany: Emergency guarantees for Hypo Real Estate	12/23/09	Germany	Bail out / state aid measure	

United States of America: Expanded bailout to mortgage guarantors	12/24/09	U.S.	Bail out / state aid measure	
United States of America: Bail-out of GMAC	12/30/09	U.S.	Bail out / state aid measure	
United Kingdom: Individual R&D aid to GKN ASL	12/31/09	UK	Bail out / state aid measure	
Temporary tariff increase on some articles of leather	1/1/10	Brazil	Tariff measure	China, France, Hong Kong, India, Italy, Republic of Korea, United States of America, Viet Nam
Temporary tariff increase on some textiles and textile articles products	1/1/10	Brazil	Tariff measure	Belgium, Canada, China, Colombia, Democratic People's Republic of Korea, Egypt, France, Germany, Hong Kong, India, Indonesia, Israel, Italy, Japan, Malaysia, Mexico, Netherlands, Pakistan, Peru, Republic of Korea, Singapore, South Africa, Spain, Thailand, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Viet Nam
China: Temporary increase of import tariffs on fuel	1/1/10	China	Tariff measure	Australia, Belgium, Canada, Egypt, France, Georgia, Germany, Greece, India, Indonesia, Iran, Italy, Japan, Kazakhstan, Kuwait, Kyrgyzstan, Libyan Arab Jamahiriya, Malaysia, Netherlands, Norway, Papua New Guinea, Peru, Philippines, Republic of Korea, Russian Federation, Saudi Arabia, Singapore, Spain, Sweden, Switzerland, Thailand, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United States of America, Uzbekistan, Venezuela, Viet Nam, Yemen
Japan: Promotion of domestic wood	1/1/10	Japan	Non tariff barrier (not otherwise specified), Sub-national government measure	Australia, Austria, Belgium, Brazil, Cameroon, Canada, Chile, China, Croatia, Czech Republic, Estonia, Finland, France, Germany, Indonesia, Italy, Lao People's Democratic Republic, Latvia, Malaysia, Mozambique, Netherlands, Norway, Papua New Guinea, Philippines, Poland, Republic of Korea, Romania, Russian

				Federation, Slovenia, Sweden, Switzerland, Thailand, Turkey, United States of America, Viet Nam
Germany: Federal framework programme on duct support	1/2/10	Germany	Other service sector measure	
United Kingdom: Waterborne Freight Grant Scheme	1/3/10	UK	Bail out / state aid measure	
Germany: State aid to the coal industry for 2010	1/6/10	Germany	Bail out / state aid measure	
Japan: Funding of Japanese supply chain development in ASEAN	1/6/10	Japan	Trade finance	
Extension of the application of safeguards measures for more two years on the imports of desiccated coconuts	1/9/10	Brazil	Trade defence measure (AD, CVD, safeguard)	CÃ´te d'Ivoire, Indonesia, Nigeria, Philippines
China: Export tariff increase for fertilizers	1/12/10	China	Export taxes or restriction	Argentina, Australia, Bangladesh, Brazil, Cambodia, Chile, Colombia, Democratic People's Republic of Korea, Egypt, Fiji, Ghana, India, Indonesia, Iran, Japan, Jordan, Kenya, Lao People's Democratic Republic, Madagascar, Malaysia, Mexico, Myanmar, New Zealand, Nigeria, Pakistan, Peru, Philippines, Republic of Korea, Saudi Arabia, Sri Lanka, Thailand, Turkey, United Arab Emirates, United Republic of Tanzania, United States of America, Viet Nam
EU: Definitive antidumping duties on high tenacity yarn of polyesters from Chinese Taipei, Republic of Korea and China	1/12/10	EU	Trade defence measure (AD, CVD, safeguard)	China, Chinese Taipei, Republic of Korea
Mercosur: temporary increase in tariffs on articles of leather	1/31/10	Brazil, Argentina	Tariff measure	Chile, China, France, Germany, Hong Kong, India, Indonesia, Italy, United States of America, Viet Nam
Tariff increase on prepared or preserved sardines and on jute	2/6/10	Brazil	Tariff measure	Bangladesh, Chile, Ecuador, Peru, Portugal, Thailand
Extension of antidumping duties for jute bag from Bangladesh and India	2/9/10	Brazil	Trade defence measure (AD, CVD, safeguard)	Bangladesh, India

UK: Tougher rules for non-EU students	3/3/10	UK	Migration measure	Australia, Bangladesh, China, India, Japan, Malaysia, New Zealand, Pakistan, Philippines, South Africa
Germany: State aid to LIP-GLOBALFOUNDRIES Group	3/15/10	Germany	Bail out / state aid measure	
United States of America: Expanded Buy-American provisions for public projects	3/18/10	U.S.	Local content requirement	
Japan: Funding of Chilean purchases of Japanese exports	3/21/10	Japan	Trade finance	
EU: Definitive antidumping duties on imports of sodium gluconate from China	4/5/10	EU	Trade defence measure (AD, CVD, safeguard)	China
China: Antidumping duties on grain oriented flat-rolled electrical steel from United States and Russian Federation	4/13/10	China	Trade defence measure (AD, CVD, safeguard)	Russian Federation, United States of America
United States of America: Adoption of a ban against imports of Mexican shrimp.	4/20/10	U.S.	Non tariff barrier (not otherwise specified)	Mexico
China: Final determination of antidumping duty on Polyamide-6 originating from the United States, the EU, Russia and Chinese Taipei	4/22/10	China	Trade defence measure (AD, CVD, safeguard)	Belgium, Chinese Taipei, France, Germany, Italy, Netherlands, Poland, Russian Federation, Spain, United Kingdom of Great Britain and Northern Ireland, United States of America
China: Final CVD duties on imports of broiler or chicken products originating from the U.S.	4/28/10	China	Trade defence measure (AD, CVD, safeguard)	United States of America
Temporary tariff increase for castor oil and its fractions and electrical machinery and equipment and parts thereof	5/5/10	Brazil	Tariff measure	Australia, Austria, Belgium, Canada, China, Czech Republic, Denmark, Finland, France, Germany, Hungary, India, Indonesia, Ireland, Israel, Italy, Japan, Malaysia, Mexico, Morocco, Netherlands, New Zealand, Norway, Philippines, Poland, Portugal, Republic of Korea, Singapore, Slovakia, Spain, Sweden, Switzerland, Thailand, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Viet Nam

EU: Definitive antidumping duty on imports of certain aluminium road wheels originating in China	5/10/10	EU	Trade defence measure (AD, CVD, safeguard)	China
Antidumping investigation on imports of ferrite magnets from China	5/26/10	Brazil	Trade defence measure (AD, CVD, safeguard)	China
United States of America: Buy-local requirement of Ohio for services	6/8/10	U.S.	Public procurement	Canada, India, Pakistan
Special Procedures for Tax refunds on exports	6/16/10	Brazil	Export subsidy	
EU: Fixing the export refunds for poultry meat	6/18/10	EU	Export subsidy	Albania, Algeria, Andorra, Angola, Bahrain, Bangladesh, Belarus, Benin, Bosnia and Herzegovina, Bulgaria, Canada, China, Comoros, Congo, Croatia, Democratic Republic of the Congo, Egypt, Equatorial Guinea, Faeroe Islands, Gabon, Ghana, Guinea, Indonesia, Iran, Israel, Japan, Jordan, Kazakhstan, Kuwait, Lebanon, Macedonia, Malaysia, Mayotte, Morocco, New Caledonia, Nigeria, Norway, Oman, Philippines, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Serbia, Singapore, South Africa, Sudan, Switzerland, Syrian Arab Republic, Tajikistan, Thailand, Togo, Tunisia, Turkey, Ukraine, United Arab Emirates, United States of America, Uzbekistan, Viet Nam, Yemen
United States of America: Antidumping and countervailing duty investigation of steel grating imported from China	6/24/10	U.S.	Trade defence measure (AD, CVD, safeguard)	China
Temporary tariff increase for crane lorries	6/25/10	Brazil	Tariff measure	China, Finland, France, Germany, Japan, United States of America
China: Imposition of Definitive Antidumping Duties on Iron or Steel Fasteners from the EU	6/29/10	China	Trade defence measure (AD, CVD, safeguard)	Austria, Belgium, Czech Republic, Denmark, Finland, France, Germany, Hungary, Italy, Netherlands, Poland, Spain, Sweden, United

				Kingdom of Great Britain and Northern Ireland
United States of America: Antidumping and countervailing duty investigation of prestressed concrete steel wire stand imported from China	6/29/10	U.S.	Trade defence measure (AD, CVD, safeguard)	China
Modification of Brazilian rules for government procurement	7/9/10	Brazil	Public procurement	
Antidumping investigation on magnesium powder imports from China	7/10/10	Brazil	Trade defence measure (AD, CVD, safeguard)	China
Antidumping investigation on imports monobutyl ether of ethylene glycol â€“ EBMEG from USA	7/10/10	Brazil	Trade defence measure (AD, CVD, safeguard)	United States of America
UK: English language tests obligation for partners of migrants	7/26/10	UK	Migration measure	
Incentives for the construction or reform of soccer stadiums	7/28/10	Brazil	Bail out / state aid measure, Local content requirement	
United States of America: Antidumping investigation of woven electric blankets imported from China	7/28/10	U.S.	Trade defence measure (AD, CVD, safeguard)	China
Restrictions to sale of rural land to foreigners	8/23/10	Brazil	Investment measure	
UK: State aid measures to Royal Mail	8/25/10	UK	Bail out / state aid measure	
United States of America: Antidumping and countervailing duties investigation of magnesia carbon bricks imported from China and Mexico	8/26/10	U.S.	Trade defence measure (AD, CVD, safeguard)	China, Mexico
China: Final Determination of Antidumping of X-Ray Security Inspection Equipment from EU	9/6/10	China	Trade defence measure (AD, CVD, safeguard)	Austria, Belgium, Denmark, Finland, France, Germany, Ireland, Italy, Japan, Netherlands, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland
Antidumping duties on imports of resin and polyvinyl chloride, not mixed with any other substances, obtained in suspension (PVC-S) from the	9/12/10	Brazil	Trade defence measure (AD, CVD, safeguard)	Mexico, United States of America

U.S. and Mexico continued				
Termination with duties of an antidumping investigation concerning certain polypropylene and propylene copolymers from India and the U.S.	9/12/10	Brazil	Trade defence measure (AD, CVD, safeguard)	India, United States of America
EU: Definitive antidumping duties concerning ironing boards from China reimposed	9/13/10	EU	Trade defence measure (AD, CVD, safeguard)	China
EU: Definitive antidumping duties and collecting definitively the provisional duty on imports of certain continuous filament glass fibre products originating in China	9/16/10	EU	Trade defence measure (AD, CVD, safeguard)	China
China: Final antidumping duty imposed on imports of nucleotides food addictives originating in Indonesia and Thailand	9/24/10	China	Trade defence measure (AD, CVD, safeguard)	Indonesia, Thailand
China: Final antidumping duty on imports of broiler or chicken products originating from the U.S.	9/27/10	China	Trade defence measure (AD, CVD, safeguard)	United States of America
China: UMCT and EST will be levied on Foreign Invested Enterprises and Individuals from December 1, 2010	10/18/10	China	Investment measure	
Rules for implementation of anticircumvention policy regarding antidumping and compensatory measures	10/20/10	Brazil	Trade defence measure (AD, CVD, safeguard)	
United States of America: Antidumping and countervailing duty investigations of coated paper imported from China and Indonesia	10/22/10	U.S.	Trade defence measure (AD, CVD, safeguard)	China, Indonesia
United States of America: Antidumping investigation of refined copper pipe and tube imported from China and Mexico	10/26/10	U.S.	Trade defence measure (AD, CVD, safeguard)	China, Mexico
EU: Definitive antidumping duties on imports of trichloroisocyanuric acid originating in China	10/27/10	EU	Trade defence measure (AD, CVD,	China

			safeguard)	
European Union: Provisional antidumping duty against aluminium road wheels from China	11/5/10	EU	Trade defence measure (AD, CVD, safeguard)	China
China: Final review determination of anti-dumping duty on monoethanolamine and diethanolamine from U.S., Japan, Malaysia and Chinese Taiwan	11/14/10	China	Trade defence measure (AD, CVD, safeguard)	Chinese Taipei, Japan, Malaysia, United States of America
China: Housing purchasing by foreigners and overseas organizations will be strictly limited in China	11/15/10	China	Investment measure	
EU:Definitive antidumping duties concerning imports of melamine originating from China	11/16/10	EU	Trade defence measure (AD, CVD, safeguard)	China
China: Administrations on Foreign Investment in Real Property will be further strengthened	11/22/10	China	Investment measure	
China: Final antidumping duty concerning imports of Terehthalic Acid from Thailand and Republic of Korea	12/8/10	China	Trade defence measure (AD, CVD, safeguard)	Republic of Korea, Thailand
Temporay tariff increase for tools for pressing, stamping or punching and for mould for metal (injection or compression types)	12/14/10	Brazil	Tariff measure	Austria, Canada, Chile, China, Colombia, France, Germany, India, Israel, Italy, Japan, Luxembourg, Mexico, Portugal, Republic of Korea, Singapore, Spain, Sweden, Switzerland, Trinidad and Tobago, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela
United States of America: Ban on the importation of Asian carp.	12/14/10	U.S.	Import ban	
China: Final determination of antidumping duty imposed on methanol from New Zealand, Malaysia and Indonesia, no duties for Saudi Arabian exporters	12/24/10	China	Trade defence measure (AD, CVD, safeguard)	Indonesia, Malaysia, New Zealand, Saudi Arabia
Tariff increase for pigments & preparations based on titanium dioxide, containing 80 percent/more by weight of	12/28/10	Brazil	Tariff measure	Belgium, China, Colombia, Finland, France, Germany, Italy, Japan, Mexico, Netherlands, Spain, Ukraine,

titanium dioxide calc. on the dry matter				United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela
Tariff increase for parts suitable for use with the engines of spark-ignition reciprocating or rotary internal combustion piston engines and compression-ignition internal combustion piston engines (diesel or semi-diesel)	1/1/11	Brazil	Tariff measure	Australia, Austria, Canada, China, Czech Republic, Denmark, Finland, France, Germany, India, Italy, Japan, Mexico, Netherlands, Norway, Portugal, Republic of Korea, Romania, Slovakia, South Africa, Spain, Sweden, Switzerland, Thailand, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America
China: Export quota on rare earth for 2011, 2012	1/1/11	China	Export taxes or restriction	Australia, Belgium, Germany, Indonesia, Italy, Japan, Malaysia, Netherlands, Philippines, Republic of Korea, Russian Federation, Singapore, South Africa, Spain, Thailand, United States of America
China: Final Review Determination of anti-dumping Duty on Dispersion Unshifted Single-Mode Optical Fiber	1/1/11	China	Trade defence measure (AD, CVD, safeguard)	Japan, Republic of Korea
China: Neodymium rare earth export tariff increase in 2011	1/1/11	China	Export taxes or restriction	Australia, Belgium, Germany, Indonesia, Italy, Japan, Malaysia, Netherlands, Philippines, Republic of Korea, Russian Federation, Singapore, South Africa, Spain, Thailand, United States of America, Viet Nam
United States of America: Renewal of tariffs and subsidies on ethanol	1/1/11	U.S.	Bail out / state aid measure, Tariff measure	Argentina, Australia, Barbados, Brazil, Canada, Jamaica, South Africa, Trinidad and Tobago
United States of America: Antidumping duty on imports of polyvinyl alcohol from Taiwan (a.k.a. Chinese Taipei)	1/2/11	U.S.	Trade defence measure (AD, CVD, safeguard)	Chinese Taipei
Adoption of anti-dumping duties against certain glassware used for tables from Argentina, China and Indonesia.	1/3/11	Brazil	Trade defence measure (AD, CVD, safeguard)	Argentina, China, Indonesia
EU: Implementing regulations for trade defence measures	1/3/11	EU	Trade defence measure (AD, CVD,	

			safeguard)	
Mercosur: Temporary increase of Common Tariff applied rates	1/4/11	Brazil, Paraguay, Uruguay, Argentina	Tariff measure	China, Czech Republic, Denmark, Hong Kong, Indonesia, Italy, Malaysia, Mexico, Thailand, United States of America, Viet Nam
Japan: State aid for enhancing low carbon infrastructure - related exports	1/4/11	Japan	Bail out / state aid measure	
Japan: New Trade Defence rules	1/4/11	Japan	Trade defence measure (AD, CVD, safeguard)	
Japan: Funding of Japanese supply chain development in Vietnam	1/4/11	Japan	Trade finance	
UK: Higher immigration fees	1/4/11	UK	Migration measure	Australia, China, India, New Zealand, Pakistan, Philippines, South Africa, United States of America
Mercosur: Creation of new tariff lines with import tariff of 18 percent on air-conditioning machines	1/10/11	Brazil, Paraguay, Uruguay, Argentina	Tariff measure	Canada, China, Czech Republic, France, Germany, Italy, Japan, Malaysia, Mexico, Netherlands, Norway, Philippines, Poland, Republic of Korea, Slovakia, Spain, Thailand, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America
Japan: Funding of Ukrainian purchases of Japanese exports	1/19/11	Japan	Trade finance	
EU: Additional import duties for certain products in the sugar sector	1/29/11	EU	Tariff measure	Algeria, Argentina, Barbados, Belize, Benin, Bosnia and Herzegovina, Brazil, Cambodia, Canada, Chile, China, Colombia, Costa Rica, Croatia, Cuba, Ecuador, El Salvador, Fiji, Guyana, India, Israel, Jamaica, Japan, Kyrgyzstan, Madagascar, Malawi, Mauritius, Mexico, Mozambique, Netherlands Antilles, New Zealand, Paraguay, Peru, Philippines, Republic of Korea, Serbia, Sierra Leone, Sudan, Swaziland, Switzerland, Thailand, Turkey, United Arab Emirates, United States of America, Zambia, Zimbabwe
United States of America: Imposition of a tax on foreign	2/1/11	U.S.	Tariff measure	

procurement of goods and services				
Adoption of antidumping duties against synthetic rubber from the South Korea	2/6/11	Brazil	Trade defence measure (AD, CVD, safeguard)	Republic of Korea
EU: Final antidumping duties imposed on imports of open mesh fabrics of glass fibre from China	2/7/11	EU	Trade defence measure (AD, CVD, safeguard)	China
The "Brasil Maior" plan to advance competitiveness	2/8/11	Brazil	Export subsidy, Public procurement, Trade defence measure (AD, CVD, safeguard)	
Introduction of "Buy Brazil" clause on government procurement	2/8/11	Brazil	Public procurement	
China: Antidumping duties on dispersion unshifted single-mode optical fiber originating from the EU and U.S.	2/18/11	China	Trade defence measure (AD, CVD, safeguard)	Denmark, France, Germany, Ireland, Italy, Netherlands, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America
United States of America: Antidumping and countervailing duty investigations against drill pipe imported from China	3/3/11	U.S.	Trade defence measure (AD, CVD, safeguard)	China
EU: Definitive antidumping duty on imports of certain plastic sacks and bags originating in China	3/5/11	EU	Trade defence measure (AD, CVD, safeguard)	China
EU: Provisional antidumping duties imposed on imports of Ceramic Tiles from China	3/7/11	EU	Trade defence measure (AD, CVD, safeguard)	China
EU: Definitive antidumping duty on imports of furfuraldehyde originating in China	4/5/11	EU	Trade defence measure (AD, CVD, safeguard)	China
UK: Employment-related restrictions for holders of student visas	4/7/11	UK	Migration measure	Australia, China, India, New Zealand, Pakistan, Philippines, South Africa, United States of America

EU: Imposition of antidumping duties on stainless steel bars originating from India	4/18/11	EU	Trade defence measure (AD, CVD, safeguard)	India
UK: Overhaul of student visa system	4/21/11	UK	Migration measure	Australia, China, India, New Zealand, Pakistan, Philippines, South Africa, United States of America
China: A national security review system on M&A of local companies by foreign investors, temporary measures	5/3/11	China	Technical Barrier to Trade	
EU: Extension of definitive antidumping duty on imports of biodiesel originating in the U.S.	5/5/11	EU	Trade defence measure (AD, CVD, safeguard)	Canada, United States of America
EU: Definitive antidumping duties concerning imports of certain ring binder mechanisms from Thailand	5/8/11	EU	Trade defence measure (AD, CVD, safeguard)	Thailand
China: Export restriction on Diesel	5/13/11	China	Export taxes or restriction	Angola, Antigua and Barbuda, Australia, Austria, Bahamas, Bangladesh, Belgium, Belize, Bermuda, Brazil, Cambodia, Canada, Cayman Islands, Croatia, Cyprus, Democratic People's Republic of Korea, Denmark, Egypt, Ethiopia, Finland, France, Germany, Greece, India, Indonesia, Iran, Iraq, Israel, Italy, Japan, Kazakhstan, Kiribati, Kuwait, Liberia, Libyan Arab Jamahiriya, Luxembourg, Madagascar, Malaysia, Malta, Marshall Islands, Mexico, Mongolia, Myanmar, Netherlands, New Zealand, Norway, Pakistan, Panama, Papua New Guinea, Peru, Philippines, Qatar, Republic of Korea, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, South Africa, Sri Lanka, Sweden, Switzerland, Thailand, Turkey, Turkmenistan, Tuvalu, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United States of America, Uzbekistan, Vanuatu, Viet Nam, Zimbabwe

EU: Definitive antidumping duty on imports of polyethylene terephthalate (PET) film originating in India	5/13/11	EU	Trade defence measure (AD, CVD, safeguard)	India
EU: Definitive antidumping duty concerning coated fine paper originating from China	5/16/11	EU	Trade defence measure (AD, CVD, safeguard)	China
UK: Reduction in number of non-EU work visas	6/4/11	UK	Migration measure	Australia, China, India, New Zealand, Pakistan, Philippines, South Africa, United States of America
EU: Definitive countervailing duty on coated fine paper from China	6/5/11	EU	Trade defence measure (AD, CVD, safeguard)	China
Adoption of antidumping duties against n-Butyl alcohol from the U.S.	6/10/11	Brazil	Trade defence measure (AD, CVD, safeguard)	United States of America
Adoption of antidumping duties against glassine and other glazed transparent or translucent papers from France, Italy, and Hungary.	6/10/11	Brazil	Trade defence measure (AD, CVD, safeguard)	France, Hungary, Italy
Temporary increase of internal taxes applicable to imported vehicles	6/16/11	Brazil	Local content requirement, Tariff measure	Australia, Belgium, Canada, China, Finland, France, Germany, Hungary, Italy, Japan, Republic of Korea, Slovenia, Spain, Sweden, Thailand, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America
Mercosur: Creation of new tariff lines with an import tariff of 14 percent on caterpillars / crawlers	6/27/11	Brazil, Paraguay, Uruguay, Argentina	Tariff measure	Australia, Austria, Belgium, Canada, Chile, China, Czech Republic, Finland, France, Germany, India, Indonesia, Italy, Japan, Malaysia, Mexico, Netherlands, Norway, Republic of Korea, Singapore, South Africa, Spain, Sweden, Switzerland, Thailand, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United States of America
EU: Provisional antidumping duties on imports of certain seamless pipes and tubes of stainless steel from China	6/27/11	EU	Trade defence measure (AD, CVD,	China

			safeguard)	
Japan: Funding of Russian purchases of Japanese exports	6/30/11	Japan	Trade finance	
UK: Restrictions on occupations eligibile for migrant visas	7/2/11	UK	Migration measure	Australia, China, India, New Zealand, Pakistan, Philippines, South Africa, United States of America
China: Second batch of export quotas for rush and rush products for 2011	7/28/11	China	Quota (including tariff rate quotas)	France, Germany, Hong Kong, Italy, Japan, Netherlands, Spain, United Kingdom of Great Britain and Northern Ireland, United States of America
Adoption of antidumping duties against lycra from China.	8/4/11	Brazil	Trade defence measure (AD, CVD, safeguard)	China
EU: Definitive countervailing duty on imports of PET film originating in India	9/3/11	EU	Trade defence measure (AD, CVD, safeguard)	India
Increased import tariff on ceramic tiles	9/15/11	Brazil	Tariff measure	China, Hong Kong, Italy
China: Final countervailing duty on potato starch from the EU	9/17/11	China	Trade defence measure (AD, CVD, safeguard)	Belgium, Denmark, France, Germany, Netherlands
China: Import tariff quota on wool and woolen sliver for 2012	9/30/11	China	Quota (including tariff rate quotas)	Argentina, Australia, Belgium, Chile, France, Germany, Hong Kong, India, Ireland, Italy, Japan, Kazakhstan, Malaysia, Mongolia, Netherlands, New Zealand, Peru, Republic of Korea, Romania, Russian Federation, South Africa, Spain, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay
China: Increase in minimum rice purchasing price	10/2/11	China	Consumption subsidy	Thailand, United States of America, Viet Nam
China: Final determination of antidumping duty on chloroprene rubber from the U.S., EU and Japan	10/5/11	China	Trade defence measure (AD, CVD, safeguard)	Belgium, Czech Republic, France, Germany, Italy, Japan, Netherlands, Poland, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America

China: Preliminary determination of anti-dumping investigation on photographic paper and paper board from the EU, U.S. and Japan	10/8/11	China	Trade defence measure (AD, CVD, safeguard)	Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, European Communities, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America
EU: Definitive antidumping duties on oxalic acid originating from China and India	10/19/11	EU	Trade defence measure (AD, CVD, safeguard)	China
China: Antidumping duties for 5 years on caprolactam originating from the EU and U.S.	10/22/11	China	Trade defence measure (AD, CVD, safeguard)	Belgium, Czech Republic, France, Germany, Ireland, Italy, Netherlands, Poland, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America
UK: Introduction of minimum salaries for settlement permits to foreign workers	10/31/11	UK	Migration measure	Australia, China, India, New Zealand, Pakistan, Philippines, South Africa, United States of America
EU: Definitive antidumping duties on imports of fatty alcohols originating in India, Indonesia and Malaysia	11/5/11	EU	Trade defence measure (AD, CVD, safeguard)	India, Indonesia, Malaysia
Japan: State aid for projects aiming at the reduction of the use of rare earth minerals	11/5/11	Japan	Bail out / state aid measure	China
UK: Extension of employment restrictions for Bulgarian and Romanian citizens	11/23/11	UK	Migration measure	Bulgaria, Romania
EU: Definitive antidumping duties concerning imports of zeolite A powder originating from Bosnia and Herzegovina	12/5/11	EU	Trade defence measure (AD, CVD, safeguard)	Bosnia and Herzegovina
China: Shanghai bans foreign institutions from holding international educational exhibitions in Shanghai	12/7/11	China	Non tariff barrier (not otherwise specified)	
China: AD and CVD duty on some of imported cars originating from the U.S.	12/15/11	China	Trade defence measure (AD, CVD, safeguard)	United States of America

Brazil: Adoption of antidumping duties against blankets and traveling rugs, of synthetic fibers from Uruguay and Paraguay, and â€œlong pileâ€ fabrics of manmade fibers from China.	2/14/12	Brazil	Trade defence measure (AD, CVD, safeguard)	China, Paraguay, Uruguay
Brazil: Agreement to limit car imports from Mexico	3/19/12	Brazil	Quota (including tariff rate quotas)	Mexico
China: Anti-dumping duty on Nonyl Phenol from India and Chinese Taipei	3/29/12	China	Trade defence measure (AD, CVD, safeguard)	Chinese Taipei, India
China: Initiation of final review of AD duty on Paper for Electrolytic Capacitor from Japan	4/18/12	China	Trade defence measure (AD, CVD, safeguard)	Japan
China: Final Review Determination of AD Duty on Catechol from the U.S. and Japan	5/22/12	China	Trade defence measure (AD, CVD, safeguard)	Japan, United States of America
China: Initiation of AD investigation on certain high-performance stainless steel seamless tubes from the EU and Japan	9/5/12	China	Trade defence measure (AD, CVD, safeguard)	Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, European Communities, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland

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