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**THE WTO'S NEXT WORK
PROGRAMME--AS IF THE GLOBAL
ECONOMIC CRISIS REALLY MATTERED**

Simon J Evenett and Johannes Fritz

**INTERNATIONAL TRADE AND
REGIONAL ECONOMICS**



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THE WTO'S NEXT WORK PROGRAMME--AS IF THE GLOBAL ECONOMIC CRISIS REALLY MATTERED

Abstract

The trade distortions implemented during the Great Depression of the 1930s and the global slump of the early 1980s influenced the subsequent evolution of the world trading system, not least because policymakers recognised the deficiencies in existing trade rules. Evidence is presented here on the incidence and trade coverage of the principal means by which governments have discriminated against foreign commercial interests since the onset of the global economic crisis. This evidence is hard to square with claims that multilateral trade rules held back protectionism. Preparing the ground to fix the flaws in current rules and in dispute settlement should be part of the WTO's future work programme.

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**The WTO's Next Work Programme—
As If The Global Economic Crisis Really Mattered**

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29 October 2017

Abstract:

The trade distortions implemented during the Great Depression of the 1930s and the global slump of the early 1980s influenced the subsequent evolution of the world trading system, not least because policymakers recognised the deficiencies in existing trade rules. Evidence is presented here on the incidence and trade coverage of the principal means by which governments have discriminated against foreign commercial interests since the onset of the global economic crisis. This evidence is hard to square with claims that multilateral trade rules held back protectionism. Preparing the ground to fix the flaws in current rules and in dispute settlement should be part of the WTO's future work programme.

¹ The authors of this paper are associated with the Global Trade Alert (GTA) initiative, the independent trade policy monitoring initiative that is run under the auspices of the Centre for Economic Policy Research (CEPR). The reports of the GTA, which provide far more data than is presented here, can be accessed at <http://www.globaltradealert.org/reports>. Comments received at a session of the Evian Group in December 2015 were much appreciated. This is a revised version of a document first prepared in March 2016. We thank Piotr Lukaszuk for helping assemble the data for this version.

Introduction

Typing the words “WTO stress test protectionism” into Google reveals that many in the official community claim that the WTO succeeded in preventing the widespread resort to protectionism since the onset of the global economic crisis. If, indeed, the multilateral trading system has done so well, then let’s open a bottle of champagne and the future work programme of the WTO can address other matters.

Of course, there are reasons why certain officials find it convenient to downplay the significance of crisis-era distortions to global commerce. Some may have been persuaded by the findings of the limited WTO monitoring exercise on protectionism. This is not the place to detail the flaws in such official monitoring (see the relevant chapters in the 16th and 18th reports of the Global Trade Alert.) Others may suspect that beggar-thy-neighbour activity is far greater than officially admitted but fear that public recognition of this fact could trigger a wave of retaliation. What such fears say about the robustness of the current WTO system is worth pondering.

With the election of President Donald J. Trump, however, the notion that all is well in trade policy is no longer possible to sustain. The threat posed to the world trading system by the implementation of far-reaching “America First” policies has been widely commented upon, even by officials that in the past have asserted that multilateral trade rules work. Confidence that those rules will restrain the present incumbent of the White House appears thin on the ground. The silver lining in the election of President Trump is that it may induce hitherto complacent officials to revisit their assumptions about just how well multilateral trading system has performed since the onset of the global economic crisis.

Some business associations—such as the International Chamber of Commerce and the B-20—have spoken out against crisis-era protectionism and, if their reports are anything to go by, are less sanguine than official assessments. In recent years particular attention has been given to far-reaching export restrictions (recall the Chinese Rare Earth case), to state-owned and state-controlled firms, and to the spread of “localization” measures, the latter not just relating to trade in goods but also cross-border data flows. That many business associations have supported the negotiation of disciplines in mega-trade deals that go beyond those found in WTO rules says something about the contemporary commercial relevance of the latter. After all, the last major update of the WTO rulebook was negotiated almost a quarter of a century ago and many business models have changed markedly since then.

For the most part, when it comes to crisis-era protectionism, academics have been sorely behind the curve. In an age when data is downloaded rather than collected, most academic studies have confined themselves to datasets that were available before the crisis. In effect, this has meant that many studies examine only the impact of tariff increases and trade defence and safeguard measures. Other distortions to 21st century commerce tend not to be considered. Given that trade defence measures are the minnows of international trade policy, it is not terribly surprising that these measures have been shown to have cut trade by little during the crisis era.² Much theoretical analysis of the WTO makes little reference to actual policy choice—indeed, it is almost as if the crisis never happened. If much academic writing

² In this paper we will confirm that the trade covered by trade defence and safeguard measures is a tiny percentage of world trade. No disagreement on this particular matter.

is anything to go by there is little to learn from the crisis era for the next work programme of the WTO.

If, indeed, policymakers conclude that the crisis era has few implications for the future development of the multilateral trading system then this will represent a departure from the pattern observed after previous global economic contractions. The formation of the GATT was said to have been influenced by the beggar-thy-neighbour activity witnessed during the Great Depression. Similarly, the pervasive use of voluntary export restraints during the sharp global downturn of the early 1980s led to their banning as part of the Uruguay Round agreements. In both instances there were enough analysts and policymakers that recognised the deficiencies in existing multilateral trading arrangements. Will this time be different?

In this chapter we make the case that discrimination is rife in international trade relations and that the notion should be set aside that the spirit or the letter of multilateral trade rules held the line against government resort to trade distortions since the onset of the global economic crisis. That world trade flows did not collapse like the 1930s does not imply that all is well—contemporary trade distortions have done much to reshuffle world trade flows (Evenett and Fritz 2017a). The best that can be said about existing WTO rules is that they have channelled protectionist pressure into policy instruments subject to weaker or no multilateral disciplines.

We support our case with evidence on the resort to discrimination against foreign commercial interests that has been collected by the Global Trade Alert initiative, with which we are associated. Furthermore, in preparing this chapter we have computed the share of the G-20's exports that face different types of discriminatory policies. We discuss the evolution of these trade coverage ratios since 2009 and identify policies that affect relatively more of global commerce.

What does this mean for the WTO going forward? It is said that, in two speeches in 1959 and 1960, President Kennedy noted that in Chinese the word “crisis” is represented by two symbols, one for danger and another for opportunity. Having spelt out the former, we conclude our chapter with the latter—describing how a future WTO work programme could be influenced by what has been learnt about government policy choice since the onset of the global economic crisis in 2008.

We should be clear about what this paper is not about. This paper does not provide an explanation to account for the timing and form of crisis-era discrimination against foreign commercial interests. Readers interested in this matter are referred to Evenett (2015). Nor does this paper estimate the impact of crisis-era protectionism. For an analysis of the impact of such protectionism on the exports of the Least Developed Countries see Evenett and Fritz (2015). Estimates of the extent to which the growth of European Union's exports have been held back by trade distortions imposed since the crisis began can be found in Evenett and Fritz (2017a). For more information on national resort to protectionism and liberalisation during the crisis era, readers are referred to the reports of the Global Trade Alert (GTA).

Monitoring discrimination

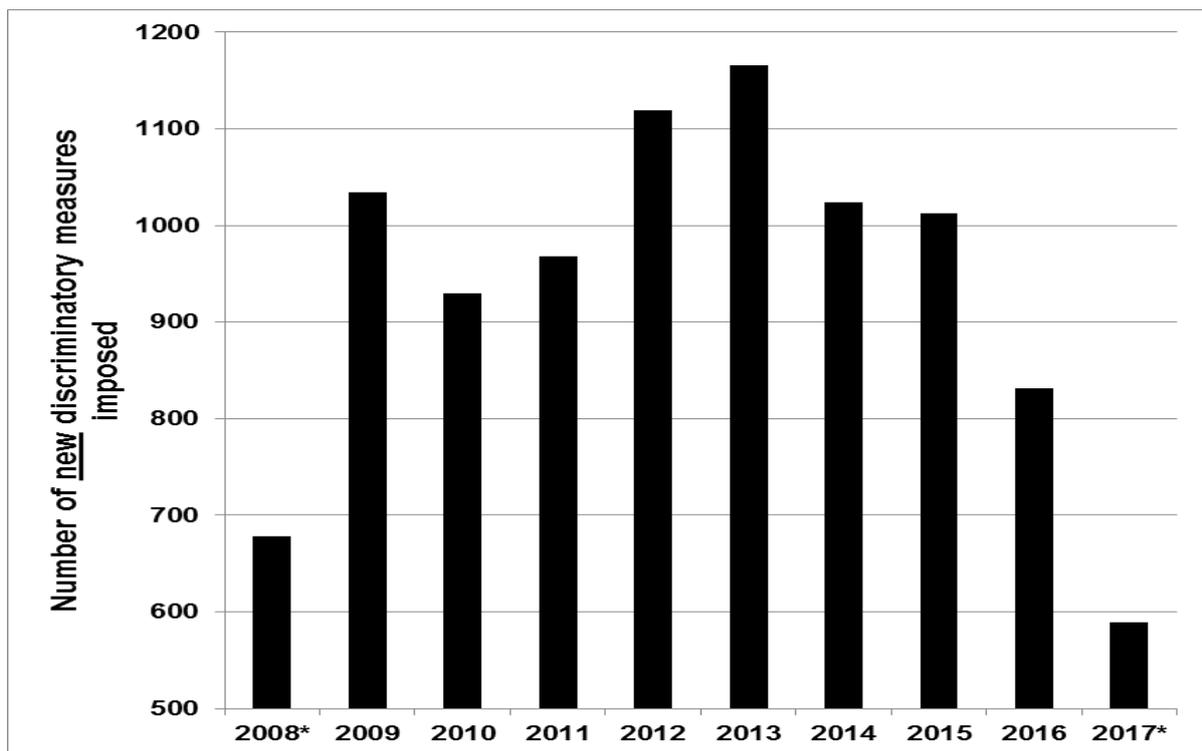
Several considerations need to be borne in mind when monitoring the resort to discrimination against foreign commercial interests by governments during a systemic economic crisis. First, governments have many policy instruments available

to them, including those not subject to WTO rules. Second, the rationale for crisis-era policy initiatives may on paper have nothing to do with seeking commercial advantage yet, inadvertently or by design, these initiatives may discriminate against foreign commercial interests.

Third, governments can obscure, hide, or delay the publication of the details of discriminatory measures, not least to avoid being labelled “protectionist.” Fourth, in the 21st century, there are many more forms of cross-border commerce than traditional trade in goods, widening the range of policies of relevance to any monitoring exercise. Fifth, the financial origins of the most recent global economic crisis raises the possibility that the allocation of finance became another tool for state discrimination against foreign commercial interests.

For of all of these reasons, when monitoring discrimination by governments it makes sense to focus on changes in the relative treatment of domestic versus foreign rivals rather than confine information collection to a pre-specified set of policy instruments. History shows that the most prominent form of discrimination changes with each global economic crisis (tariff increases and competitive devaluations in the 1930s and voluntary export restraints in the 1980s). So best to keep an open mind as to what form discrimination may take.

Figure 1: Discrimination in the world trading system is alive and kicking.



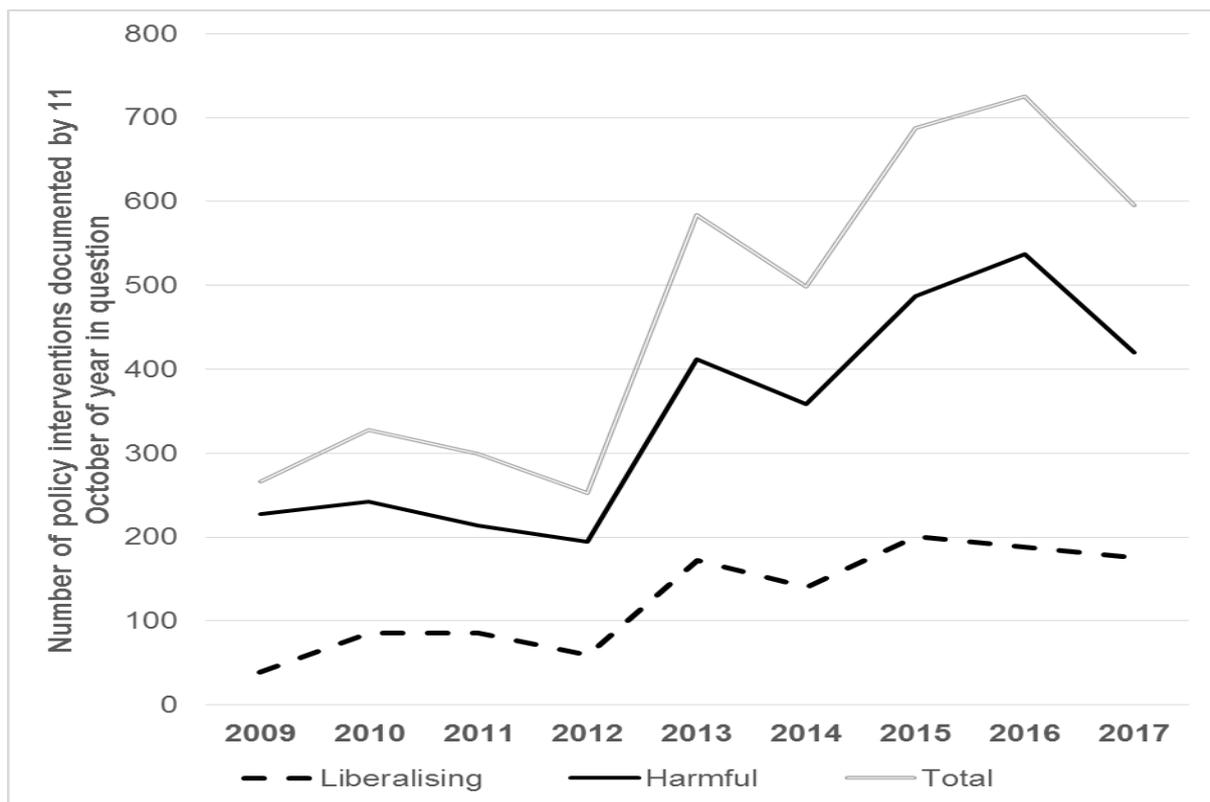
Note: *implies annualised total.

Another implication of the foregoing considerations is that much information about the incidence and extent of discrimination against foreign commercial interests is available with a lag. Consequently, although the Global Trade Alert team looks for current instances of discrimination (and for that matter liberalisation), when

information about government initiatives from earlier years becomes available then this is added to our database. At this writing, a total of 13,002 government policy interventions that have been announced or implemented since November 2008 have been documented by the GTA team.³ In the past three years over 2,200 measures have been documented per annum, substantially expanding the database. The GTA’s coverage is global.⁴ In its October 2016 *World Economic Outlook*, the International Monetary Fund stated “The Global Trade Alert database has the most comprehensive coverage of all types of trade-discriminatory and trade-liberalizing measures, although it only begins in 2008” (IMF 2016, page 79).

Figures 1 and 2 highlight the perils of ignoring publication lags. Figure 1 is based on the data available as of the end of 11 October 2017. Consequently, the GTA team has had over 8 years to document discrimination undertaken in 2009 and only 10 months to document policies undertaken during 2017. Without knowing this, one might erroneously conclude that resort to beggar-thy-neighbour activity has fallen after its 2013 surge. In fact, if our experience is anything to go by, the first published totals for a particular year are revised upward significantly over time.

Figure 2: Correcting for publication lags matters—since 2012 there has been a surge in discriminatory measures implemented.



Source: Global Trade Alert. 11 October 2017.

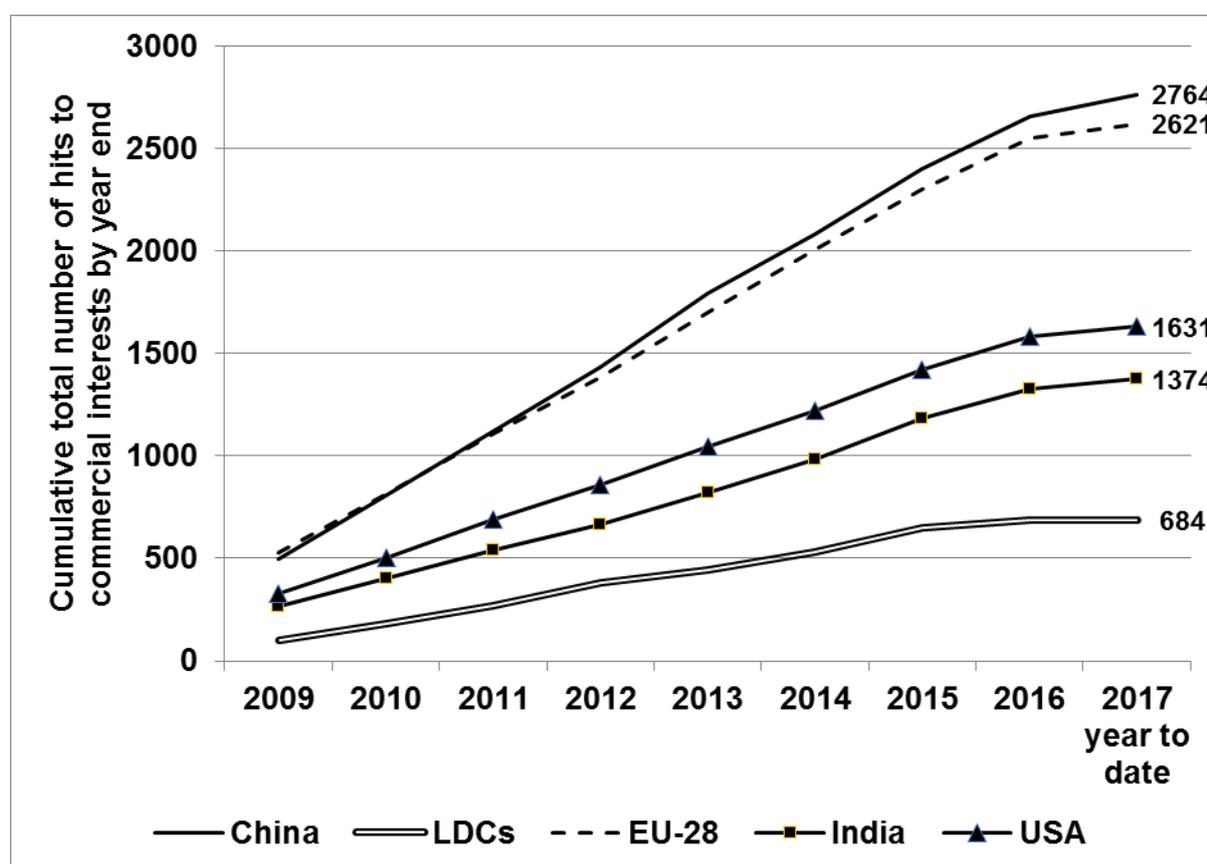
³ In comparison the WTO’s Trade Monitoring Database has at present 4,177 entries. That database can be accessed at <http://tmdb.wto.org/>

⁴ Further details on the approach used by the GTA team to identify, investigate, and document crisis-era policy change can be found on pages 17-19 of Evenett and Fritz (2015).

In addition to tracking the annual totals, it is also helpful to report the total number of measures documented for each year at the same point in the reporting cycle. Figure 2 reports the total number of liberalising and discriminatory measures implemented in a given year that were documented by 11 October of that year.⁵

The worrying finding in Figure 2 is that there has been a surge in the number of discriminatory measures implemented and documented from 2012 on. Some observers have wondered if that surge is the result of better monitoring on the part of the GTA team. Flattering as that may be, it is unlikely that the team has improved its productivity by over 150% since 2012. The implication being that the uptick in resort to discrimination since 2012 is real. While the number of liberalising measures has grown too in recent years, the gap between the totals for discriminatory measures and liberalising measures has grown. Any notion that beggar-thy-neighbour action has been tamed or was confined to earlier in the crisis should be set aside. Best not put that champagne on ice.

Figure 3: No sign that harm to commercial interests is abating.



Source: Global Trade Alert. 11 October 2017.

It is probably too soon to draw too many conclusions concerning the data for 2017. As Figure 2 shows, the total has fallen somewhat (but is still above the 2014 level.) In

⁵ The findings in Figure 2 do not depend on the choice of cut-off date 11 October. That date was chosen given the timetable for the preparation of this chapter.

light of President Trump's frequent accusations of protectionism by trading partners, could this fall reflect foreign governments resorting less to protectionism that harms US interests? Our July 2017 report examined this matter in some detail and, to our surprise, found evidence in favour of this proposition. As we put it then, it would seem that "awe" rather than "rules" may have, for the time being at least, slowed down the resort to protectionism (Evenett and Fritz 2017).

Using a conservative methodology for each measure the GTA team identifies the trading partners affected, should the measure in question be implemented. It is then possible to track over time how frequently a jurisdiction's commercial interests have been harmed by the discriminatory measures implemented by its trading partners. These totals have been plotted in Figure 3 for China, the 28 members of the European Union, the United States, India, and the Least Developed Countries (LDCs). With the exception of the latter, in every other case the cumulative number of hits to their commercial interests keeps rising. Ministers may want to bear this in mind should they receive advice from officials and international organisations to discount crisis-era protectionism. These hits to commercial interests harm firms, employees, shareholders, owners of intellectual property, and (where relevant) nationals working abroad.

Having reported the frequency of harm to commercial interests and, contrary to some, having shown that discrimination against foreign commercial interests wasn't a spasm at the beginning of the crisis that was successfully contained, we now turn to identifying the most prevalent forms of crisis-era protectionism.

The most prevalent forms of protectionism used since the beginning of the global economic crisis

Before the recent global economic crisis the stylised fact was that trade defence and safeguard measures were the principal form of discrimination used by governments (mainly in industrialised countries) to manage pressure for relief from global competition. Many developing countries still had plenty of leeway to raise tariffs without breaching WTO bindings.

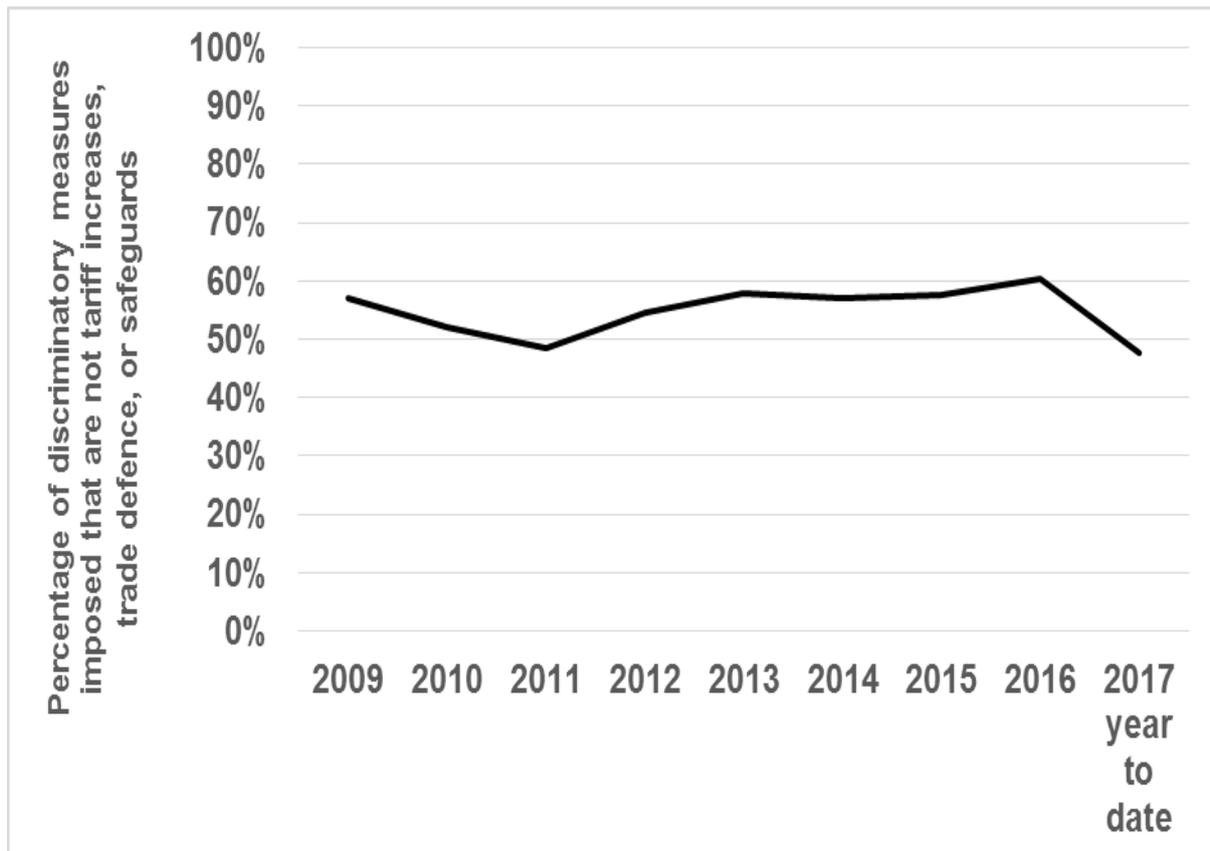
As a result of the frequent use of these particular policy instruments, datasets on their use were collected and analysed. In the light of this, perhaps unsurprisingly, when the crisis hit the initial instinct of many analysts was to check if resort to these relatively more transparent and traditional policy instruments increased.

It turns out, however, that at least half of the discrimination against foreign commercial interests undertaken by governments during the crisis era did not involve resort to trade defence or tariffs (see Figure 4 and Table 1). Therefore, a full understanding of protectionism since the onset of the global economic crisis is not possible without recognising the murkier—that is, less transparent or lower profile—forms of discrimination against foreign commercial interests.

Table 1 groups the discriminatory policy instruments into the chapters proposed by the Multi-Agency Support Team (MAST), which comprises experts from several international organisations. This MAST classification is likely to define the new standard for recording non-tariff measures and consequently we have aligned our reporting of crisis-era discrimination with this approach. On this classification, different forms of subsidy (other than export subsidies which are covered in the

“export measures” chapter) are the most frequent form of trade distortion imposed since November 2008. Coupled with the wide range of state-provided export incentives, the total number of state subventions granted since the onset of the global economic crisis exceeds 3,500.⁶ This total exceeds the sum of the number of tariff increases and duties associated with trade defence. Another 542 government procurement-related measures, such as the Buy American provisions enacted in 2009, round out the top five most frequently used measures.

Figure 4: Murkier forms of protectionism accounted for half of crisis-era trade distortions.



Source: Global Trade Alert. 11 October 2017.

The mix of contemporary protectionism implies that it is a mistake to focus only tariff increases, trade defence actions, and safeguards. Less than half of the 8,600 or so harmful measures imposed by governments since November 2008 involved resort to such duties. Therefore, it would be premature to declare victory just because this time around no government imposed across-the-board Smoot Hawley-like tariffs.

As the final three columns of Table 1 indicate, there is variation across the G-20 in the resort to different forms of trade distortion. G7 nations are responsible for

⁶ Let us quickly dismiss one red herring typically raised at this point in the argument. Namely, that the subsidies and bailouts are in the financial sector and, therefore, of limited interest to international trade in goods. In fact, only 177 of the 2,226 subsidies recorded in the GTA database relate to firms in the financial sector.

implementing just under half of the (non-export) subsidies worldwide. Whereas the BRICS are together responsible for implementing a third of the export incentives, half of the restrictive trade-related investment measures worldwide, and a quarter of the import tariff increases. The BRICS and G7 nations are responsible for each implementing 30% of the worldwide totals of trade defence duties and safeguards. Non-G-20 countries are responsible for half of tariff increases worldwide.

These statistics give a sense of the different protectionist mixes adopted by governments, suggesting there is no template for contemporary protectionism. Moreover, this is not the protectionism that our fathers or grandfathers would recognise—it is a mistake to look at the current era solely through the lens of the 1930s. As Mark Twain noted “history doesn’t repeat itself but it often rhymes.” The rhyme here is the resort to discrimination, not the form of such discrimination.

Since the next work programme for the WTO could involve revising existing multilateral rules, then it is appropriate to ask what do these statistics imply about the current WTO rule book? The extensive resort to subsidies calls into question the “discipline” provided by the Agreement on Subsidies and Countervailing Measures. If the 2,226 subsidies implemented since November 2008 were consistent with this Agreement, then one wonders what “bite” this accord has. If these subsidies were illegal, then why are so few subsidy cases brought to WTO Dispute Settlement?

Similar questions might be asked about the import tariff increases. In this regard it is worth noting that when the global economic crisis hit no less than 85 WTO members could have raised their average tariff rate by the Smoot-Hawley increase without violating their WTO disciplines. Even for those policy instruments for which the WTO has rules there are legitimate questions about the extent to which they really restrained government action during the recent global economic crisis.

It is worth recalling that the WTO rulebook is incomplete, that is, it does not cover every form of discrimination against foreign commercial interests. As a result, the failure to observe outright violations of WTO rules does not settle the debate about those rules effectiveness. Another possibility worth considering is whether the incomplete rule book channelled protectionist pressures to allowed loopholes, to policy intervention where the existing rule book is ambiguous, or to government measures for which there are no WTO rules in the first place.

Table 1: Policy instruments employed against foreign commercial interests, organised by MAST chapter and listed in descending order.

MAST chapter	MAST chapter name	Number of discriminatory measures implemented since November 2008	Number of discriminatory measures still in force	Number implemented by...			Percentage of global total implemented by...		
				G7	BRICS	G-20	G7	BRICS	G-20
L	Subsidies (except export subsidies)	2226	1802	1039	398	1681	46.7	17.9	75.5
D	Contingent trade protection	1560	1284	456	442	1296	29.2	28.3	83.1
	Import tariff measures	1548	1083	108	359	784	7.0	23.2	50.6
P	Export measures	1289	899	252	437	951	19.6	33.9	73.8
M	Government procurement	542	267	365	110	506	67.3	20.3	93.4
I	Trade-related Investment measures	363	333	52	186	315	14.3	51.2	86.8
E	Non-automatic licensing, quotas	325	186	42	57	185	12.9	17.5	56.9
	FDI entry-related	266	253	31	45	143	11.7	16.9	53.8

MAST chapter	MAST chapter name	Number of discriminatory measures implemented since November 2008	Number of discriminatory measures still in force	Number implemented by...			Percentage of global total implemented by...		
				G7	BRICS	G-20	G7	BRICS	G-20
	measures								
	Migration measures	183	158	49	28	108	26.8	15.3	59.0
	Instrument unclassified	175	132	22	60	132	12.6	34.3	75.4
	Capital control measures	49	38	0	8	25	0	16.3	51.0
F	Price control measures	42	36	2	17	32	4.8	40.5	76.2
A	Sanitary and phytosanitary measure	18	16	2	2	10	11.1	11.1	55.6
G	Finance measures	17	15	0	1	3	0	5.9	17.6
B	Technical barriers to trade	13	8	1	3	7	7.7	23.1	53.8
N	Intellectual Property	2	2	0	0	1	0	0	50.0

Source: Global Trade Alert. 11 October 2017.

The extent of G-20 exports facing crisis-era protectionism

One reaction to the evidence in the previous two sections has been to dismiss it as merely referring to counts of measures. What about the scale of commerce potentially affected? As noted earlier, it is well known that the amounts of trade subject to trade defence investigations are typically small (although the 2012-3 dispute between the EU and China over solar panels was a notable, 20 billion euro exception.) In the absence of any Smoot-Hawley tariff increases by any of the major trading powers, so the argument goes, surely the amount of trade affected is trivial?

In preparing this chapter we calculated the share of G-20 exports that faces either a discriminatory policy instrument in a foreign market, competes with a subsidised foreign rival that is based in that third market, or competes with a foreign rival that has received state incentives to export to that third market. We only considered measures that have been implemented since November 2008.

In 2016 the G-20 nations exported just under \$9.3 trillion of goods, covering a substantial share of world trade. In gauging the results that follow, while a 2% trade coverage ratio may look small, it does imply that \$185 billion of trade was potentially affected in 2016. Of course, the G-20 is not the world and trade in goods is only one form of cross-border commerce. Both limitations imply that the scale of trade affected by crisis-era protectionism presented here will be underestimates.

We used product-level (technically, six digit HS codes) data on trade flows in preparing these calculations. For every discriminatory measure, we took account of the products implicated by that measure, the government responsible for that measure, and the known trading partners for the product in question. As trade flows tend to react to discriminatory measures, we used pre-crisis trade data (for 2005-7) to weight each trade flow once the crisis began. We also took account of when measures were enacted in a year. For example, if a measure lasted for only two months during a year we discounted the annual trade flow affected by 10/12ths to reflect the fact that for 10 months the measure was not in force.

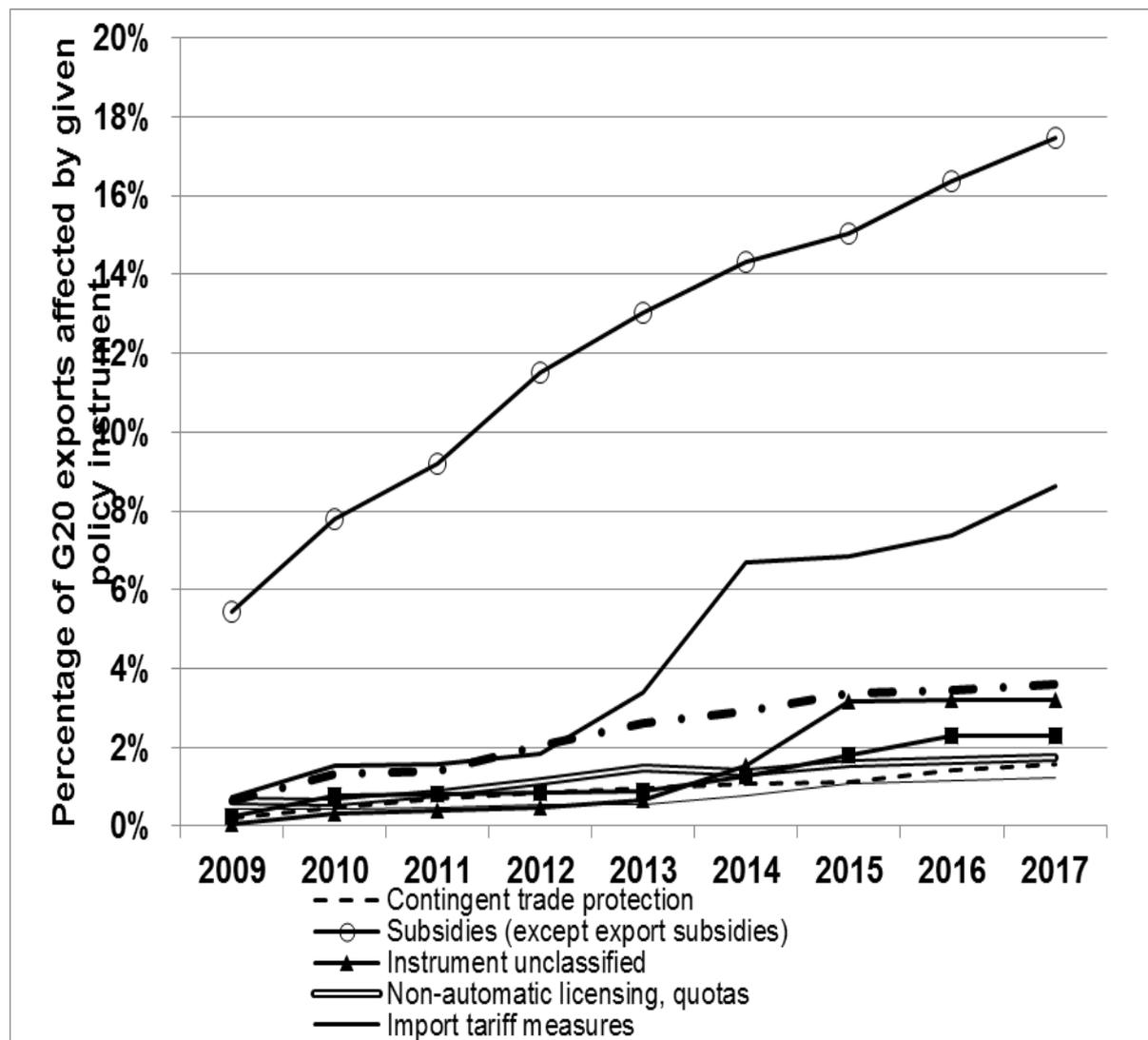
Figure 5 reports the percentage of G-20 exports that faced import tariff increases, trade defence and safeguard actions, localisation requirements, and discriminatory public procurement measures during the years 2009 to 2017. In addition, the figure shows the percentage of G-20 exports that had to compete in the home market of a foreign firm that had been bailed out.

The initial crisis response witnessed in 2009 resulted in over 5% of G-20 exports competing against a bailed out firm in its home market. Smaller percentages of G-20 exports faced higher tariffs in 2009. These totals were to rise, however. By 2017 over 17% of G-20 exports, an amount that exceeds \$1.4 trillion dollars in trade, competed with firms that have been bailed out during the crisis or whose domestic operations have been subsidised. Furthermore, more than 7% of G-20 exports faced a tariff increase, representing \$685 billion of exports. In line with the WTO monitoring reports⁷, we find the amount of trade covered by trade defence and safeguard measures to be small, relatively speaking. We estimate that localisation

⁷ The “headline” trade coverage ratios that are found in the WTO’s monitoring reports cover only a narrow range of import restrictions. The WTO computes these ratios for the new measures in each reporting period implemented by G-20 countries and does not present cumulative totals of the trade affected by all measures still in effect at a point in time, as we do.

requirements affected \$213 billion of trade in 2017, a sizeable amount for a measure that in the eyes of many analysts had been banned by the TRIMS agreement.

Figure 5: The shares of G-20 exports facing tariff increases and having to compete with bailed out firms in their home markets has risen markedly.



Source: Global Trade Alert. 11 October 2017.

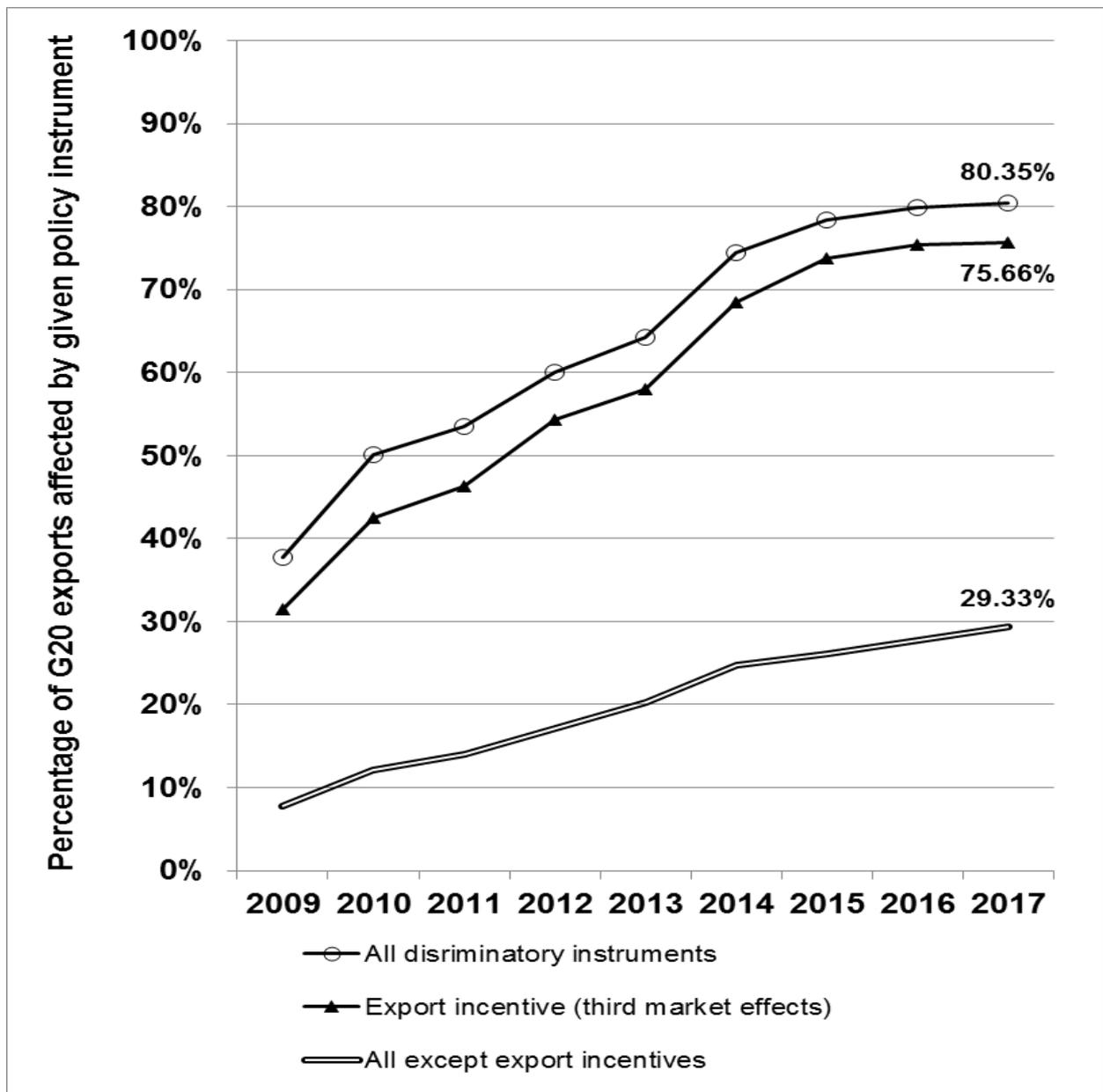
The amount of trade covered by the trade restrictions identified in Figure 5 and that competes in the home markets of bailed out firms, however, pales in significance to that covered by state-provided export incentives. As Table 1 shows, the BRICS nations made frequent use of export incentives. Most of these incentives operate through national tax systems (some of the most far-reaching are related to Value Added Taxes but some are not.) Such incentives can force rivals to lower prices, shrinking profit margins, and diminishing the incentive to export in the first place. Moreover, uncertainty over the size of such export incentives can deter foreign rivals.

The full extent of G-20 exports facing subsidised competitors is revealed in Figure 6. As nations have progressively expanded the range of products eligible for export

incentives, the percentage of G-20 exports competing against subsidised rivals in third markets has expanded to 80% in 2017, rising 42 percentage points in eight years.

In sum, in terms of scale, crisis-era discrimination against foreign commercial interests is more about export expansion than import contraction. Having said that, even if export incentives are excluded, 29% of G-20 exports currently face some type of trade distortion introduced since the crisis began. The long-held principle of non-discrimination has taken a battering during the crisis era and the latest data available suggests that there is no end in sight (Evenett and Fritz 2015).

Figure 6: The percentage of G-20 exports that face competition from subsidised rivals in third markets has risen 40 points in just six years.



Source: Global Trade Alert. 11 October 2017.

In recent years more evidence has come to light of the importance of state competition in the provision of export incentives. The prolonged haggling in the US Congress concerning the reauthorisation of the US Export-Import Bank is well known. It should not be forgotten too that the France and the United Kingdom took advantage of this situation to lure production and jobs by US multinational General Electric. The CEO of General Electric, Mr. Jeff Immelt, went on record with the following statement:⁸

"In today's competitive environment, countries that have a functional Export Credit Agency (ECA) will attract investment...Export finance is a critical tool we use to support our customers. Without it, we can't compete against foreign competitors who enjoy ECA financing from their governments. We are fortunate to have the support of UK Export Finance (UKEF), one of the most flexible ECAs in the world. The UK is pro-export and pro-manufacturing."

The expansion in recent years in various forms of support for exporters has been documented in a report in the *Financial Times*.⁹ Given the range of support documented in that article the assumption that export finance necessarily corrects for market failures ought to be revisited.

In the interest of balance, it should be noted that certain developing countries have not just been expanding their export incentives but also "improving" the implementation of existing schemes so as pay exporters more. A leading example comes from China. At a press conference at the State Council on 17 July 2015, Mr. Wang Shouwen, Vice-Minister of Commerce for China, stated:

*"During January to June, China's volume of export tax rebates has increased 12.4 percent over the same period last year, which is far higher than the growth of export volumes and has greatly boosted the growth of foreign trade exports."*¹⁰

Practitioners and analysts of the world trading system who are committed to the principle of non-discrimination ought to be critical of every deviation from this norm. It is unfortunate that the term protectionism has long been associated with reducing imports. This may well have created a blind spot towards measures that artificially favour domestic firms when they export products to third markets.

Ironically, this evidence comes to the fore after WTO members at their Ministerial Conference in December 2015 agreed to eliminate, once and for all, agricultural export subsidies. If one accepts the argument that subsidy wars in agriculture are wasteful then what makes rivalry over other export incentives different? Having written this, it would be wrong to infer that revising the WTO's subsidy code is the only trade policy-related lesson from the global economic crisis.

⁸ See <http://www.reuters.com/article/2015/09/24/ct-ge-idUSnBw245620a+100+BSW20150924>. See also <https://www.gov.uk/government/news/prime-minister-welcomes-export-framework-with-general-electric>.

⁹ See <http://www.ft.com/intl/cms/s/0/fe1a26be-1be1-11e5-8201-cbdb03d71480.html>.

¹⁰ See http://english.gov.cn/news/policy_briefings/2015/07/17/content_281475148824853.htm.

Implications for the future work programme of the WTO

Coming on top of the decade-and-a-half long struggle over the Doha Round, the global economic crisis has exposed further deficiencies in the operation of the WTO. Since this is a member-driven organisation, it would not be appropriate that the WTO secretariat shoulder all of blame. The latter is not immune, however, from criticism: its weak monitoring of protectionism has provided cover for those diplomats and government officials who ultimately are not committed to upholding the principle of non-discrimination in international commerce. From the point of view of global governance, if the WTO secretariat is unable to effectively monitor its member governments, then consideration should be given to assigning this role to another official institution.

Moreover, the mismatch between the extensive resort to discrimination against foreign commercial interests and the limited number of disputes brought to the WTO for settlement, begs further questions. If the discrimination is legal, then do existing WTO rules provide for such little constraint on government behaviour? If the discrimination is illegal, why are so few cases brought? Could a “glass houses syndrome” exist whereby “people who live in glass houses don’t throw stones”? Is the counterpart to the mutual indiscipline over protectionism mutual restraint in bringing dispute settlement cases? If so, a key weakness of the WTO Dispute Settlement Understanding—namely, that only WTO members can bring cases—needs to be addressed.¹¹ Otherwise, even with the best possible rule book, WTO obligations could be effectively suspended when a systemic crisis motivates major trading powers to simultaneously introduce discrimination against foreign commercial interests.¹²

The finding that another global economic crisis has brought to the fore prominent forms of protectionism not seen much in previous crises reflects the incentives created by an incomplete WTO rule book. Tighter rules on subsidies, localisation requirements, and trade finance are needed. An ambitious WTO work programme would also include negotiating new rules on export taxes and expanding the reach of the Agreement on Government Procurement. The considerable leeway many governments have to raise tariffs without breaking their WTO obligations is another matter that could be addressed as part of a package of reforms.

Of course, it is always possible to put together a wish list of items for the WTO membership to work on. However, the purpose of this exercise was to demonstrate that the recent global economic crisis has revealed significant deficiencies in the edifice of WTO rules. Making an effort to remedy their weaknesses—and bearing in mind the different types of cross-border commerce witnessed in the first quarter of the 21st century—ought to be a priority for the WTO membership. There is plenty to be getting on with.¹³

¹¹ In the European Union, for example, the European Commission—acting in its role as “guardian of the treaties”—can bring legal cases against member states before the European Court of Justice.

¹² This may be the most significant lesson from the global economic crisis for the governance of world trade. There are strong complementarities between fixing the WTO rule book and strengthening its dispute settlement function. Put differently, the benefits from improving one are conditional in part on improving the other.

¹³ Of course, it must be conceded that incremental improvements in the WTO rule set that result in an incomplete set of rules will still offer opportunities for circumvention whenever the next global

In sum, once one accepts that there has been considerable resort to discrimination against foreign commercial interests during the crisis era, then a series of awkward questions arise concerning the effectiveness of the multilateral trading system. These questions relate to the full range of the WTO's functions—going well beyond a minor tidying up exercise. Many national and international institutions have been thoroughly overhauled after their deficiencies were exposed during the global economic crisis—the World Trade Organization should be no exception.

economic crisis hits. Practically speaking the process of filling in the WTO rule set will take decades, if it ever comes to pass. These observations may qualify expectations about what a rules-based trading system could *ever* accomplish in taming the resort to protectionism during global economic crises.

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