

TRADE PROTECTION MEASURES & PROCEDURES IN INDIA

A PRESENTATION FOR WIRC-ICAI
29/08/2020

COMPILATION BY
CA. ATAL BIHARI BHANJA

(REF. WEBSITES: WTO, DGTR(INDIA), MINISTRY OF COMMERCE-GOI, DGFT, USITC, USDOC, US ACCESS ETC.)

CA's Role in Trade Protection Measures

- **CA Practitioners**

- Actualisation of Intellects and Analytical Skills acquired during studying CA Course
- Recognition in Industries, Top Management, Government Circle
- Global Exposure in Accounting, Legal & Investigation Procedures
- Team Leadership: Own Team, Clients Team and Government Representation
- Addition to the Firm's Biodata as a Strategic Consultancy Provider
- Tremendous Value Addition in all spheres

- **CAs in Industry**

- Very Crucial being the Final Source of Data Authenticator, Validator and Submitter
- Knowledge Building in Entire Operations of the Company (All Segments of Operations)
- Effective Team Building and Responsibility Management
- Global Exposure in Accounting, Legal & Investigation Procedures
- Relearning Experience for Self and the Team under him
- Additional Diamond in CFO's Biodata
- In-depth Acquisition of Practical Knowledge over what is read in Academic Career

Political poster from the [British Liberal Party](#) displaying their views on the differences between an economy based on [Free Trade](#) and Protectionism. The Free Trade shop is shown as full to the brim with customers due to its low prices. The shop based upon Protectionism is shown as suffering from high prices and a lack of customers, with animosity between the business owner and the regulator. (Ref.: Wikipedia)



London School of Economics and Political Science 2007 Coll Misc 0519-32

Protectionist policies- History

Average Tariff Rates on Manufactured Products for Selected Developed Countries in Their Early Stages of Development
(weighted average; in percentages of value)¹

	1820 ²	1875 ²	1913	1925	1931	1950
Austria ³	R	15-20	18	16	24	18
Belgium ⁴	6-8	9-10	9	15	14	11
Denmark	25-35	15-20	14	10	n.a.	3
France	R	12-15	20	21	30	18
Germany ⁵	8-12	4-6	13	20	21	26
Italy	n.a.	8-10	18	22	46	25
Japan ⁶	R	5	30	n.a.	n.a.	n.a.
Netherlands ⁴	6-8	3-5	4	6	n.a.	11
Russia	R	15-20	84	R	R	R
Spain	R	15-20	41	41	63	n.a.
Sweden	R	3-5	20	16	21	9
Switzerland	8-12	4-6	9	14	19	n.a.
United Kingdom	45-55	0	0	5	n.a.	23
United States	35-45	40-50	44	37	48	14

Source: Bairoch (1993), p. 40, table 3.3.

Notes:

R= Numerous and important restrictions on manufactured imports existed and therefore average tariff rates are not meaningful.

1. World Bank (1991, p. 97, Box table 5.2) provides a similar table, partly drawing on Bairoch's own studies that form the basis of the above table. However, the World Bank figures, although in most cases very similar to Bairoch's figures, are *unweighted* averages, which are obviously less preferable to *weighted* average figures that Bairoch provides.

2. These are very approximate rates, and give range of average rates, not extremes.

3. Austria-Hungary before 1925.

4. In 1820, Belgium was united with the Netherlands.

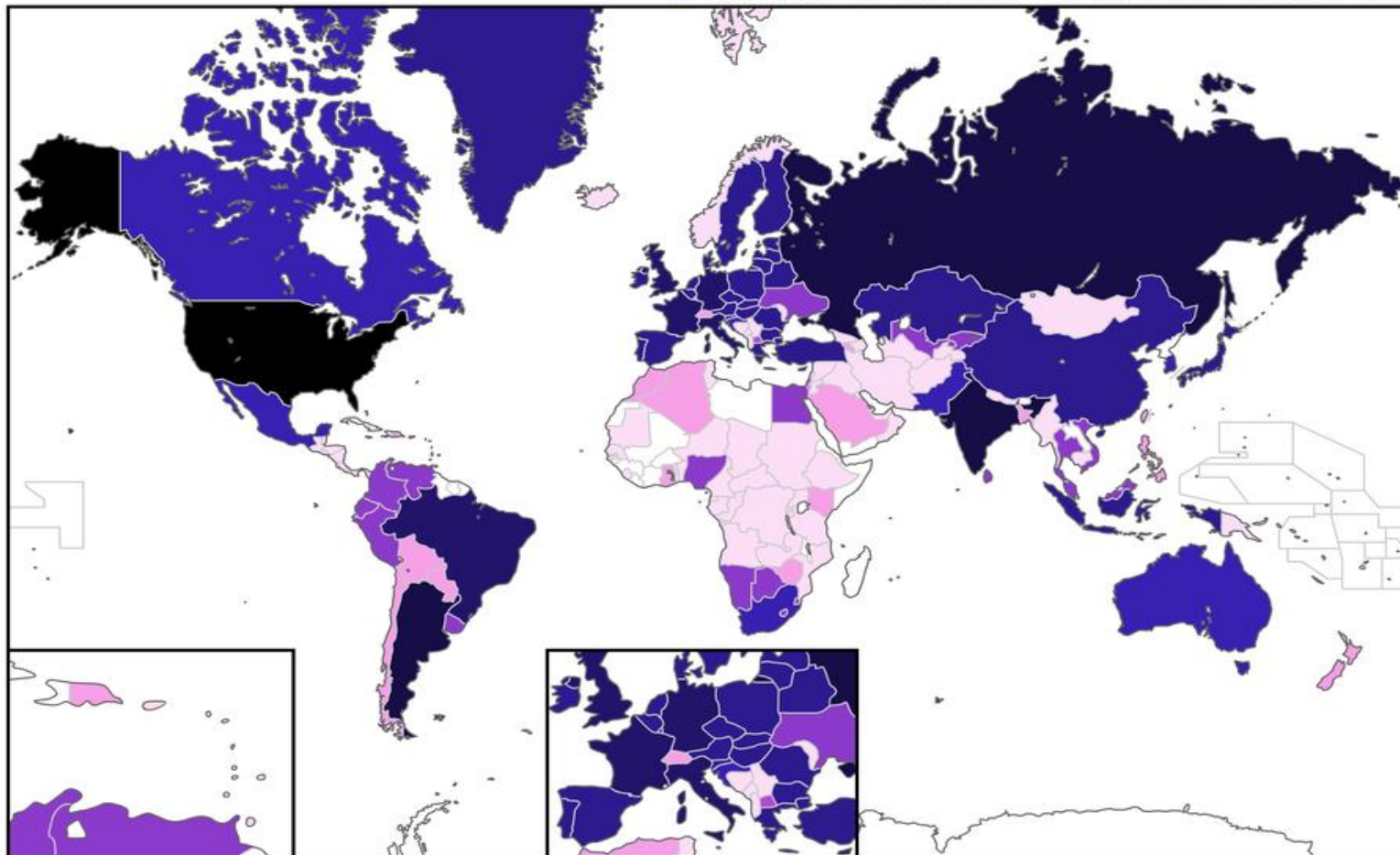
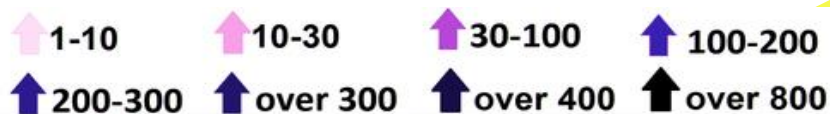
5. The 1820 figure is for Prussia only.

6. Before 1911, Japan was obliged to keep low tariff rates (up to 5%) through a series of "unequal treaties" with the European countries and the USA. The World Bank table cited in note 1 above gives Japan's *unweighted* average tariff rate for *all goods* (and not just manufactured goods) for the years 1925, 1930, 1950 as 13%, 19%, 4%.

Trade Protectionist Measures since 2008

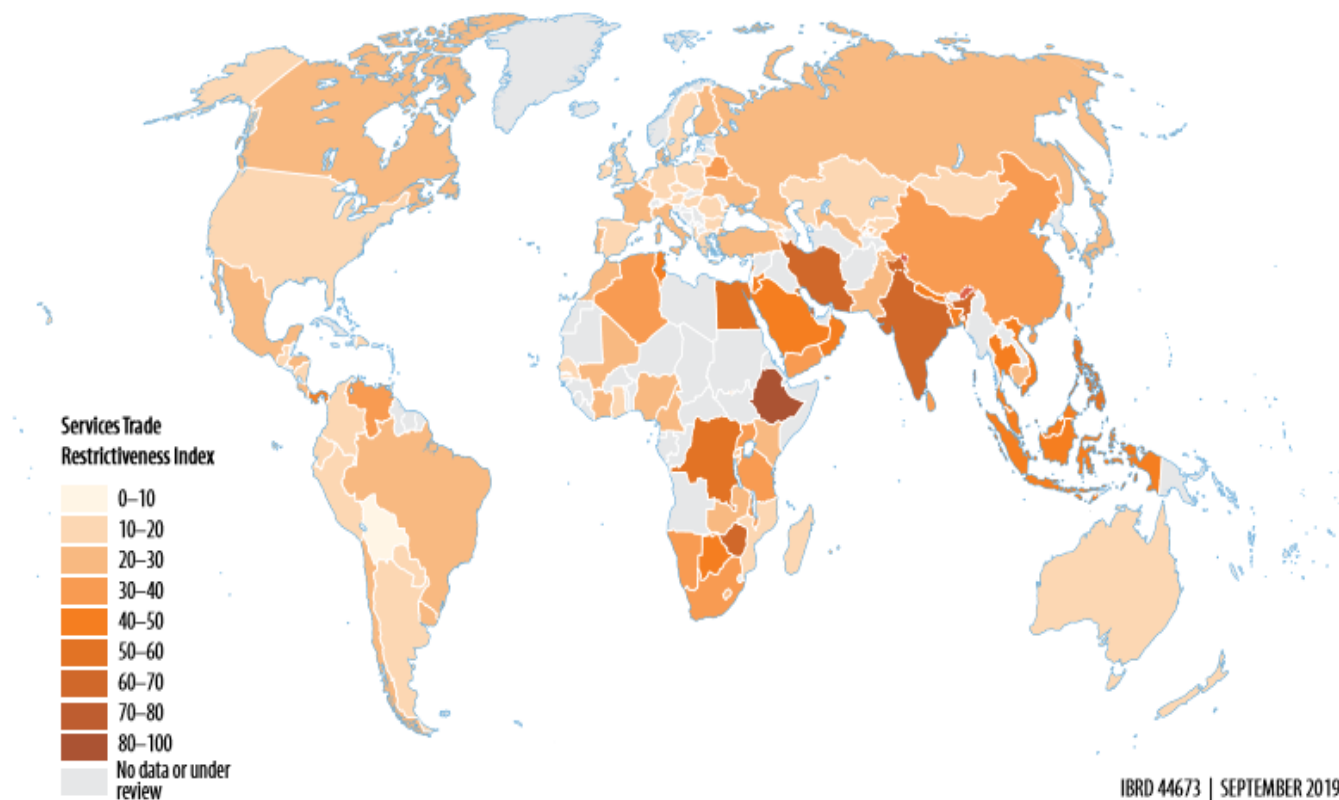
Protectionist measures taken since 2008

Source: Global Trade Alert , CEPR initiative



World Development Report 2020: Protectionism in Services

Map 7.1 Services trade remains restricted in many countries

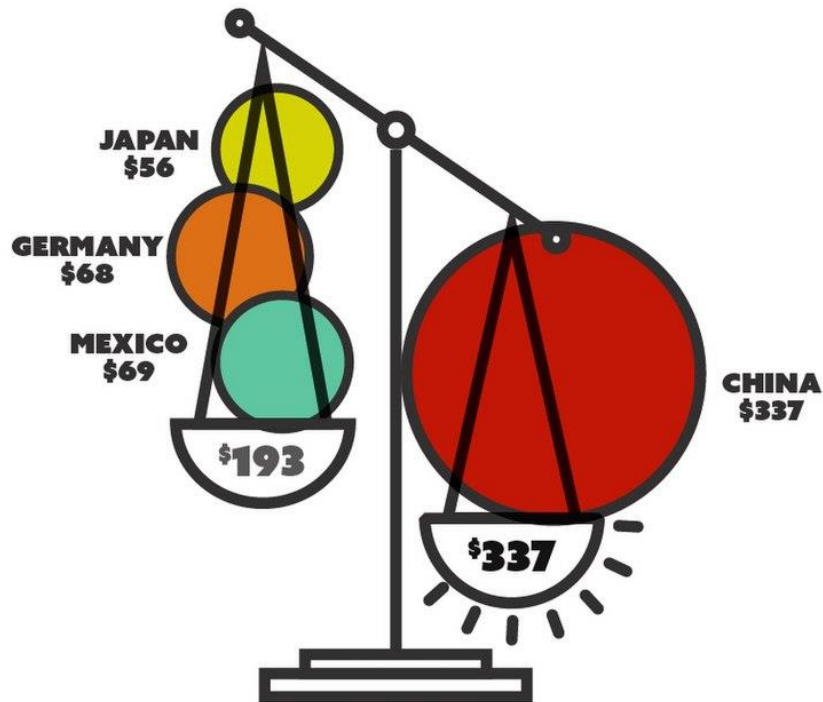


Source: Borchert, Gootiiz, and Mattoo 2014.

Note: The World Bank's Services Trade Restrictions Database covers 103 countries (79 developing) and financial, basic telecommunications, transport, distribution, and selected professional services. Data were collected between 2008 and 2010. The Services Trade Restrictiveness Index (STRI) takes on values from 0 to 100, where 0 indicates a country is completely open to trade without restrictions, and 100 indicates a country is completely closed to trade.

U.S. trade deficit (in billions, goods and services) by country in 2017

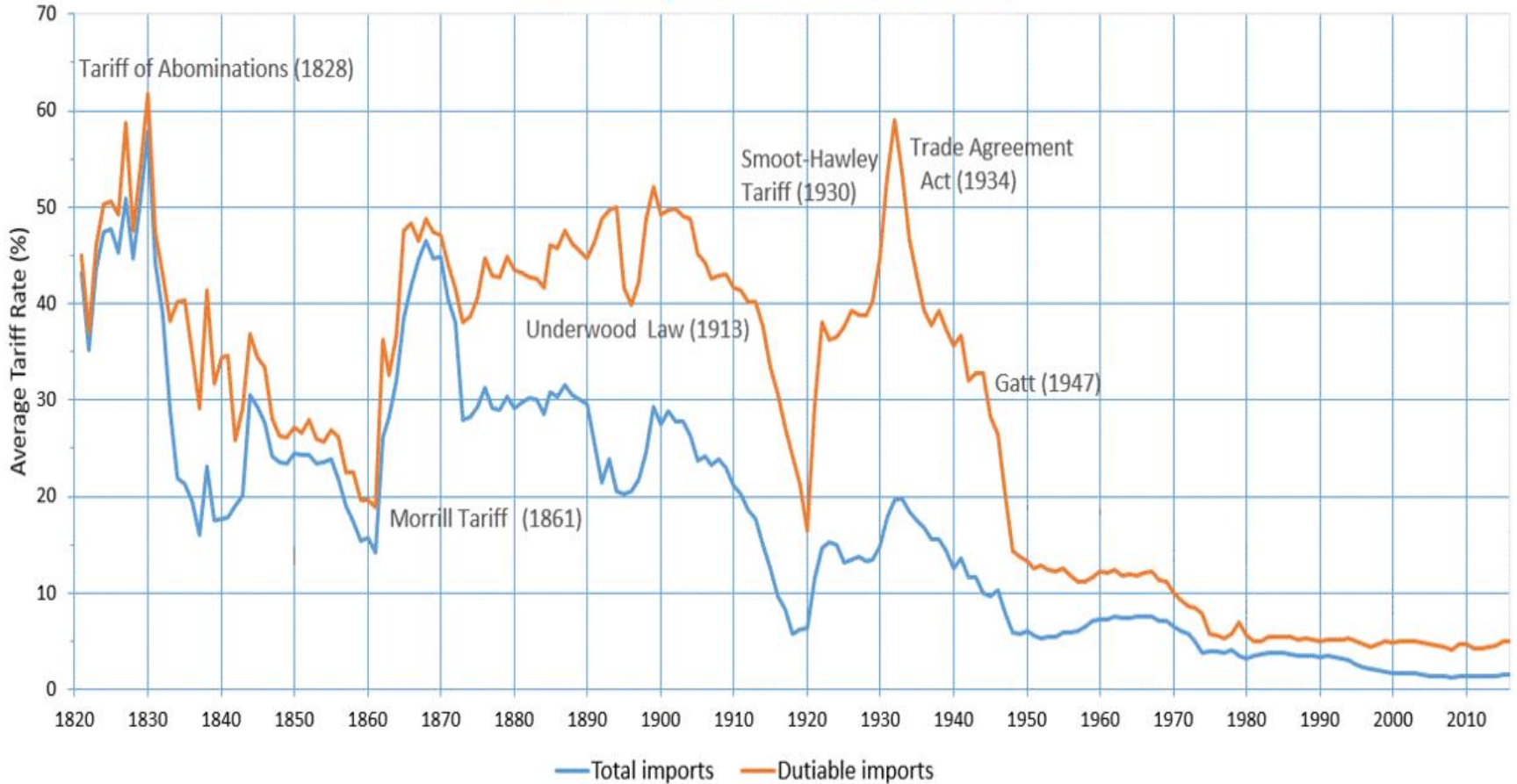
**U.S. TRADE DEFICIT BY COUNTRY
IN BILLIONS OF DOLLARS**



SOURCE: OFFICE OF THE U.S. TRADE REPRESENTATIVE

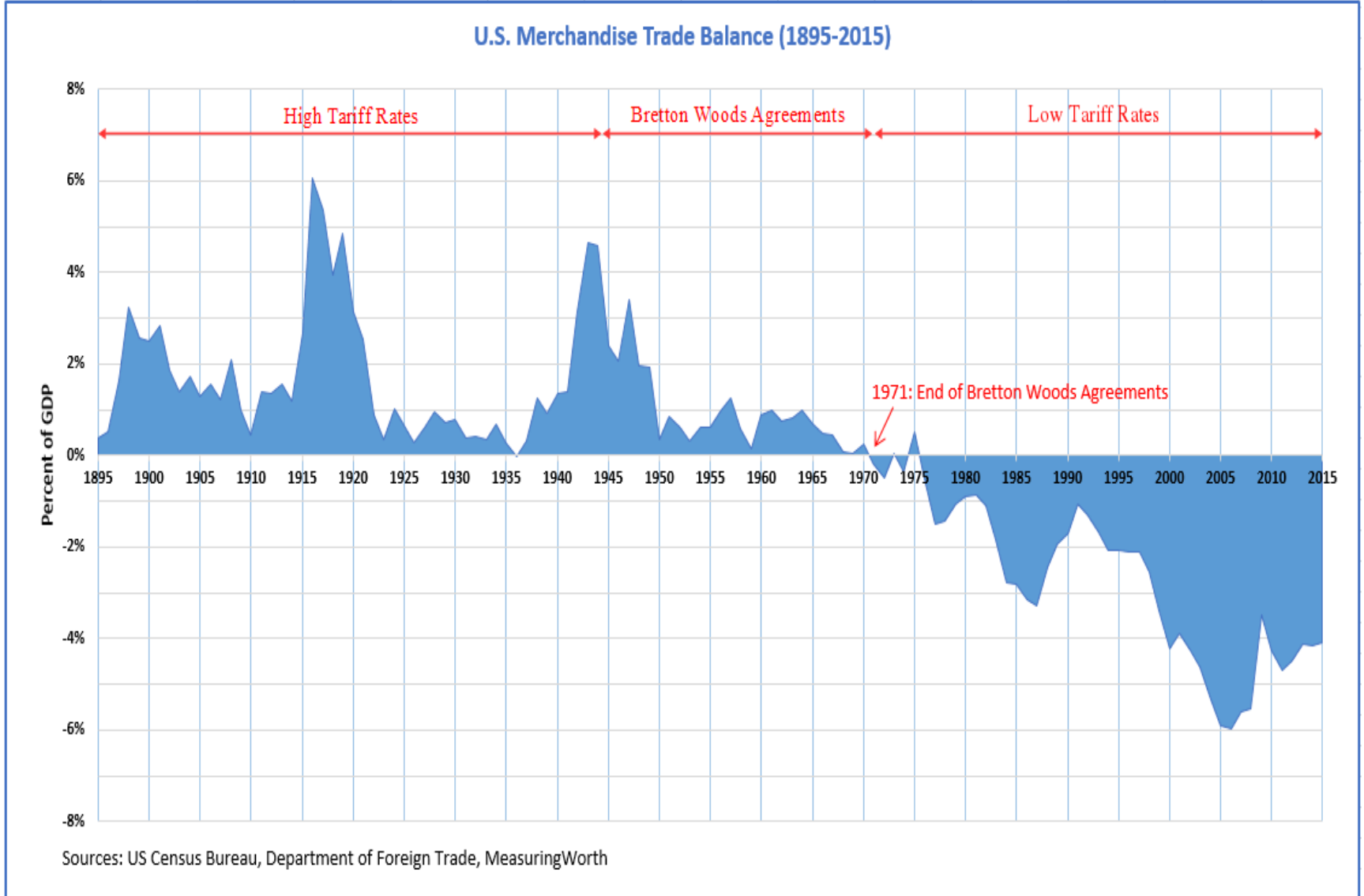
Protectionist policies- History of USA

U.S. Average Tariff Rates (1821-2016)



Source: US Department of Commerce, Bureau of the Census, Historical Statistics of the United States 1789-1945, U.S. International Trade Commission, dataweb.usitc.gov

Protectionist policies- History of USA

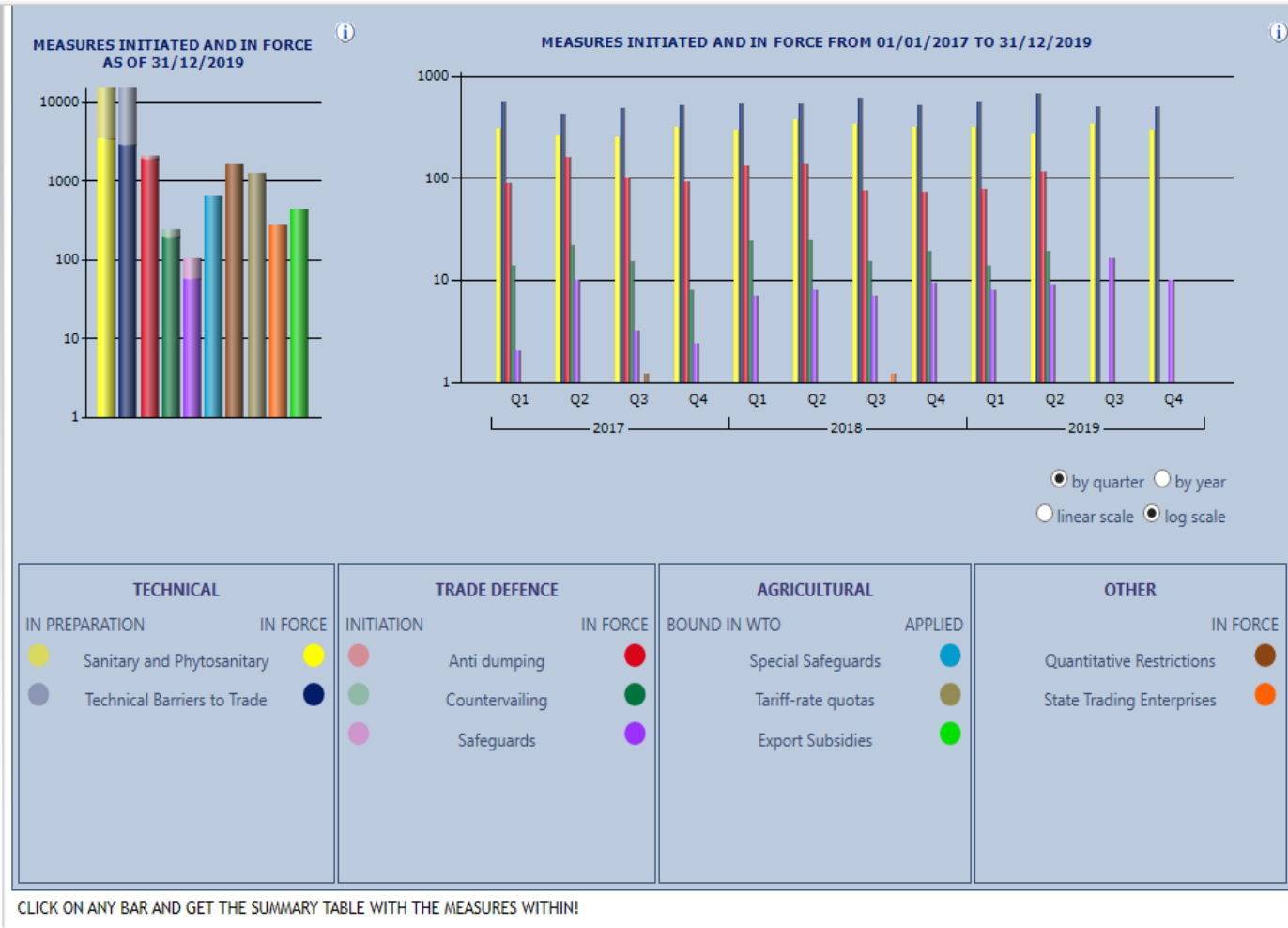


NTB STATISTICS – 31.12.2019 (www.wto.org)

Anti dumping [ADP], Countervailing [CV], Quantitative Restrictions [QR], Safeguards [SG], Sanitary and Phytosanitary [SPS], Special Safeguards [SSG], Technical Barriers to Trade [TBT], Tariff-rate quotas [TRQ], Export Subsidies [XS]

Search result										
Trade is not appearing because several countries have been selected.										
Code	HS Product description	SPS	TBT	ADP	CV	SSG	SG	QR	TRQ	XS
	Total	19269	27837	2120	241	652	105	1636	1274	429
S00	Measures without HS code	6152	11154	63	13	1	93	1	3	60
S01	Live animals and products	5955	1897	12	1	484		300	363	103
S02	Vegetable products	5412	2551	19	5	285	1	222	533	163
S03	Animal and vegetable fats, oils and waxes	838	901	6	10	19		99	88	21
S04	Prepared foodstuff; beverages, spirits, vinegar; tobacco	2948	4027	51	12	423		169	324	125
S05	Mineral products	66	1292	28	7			214		
S06	Products of the chemical and allied industries	1251	3631	388	34	11	1	695	19	11
S07	Resins, plastics and articles; rubber and articles	232	2165	247	17		2	149		
S08	Hides, skins and articles; saddlery and travel goods	77	136	1				131		
S09	Wood, cork and articles; basketware	209	394	34	5			132		
S10	Paper, paperboard and articles	30	309	74	8		3	118		
S11	Textiles and articles	114	552	129	9	12		131	14	8
S12	Footwear, headgear; feathers, artif. flowers, fans	11	280	4				86		
S13	Articles of stone, plaster; ceramic prod.; glass	26	1290	113	12			106		
S14	Pearls, precious stones and metals; coin	14	45					141		
S15	Base metals and articles	75	1858	807	112		11	149		
S16	Machinery and electrical equipment	320	5171	146	14			318		
S17	Vehicles, aircraft and vessels	73	1658	41	6			182		
S18	Instruments, clocks, recorders and reproducers	26	1567	22				200		
S19	Arms and ammunition	41	61					167		
S20	Miscellaneous manufactured articles	25	1780	48	9			232		
S21	Works of art and antiques	15	35					111		

I-TIP Goods: Integrated analysis and retrieval of notified non-tariff measures

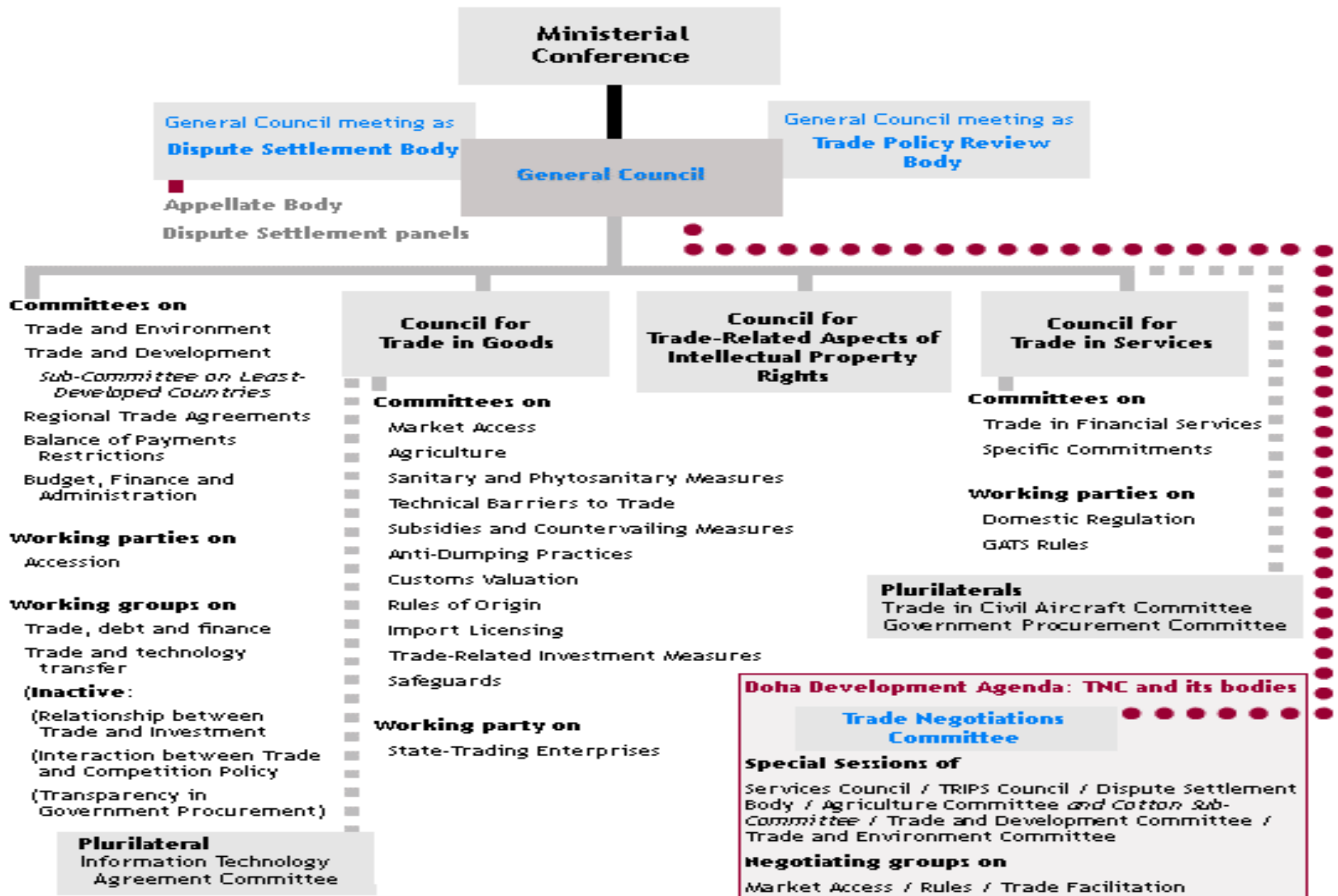


OVER VIEW OF GLOBAL TRADING REGIME

- Trade Protection Measures

- Important Trade Theories
- Type of Trade Policies and Trade Relations
- National Legal Systems
- WTO Agreements
- **Free Trade Agreements**
- **Export Control Laws**
- **Competition Laws & Policies**
- **Global FDI Policies**
- Tax Heaven Countries
- **Tariff Barriers**
- **Non Tariff Barriers**
- **Other Trade Related Issues of latest concern**
- **Legal Remedies for Disputes**
- WTO & Strategic Audits
- Clusters & Global Value Chains
- Trade Competitiveness and Innovation State
- UN 2030 SDG Agenda Platforms

WTO STRUCTURE



TYPES OF NON-TARIFF BARRIERS

Policy	Purpose	Examples	Potential Consequences
Protectionist policies	To help domestic firms and enterprises at the expense of other countries.	<ul style="list-style-type: none"> ➤ Import quotas ➤ local content requirements ➤ public procurement practices 	Challenges levied at WTO and other trade forums
Assistance policies	To help domestic firms and enterprises, but not at the expense of other countries.	<ul style="list-style-type: none"> ➤ Domestic subsidies ➤ <u>Antidumping</u> laws ➤ Industry bailouts 	Adversely affected countries may respond to protect themselves (i.e., imposing countervailing duties and subsidies).
Non protectionist policies	To protect the health and safety of people, animals, and plants; to protect or improve the environment.	<ul style="list-style-type: none"> ➤ Licensing ➤ Packaging & labeling requirements ➤ Sanitary & Phytosanitary (SPS) rules ➤ Food, plant & animal inspections ➤ Import bans based on objectionable fishing or harvesting methods 	Limited formal consequences lead to efforts to establish common standards or mutual recognition of different standards.
Silent Killers	Internationalising Patent Regime	<ul style="list-style-type: none"> ➤ Patents held by one country form part of a system of exploitable relative advantage in trade negotiations against another ➤ Adhering to a worldwide system of patents confers "good citizenship" status despite 'de facto' protectionism 	Reputational advantages for states to be seen to be sticking to intellectual property systems. One could attend the various revisions of the Paris and <u>Berne conventions</u> , participate in the cosmopolitan moral dialogue about the need to protect the fruits of authorial labor and inventive genius...knowing all the while that one's domestic intellectual property system was a handy protectionist weapon

NON TARIFF BARRIERS

Sl. No.	Various Forms	Examples
A	Specific Limitations on Trade	<ol style="list-style-type: none"> 1. Import <u>Licensing</u> requirements 2. Proportion restrictions of foreign domestic goods (local content requirements) 3. Minimum import price limits 4. Fees 5. <u>Embargoes</u>
B	Customs and Administrative Entry Procedures	<ol style="list-style-type: none"> 1. Valuation systems 2. <u>Anti-dumping</u> practices other than punitive tariffs 3. Tariff classifications 4. Documentation requirements 5. Fees
C	Standards	<ol style="list-style-type: none"> 1. Standard disparities 2. <u>Sanitary and phytosanitary measures</u> 3. Intergovernmental acceptances of testing methods and standards 4. Packaging, labeling, and marking
D	Government Participation in Trade	<ol style="list-style-type: none"> 1. <u>Government procurement</u> policies 2. Export subsidies 3. <u>Countervailing duties</u> 4. Domestic assistance programs
E	Charges on imports	<ol style="list-style-type: none"> 1. Prior import deposit subsidies 2. Administrative fees 3. Special supplementary duties 4. Import credit discrimination 5. Variable levies 6. Border taxes
F	Others	<ol style="list-style-type: none"> 1. Voluntary export restraints 2. Orderly marketing agreements

Important NTB Databases

Organisation	Particulars	Links
International Trade Centre	<ul style="list-style-type: none"> ❑ Market Access Map has been developed by ITC to support the needs of exporters, trade support institutions, trade policy makers and academic institutions in developing countries. ❑ Information on customs tariffs applied by more than 200 countries and faced by 239 countries and territories. ❑ Tariff rate quotas, trade remedies, rules and certificates of origin, bound tariffs of WTO members, non-tariff measures and trade flows. ❑ Users can also find ad-valorem equivalents for all non ad-valorem duties and perform aggregations of products and countries as well as simulate tariff reduction scenarios. ❑ Free to users in developing countries and their representations abroad. ❑ Funding support from the European Commission, DFID, the World Bank, the Ministry of Finance of the Russian Federation and donors to ITC's trust fund. 	http://www.mactmap.org/
The World Integrated Trade Solution (WITS)	<ul style="list-style-type: none"> ❑ Access to international merchandise trade, tariff and non-tariff measures (NTM) data. ❑ Browse the Country profile section to obtain countries exports, imports and tariff statistics along with relevant development data. ❑ Register and log in to WITS to perform custom analysis, using standard and derived product classifications. 	https://wits.worldbank.org/
WTO Integrated Trade Intelligence Portal (I-TIP)	<ul style="list-style-type: none"> ❑ The Integrated Trade Intelligence Portal (I-TIP) provides a single entry point for information compiled by the WTO on trade policy measures. ❑ Containing information on over 25,000 measures, I-TIP covers both tariff and non-tariff measures affecting trade in goods as well as information on trade in services, trade in government procurement markets, regional trade agreements and the accession commitments of WTO members. ❑ Its aim is to serve the needs of those seeking detailed information on trade policy measures as well as those looking for summary information. 	https://www.wto.org/english/res_e/statistics_e/itip_e.htm
CHEMEXCIL	Listing of Notifications available under SPS & TBT Agreements since 2015	https://chemexcil.in/tbts

Types of NTB Measures – SPS / TBT

- End product criteria
- Process & production methods
- Testing
- Sampling
- Inspection
- Certification & approval procedures
- Risk assessment methods
- Quarantine treatments related to transportation of animals or plants
- Packaging & labelling requirements related to food safety

WORLD WIDE FTAs (www.wto.org)

The following table shows all RTAs in force, sorted by Type of Agreement- As on 17.01.2020:

	Enabling clause	GATS Art. V	GATT Art. XXIV	Grand total
Customs Union	7		11	18
Customs Union - Accession	2		10	12
Economic Integration Agreement		154		154
Economic Integration Agreement - Accession		7		7
Free Trade Agreement	17		241	258
Free Trade Agreement - Accession	1		3	4
Partial Scope Agreement	29			29
Partial Scope Agreement - Accession	2			2
Grand total	58	161	265	484
By Coverage:				
Goods	150			
Services	2			
Goods and Services	152			
Total	304			

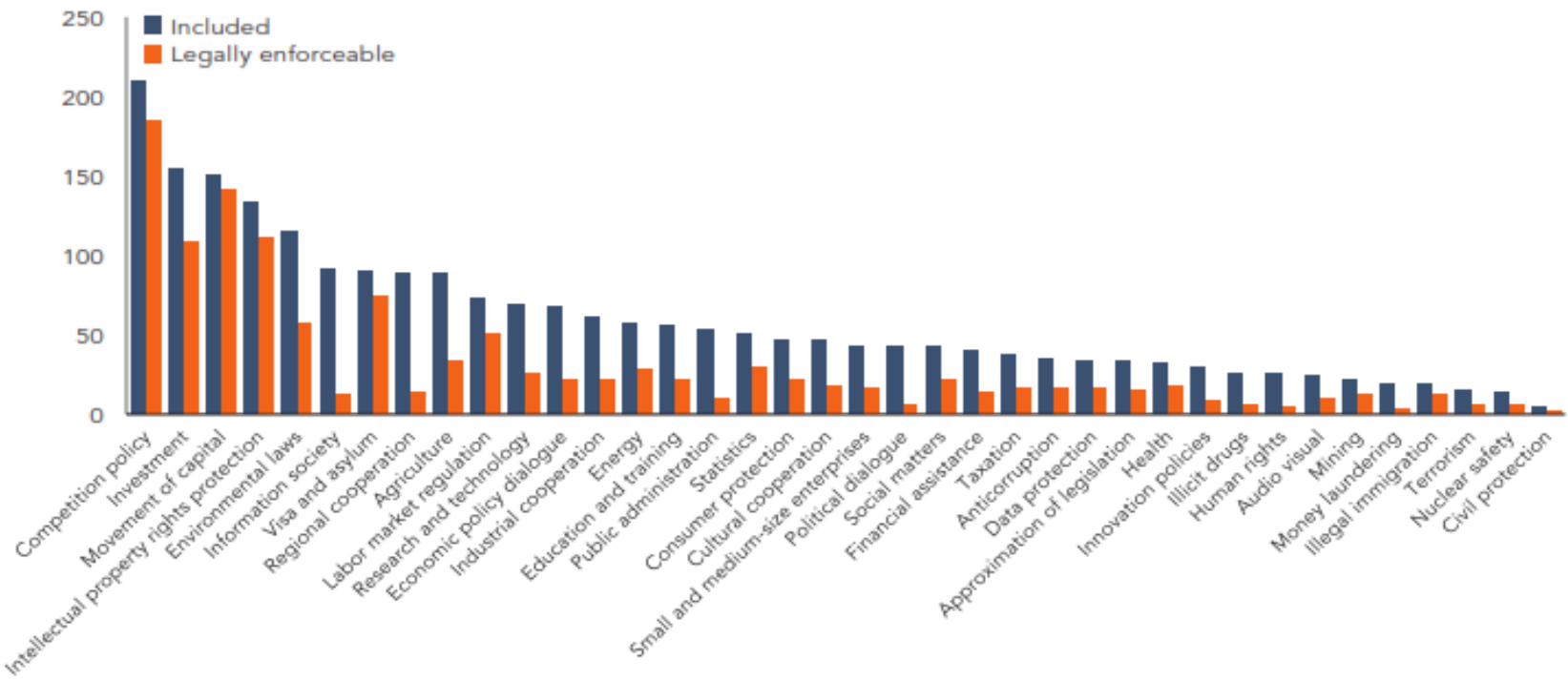
WTO + FTAs – Monitoring World Economy

(Ref: Global Value Chain Development Report 2017, World Bank-WTO & Others)

Trade Organization.

FIGURE 8.3 “WTO-extra” policy areas in preferential trade agreements, 2015

Number of agreements

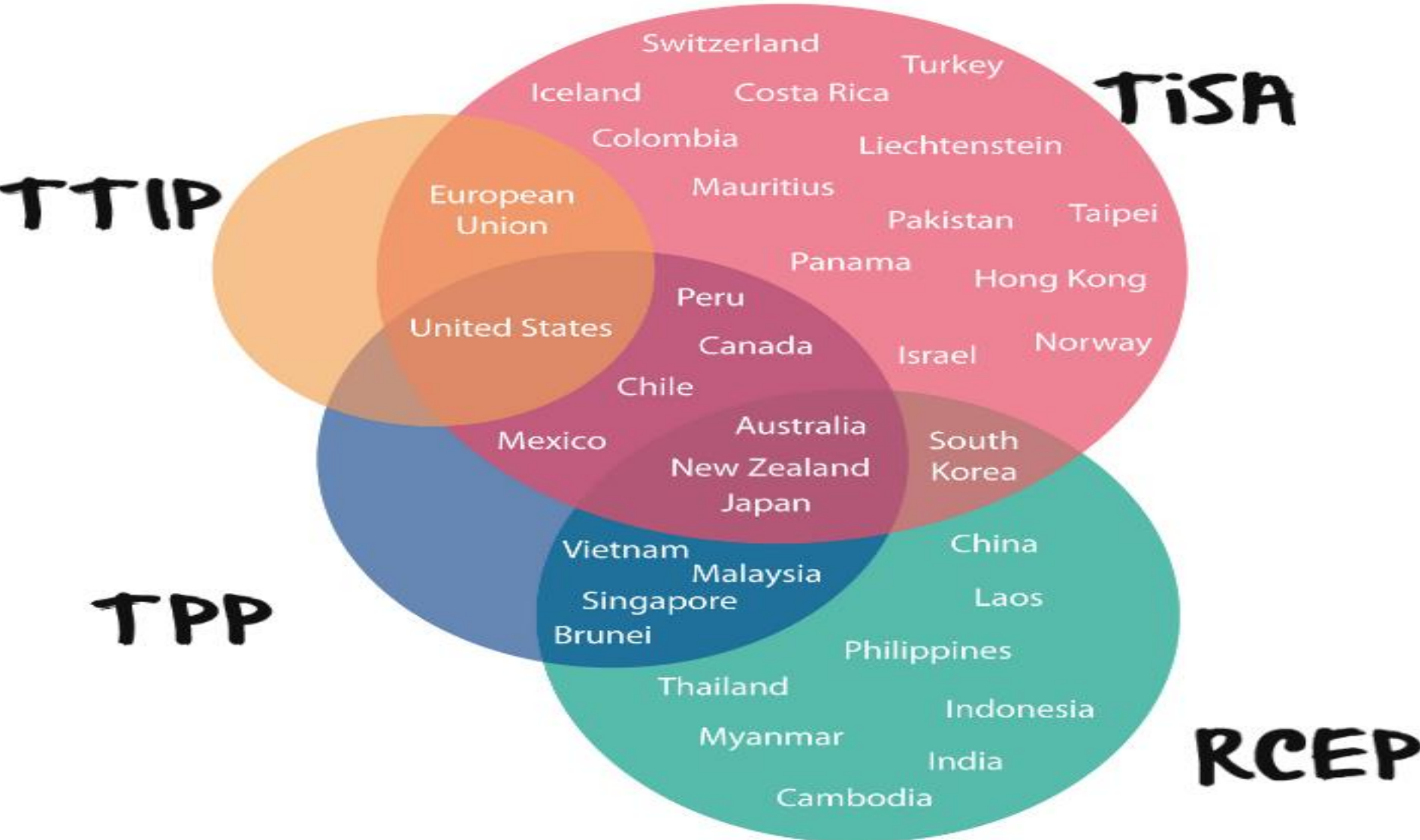


Source: World Bank Content of Deep Trade Agreements Database (<http://data.worldbank.org/data-catalog/deep-trade-agreements>).

Note: WTO-extra refers to provisions on some policy areas in preferential trade agreements that fall outside the current mandate of the World Trade Organization.

MEGA REGIONAL FTAs

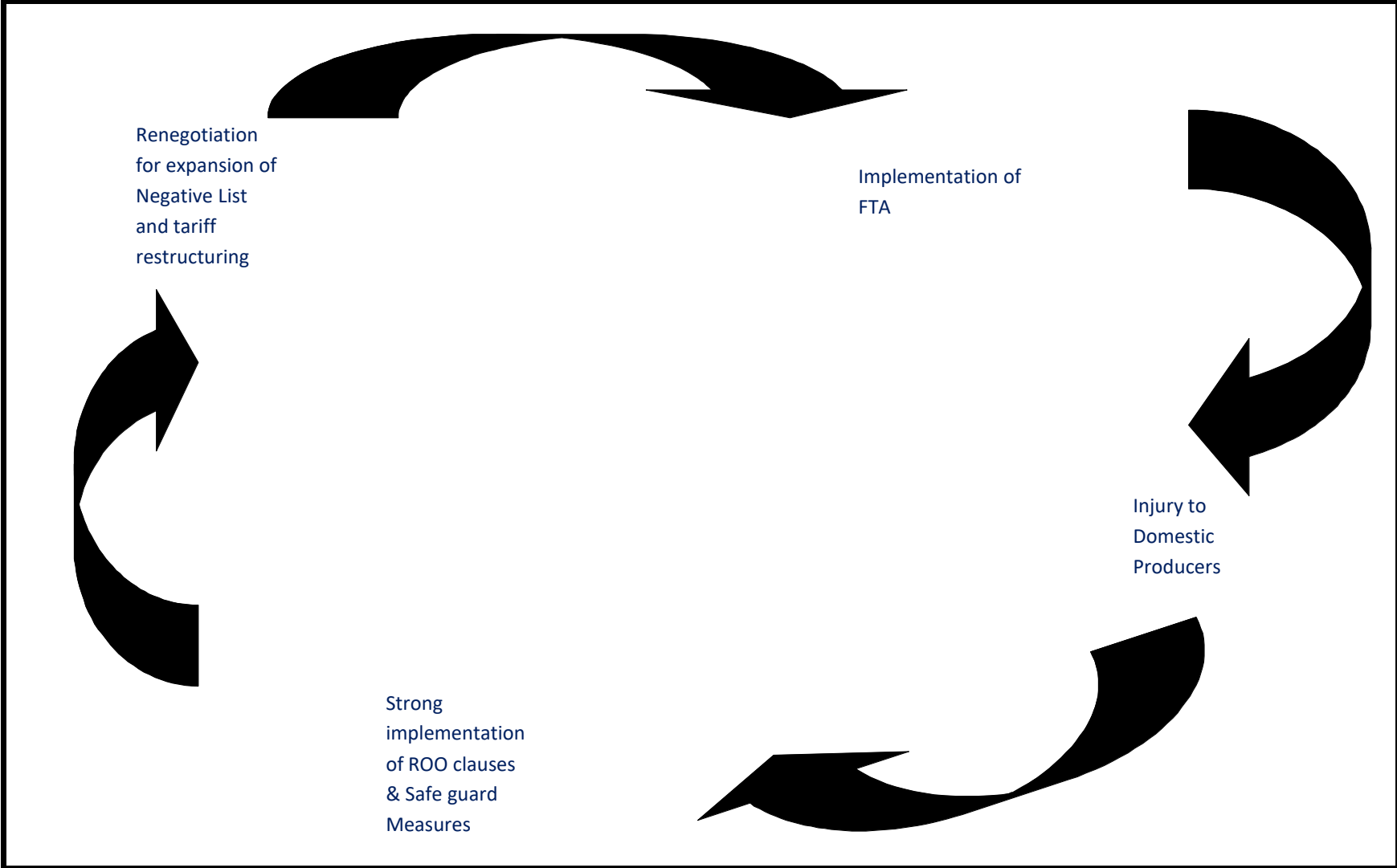
(Image credit: Ana María Palacio/pacificallianceblog.com)



OTHER MEGA REGIONAL FTAs

- ❖ **Trans-Pacific Partnership (TPP)** between the US, Japan and 10 other countries surrounding the Pacific Ocean (Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru and Vietnam);
- ❖ **Trans-Atlantic Trade and Investment Partnership (TTIP)** between the 28-member European Union and the US;
- ❖ **Trade in Services Agreement (TiSA)** being hammered out between 23 countries (Australia, Canada, Chile, Colombia, Costa Rica, EU, Hong Kong, Iceland, Israel, Japan, Korea, Liechtenstein, Mauritius, Mexico, New Zealand, Norway, Pakistan, Panama, Peru, Switzerland, Taiwan, Turkey and the US);
- ❖ **Tripartite FTA (TFTA)** merging three African regional economic communities: the Common Market for Eastern and Southern Africa (COMESA), Southern African Development Community (SADC) and East African Community (EAC).
- ❖ **Continental Free Trade Area (CFTA)**, next stage of the TFTA in which all 54 African Union states are expected to be member
- ❖ The TFTA was signed in June 2015 and the TPP in February 2016, but are not yet in force. All the other deals are under negotiation.

CAUSAL INFLUENCE LINKS BETWEEN INJURY AND REMEDIES UNDER THE FTAs



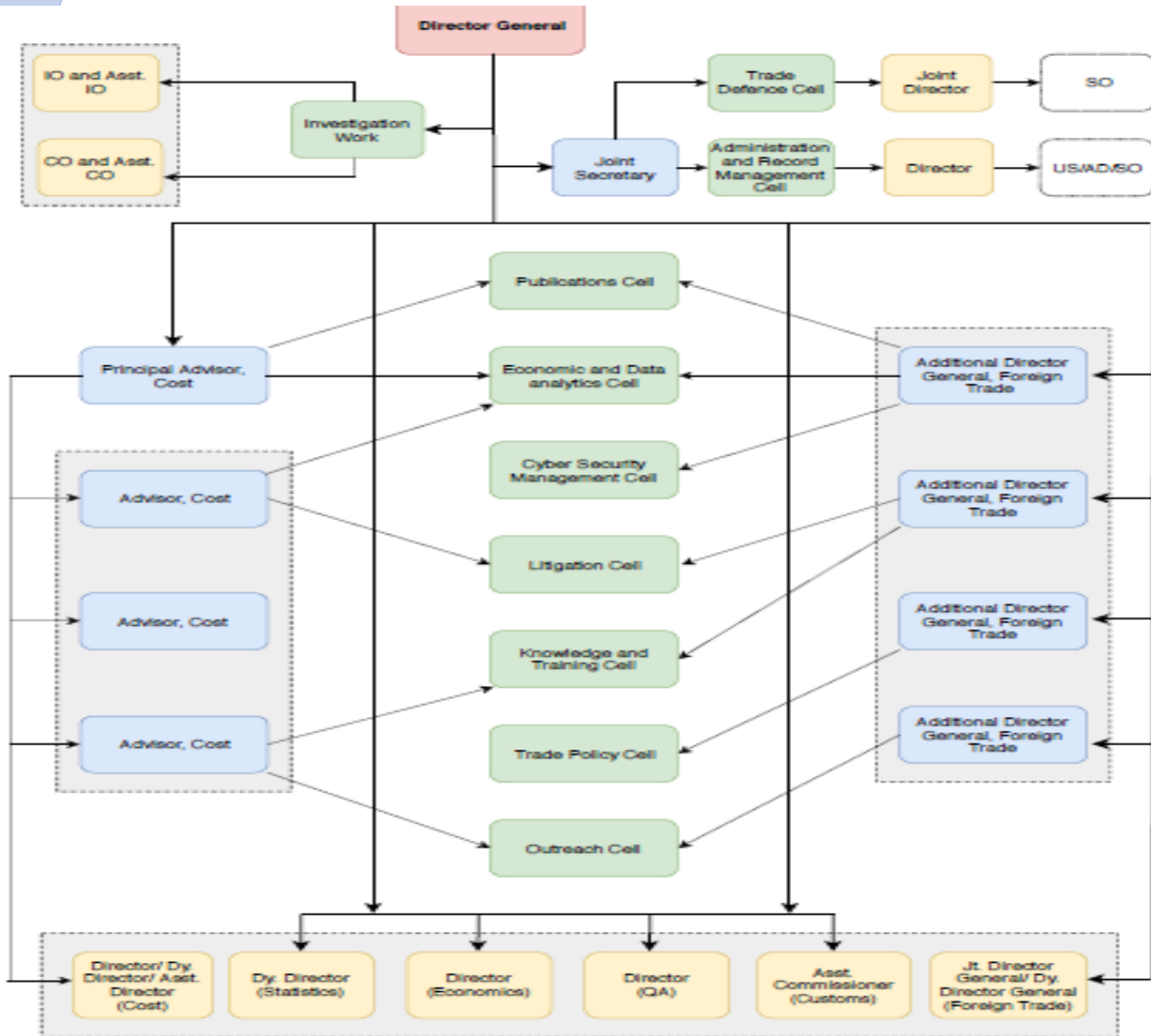
TRADE PROTECTION MEASURES (TPM) : INDIAN CONTEXT

TYPE OF TPM	DETAILS	AUTHORITIES
TARIFF BARRIERS	<ul style="list-style-type: none"> ➤ ANTIDUMPING ➤ ANTICIRCUMVENTION ➤ ANTI SUBSIDIES (CVD) ➤ SAFEGUARD ➤ QUANTITATIVE RESTRICTIONS 	DIRECTOR GENERAL OF TRADE REMEDIES (DGTR)
NON TARIFF BARRIERS	<ul style="list-style-type: none"> ➤ SANITARY & PHYTO SANITARY MEASURES ➤ TECHNICAL BARRIERS TO TRADE ➤ QUALITY STANDARDS ➤ OTHER MEASURES 	<input type="checkbox"/> DGFT <input type="checkbox"/> NODAL MINISTRIES <input type="checkbox"/> BIS
FREE TRADE AREA AGREEMENTS	<ul style="list-style-type: none"> ➤ SAFEGUARD MEASURES ➤ OTHER ISSUES 	<input type="checkbox"/> DGFT <input type="checkbox"/> NODAL MINISTRIES
IMPORT CONTROL LAWS	PROTECTIVE RESTRICTIONS	<input type="checkbox"/> DGFT <input type="checkbox"/> CUSTOMS <input type="checkbox"/> ENVIRONMENT PROTECTION AUTHORITIES
MERGERS & ACQUISITIONS	<ul style="list-style-type: none"> ➤ SIZE RESTRICTIONS ➤ MARKET MONOPOLY ➤ TAXATION IMPACTS 	<input type="checkbox"/> COMPETITION COMMISSION OF INDIA <input type="checkbox"/> CENTRAL BOARD OF DIRECT TAXES
INVESTMENT BARRIERS	<ul style="list-style-type: none"> ➤ LOCAL CONTENT REQUIREMENTS ➤ EXPORT OBLIGATIONS ➤ OTHER REGULATIONS 	<input type="checkbox"/> DIPP <input type="checkbox"/> RBI
EXPORTS FROM INDIA	<ul style="list-style-type: none"> ➤ ANTI SUBSIDIES (CVD) INVESTIGATION OF FOREIGN COUNTRIES ➤ ANTIDUMPING & OTHER TRADE INVESTIGATIONS 	<input type="checkbox"/> TRADE DEFENSE WING OF DGTR <input type="checkbox"/> DGFT

Indian Trade Remedy Redressal System

- Directorate General of Trade Remedies, New Delhi is responsible agency to address trade remedy issues in India
- It conducts following investigations to safeguard interest of Indian Industries
 - Antidumping Investigations
 - CVD Investigations
 - Anti Circumvention Investigations
 - Safeguard Investigations
- DGTR has online portal “ARTIS” for filing of documents online by Indian Producers
- It also has Trade Defense Wing to protect Indian Exporters facing CVD investigations from foreign countries
- It runs a Help Desk & Facilitation Centre to help MSMEs, Domestic Industries of India, Indian Exporters and provide information on Non Tariff Measures world wide

Director General of Trade Remedies (INDIA)



Indian Legal Frame Work- Trade Remedies

Particulars	When Applicable	Legislations Applied
AD INVESTIGATION (Long Term Measures, Validity 5 years, Reviewed before expiry)	Cheap Imports causes <i>Material Injury</i> to Domestic Industry	<ul style="list-style-type: none"> ➤ Article VI of GATT 1994 ➤ WTO Agreement on Anti-Dumping ➤ Sections 9 A and 9 B of the Customs Tariff Act, 1975 as amended in 1995 ➤ Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995
CVD INVESTIGATION (Long Term Measures, Validity 5 years, Reviewed before expiry)	Export Subsidies availed by Exporters from their Government / Public Enterprises causes <i>Material Injury</i> to Domestic Industry	<ul style="list-style-type: none"> ➤ Article VI of GATT 1994 ➤ WTO Agreement on Subsidies and Countervailing Measures ➤ Section 9 of Customs Tariff Act 1975 as amended in 1995 ➤ Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidised Articles and for Determination of Injury) Rules, 1995
SAFEGUARD INVESTIGATION (Emergency Measures, Validity 4 years from Imposition, not beyond 10 years if renewed. Applied on All Exporting Countries uniformly)	When imports of a particular product increase unexpectedly to a point that they <i>cause or threaten to cause serious injury</i> to domestic producers of "like or directly competitive products".	<ul style="list-style-type: none"> ➤ Article XIX of GATT ➤ WTO Agreement on Safeguards ➤ Section 8B of Customs Tariff Act, 1975 ➤ Chapter III A of "The Foreign Trade (Development and Regulation) Act, 1992 ➤ Customs Tariff (Identification and Assessment of Safeguard Duty) Rules 1997 ➤ Safeguard Measures (Quantitative Restrictions) Rules, 2012

The details of formats, questionnaires and notifications concerning respective investigations are available on the website www.dgtr.gov.in

WTO Website Statistics of total AD Cases Initiated till 31/12/2019 Worldwide

Anti-dumping Initiations: by Sector 01/01/1995 - 31/12/2019

HS section name	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	Total
I Live animals and products	1	2	2	6	8	3	2	10	2	10			1	1	3		2		4	1			2		1	61
II Vegetable products		5	2	4	1	7	8	3	1	6	3	3	1	5	1	1	1	1	2	4	2			2	1	64
III Animal and vegetable fats, oils and waxes							4	2	2	1	2	3								1						15
IV Prepared foodstuff; beverages, spirits, vinegar; tobacco	13	6	4	8	2	3	2	3		1	2	7			2	1	5		6	1	6	3	5		3	83
V Mineral products	1	4	3	4	9	9	15	8	5	1		2	2	2	1	4	2	2		1	2	8	3	4	2	94
VI Products of the chemical and allied industries	32	42	21	24	74	63	67	95	73	49	37	39	56	34	47	44	29	34	48	53	38	51	64	32	31	1177
VII Resins, plastics and articles; rubber and articles	21	26	36	33	40	24	56	40	27	44	37	24	16	23	31	24	13	40	41	45	23	37	28	30	39	798
VIII Hides, skins and articles; saddlery and travel goods		3									2															5
IX Wood, cork and articles; basketware	1	4	11	3	1	5	4		11	11	3	2	1	9	7	5	13	1	5	1	3	2	4	1	3	111
X Paper, paperboard and articles	3	14	36	7	18	5	7	7	20	8	6	17	19	2	8	21	11	6	12	3	8	18	11	12	5	284
XI Textiles and articles	1	23	8	28	36	17	27	7	11	21	26	17	12	37	20	6	2	12	21	7	9	16	26	12	14	416
XII Footwear, headgear; feathers, artif. flowers, fans	6	1		4	2	3	2	3			4	3		1	3						3					35
XIII Articles of stone, plaster; ceramic prod.; glass	4	11	12	12	8	6	6	11	11	8	10	12	3	4	11	12	14	13	23	5	12	16	6	8	10	248
XIV Pearls, precious stones and metals; coin							1																			1
XV Base metals and articles	43	39	64	111	109	109	138	96	53	39	39	31	23	70	52	43	58	76	97	89	105	129	81	81	78	1853
XVI Machinery and electrical equipment	24	33	34	10	30	30	24	9	12	16	16	30	28	16	22	10	8	18	22	17	7	14	7	10	12	459
XVII Vehicles, aircraft and vessels	3	3	1		4	5		3	2	2	4	2	1	3	3	1	6	4		5	2	2	2	7	3	68
XVIII Instruments, clocks, recorders and reproducers	1	5	9	5	2		3	3	2	1	1	5		6	3	1	1		1	2	7		4	2		64
XX Miscellaneous manufactured articles	6	5	4	5	13	7	6	11	2	3	7	6	2	5	3			1	5	1	2	2	6	1	5	108
Total	160	226	247	264	357	296	372	311	234	221	199	203	165	218	217	173	165	208	287	236	229	298	249	202	207	5944

Note: All actions notified to the WTO that are taken at the level of a customs union (European Union, Eurasian Economic Union, Southern African Customs Union, Gulf Cooperation Council) are counted one time each.

WTO Statistics (Selected Reference) on User of AD Investigation Cases

Reporting Member	2014	2015	2016	2017	2018	2019	Total Since 01.01.95 to 31.12.19	Highest User Ranking
Argentina	6	6	23	8	19	17	388	5
Australia	22	10	17	16	12	7	351	6
Brazil	35	23	11	7	7	1	418	4
Canada	13	3	14	14	14	6	247	8
China	7	11	5	24	16	14	288	7
Egypt	9	4	14		1	6	107	15
European Union ⁶	14	11	14	9	8	11	521	3
India	38	30	69	49	32	52	972	1
Indonesia	12	6	7	1		6	142	13
Korea, Republic of	6	4	4	7	5	5	152	12
Mexico	14	9	6	8	3	6	161	11
Pakistan		12	24	3	8	6	135	14
South Africa ¹¹	2				3		234	9
Turkey	12	16	17	8	6	2	229	10
United States	19	42	37	55	34	33	728	2
Total of above Top 15 countries who initiated more than 100 cases during 01/01/95 to 31/12/19	209	187	262	209	168	172	5073	85.35%
Total of All WTO Members	236	229	298	249	202	207	5944	100.00%

WTO ANTIDUMPING AGREEMENT

- WTO AD Agreement Regulates
 - Procedural aspects of initiation, conduct and conclusion of anti-dumping investigations, including duty imposition
 - Substantives aspects of anti-dumping determinations
- AD Agreement does not regulate
 - Detailed methodological guidance on *certain* substantive aspects
 - Detailed rules or guidance on *certain* procedural aspects
 - *These aspects are addressed by domestic anti-dumping legislations and regulations*

WHEN ANTI DUMPING?

ADA allows countries to impose antidumping duties to protect their producers from injury caused by imports of dumped goods. How?

- **Export Price** < **normal value**.
- Normal Value- **comparable price**, in ordinary course of trade, for like product in exporting country.
- **Home market sales** is the Default option for Normal Value determination.

KEY TEST

- **a) Dumping; b) Injury; c) Causation**

STANDING DETERMINATION- Domestic Industry

APPLICATION MUST BE SUPPORTED BY

(two cumulative and mandatory thresholds)

- the domestic producers whose production of the like product is more than 50 per cent of the production of the domestic producers expressing opinion; and by
- the domestic producers whose production of the like product is equal or more than 25 per cent of the total production of the like product by the domestic industry.

THREE TYPICAL SCENARIOS

- Applicants' production of the like product accounts for more than 50 per cent of the total domestic production
- Applicants' production of the like product accounts for less than 50 per cent but more than 25 per cent of the total domestic production
- Applicants' production of the like product accounts for less than 25 per cent of the total domestic production

Standing determination: Domestic Industry

- **Threshold I**

$$\text{Standing test I} = \frac{[A_p + S_p]}{[A_p + S_p + O_p]} > 50 \text{ per cent}$$

- **Threshold II**

$$\text{Standing test II} = \frac{[A_p + S_p]}{[A_p + S_p + O_p + N_p]} \geq 25 \text{ per cent}$$

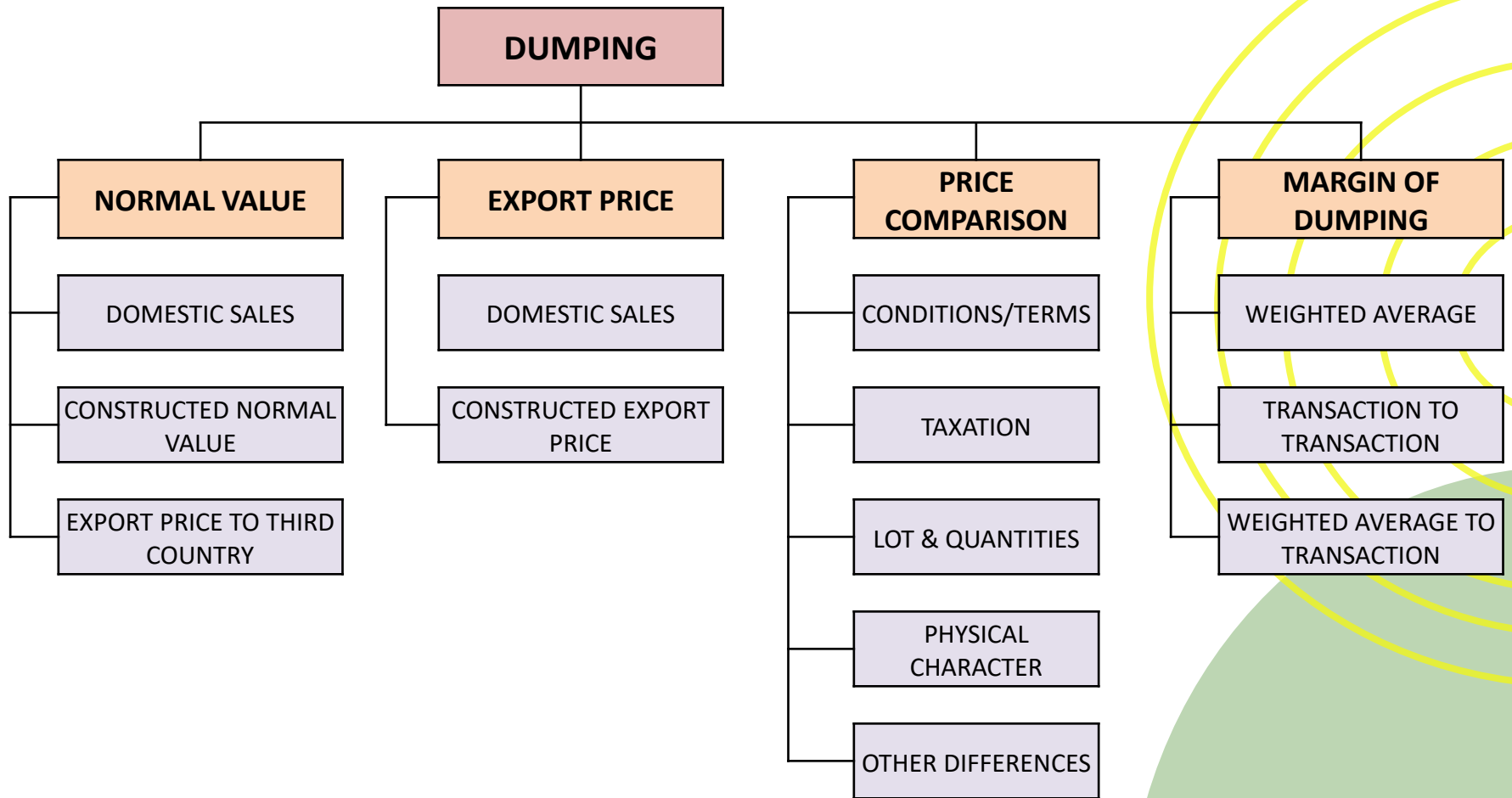
- **Note**

- p = production of the like product, A = applicants, S = supporters
- O = producers with opposing views
- N = producers who opinions on the petition you don't know

Dumping Determination Tests

- Sufficiency test- **Home Market sales 5%** or more of export of the product under consideration during IP.
- If No home market sales or insufficient, then **other two options** for Normal Value.
 - A. Comparable price of like product when exported to an appropriate **Third Country**, provided that this price is representative
 - B. **Cost of production** in country of origin plus reasonable amount for SGA and profits.

Dumping Margin Calculation-Overview



DETERMINATION OF DUMPING MARGIN

- Normally to be established on Weighted Average to Weighted Average comparison of NV with EP
- Transaction to transaction comparison of NV and EP
- Weighted average normal value with individual export transactions in certain situations- export prices differing in regions, purchasers or time periods.
- Zeroing of negative dumping margin?

ARTICLE 5 ADA - APPLICATION FOR AD INVESTIGATION

- Mandatory requirement to inform government of the exporting country before initiation- Art. 5.5
- Article 5.8- De Minimis provisions:
 - De Minimis margin of dumping <2%, expressed as a percentage of the export price
 - Negligible volume of imports from particular exporting country-De minimis <3% of total imports in importing country, provided
 - **Exclusion**: Individually imports from particular exporting country <3% but together with other such type of exporting countries (<3% category) is >7% of total imports in the importing country- **not treated as De Minimis or negligible**.

ARTICLE 7 PROVISIONAL MEASURES

- 7.3- Not before 60 days from the date of initiation.
- Where preliminary affirmative determination of dumping, injury & causal link. Such measures necessary to prevent injury being caused during investigation.
- **Provisional measures in force for 4 to 6 months** or in case of members following Lesser Duty , these periods are 6 to nine months.

ANNEX I CONDUCT OF EXPORTERS' VERIFICATION (ON SPOT INVESTIGATION)

- Conducted in new investigations and in review investigations for cooperative exporters.
- Usually at the post-preliminary stage
- However, a verification may be conducted earlier depending on the circumstances of the case or in a situation where notification of a preliminary findings may not be appropriate.
- **Forwarding of Exporters' Questionnaire**
- **Analysis of replies received**
- **Sending of deficiency letters**
- **Organization of visits**
 - **Informing and obtaining agreement from the companies and informing the authorities of the country visited.**
- **Actual on-site Verification**

The replies furnished to the exporters questionnaire are verified including –

- **Technical specifications and manufacturing process** of product investigated
- **Cost of production**
- **Corporate structure ; related & associates across globe**
- **Sales quantity (domestic and export sales to India)**
- **Pricing and related information**
- **Export prices and adjustments claimed on domestic and export sales**
- **Affiliation**
- **Any other information deemed necessary**

Non Market Economy

- Art 2.7 ADD, ad note to Art VI of GATT – no reference to “non-market economy”
- Ad note 1.2 to Art VI of GATT
 - “It is recognized that, in the case of imports from a country which has a complete or substantially complete monopoly of its trade **and** where all domestic prices are fixed by the State, special difficulties may exist in determining price comparability for the purposes of paragraph 1, and in such cases importing contracting parties may find it necessary to take into account the possibility that a strict comparison with domestic prices in such a country may not always be appropriate.”
- No country, with the possible exception of North Korea, is still an NME under these conditions

Special Provisions for Imports from China

- Article 15 of Protocol
 - In determining price comparability under Article VI of the GATT 1994 and the Anti-Dumping Agreement, the importing WTO Member shall use either Chinese prices or costs for the industry under investigation or a methodology that is not based on a strict comparison with domestic prices or costs in China based on the following rules:
 - (i) If the producers under investigation can clearly show that market economy conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of that product, the importing WTO Member shall use Chinese prices or costs for the industry under investigation in determining price comparability;
 - (ii) The importing WTO Member may use a methodology that is not based on a strict comparison with domestic prices or costs in China if the producers under investigation cannot clearly show that market economy conditions prevail in the industry producing the like product with regard to manufacture, production and sale of that product.
 - the provisions of subparagraph (a)(ii) shall expire 15 years after the date of accession
- Must provide exporters opportunity to show they are operating under market condition
- Protocol requirement extends to whole industry of the like product
- EU before *EU – Fasteners* applied on company-specific basis, i.e. if the individual exporter can show it is operating under market conditions, then treated as any exporter in a market economy (called MES)

INJURY DETERMINATION

- Injury determination based on positive evidence.
- Material Injury
 - “harm which is not inconsequential, immaterial, or unimportant”
- Threat of Material Injury
 - “clearly foreseen and imminent”
 - Lesser used provision. Used along with Material Injury claim
- Determination of ‘volume effect’ and ‘price effect’ of the dumped imports on the domestic industry
 - **Volume effect:** Significant rise in imports in absolute terms or relative to total imports and demand in the country
 - **Price effect:** Consequent impact on prices; Significant Price undercutting, underselling, price suppression and/or price depression

Access to Confidential Information

- AD Agreement – in the territory of certain Members disclosure pursuant to a narrowly-drawn protective order *may* be required
- Members' practice varies

USA (Allows)	<ul style="list-style-type: none">▪ On the basis of APO▪ To whom? Counsel and their consultants (e.g., economists) on service list (other experts on case-by-case basis)
Canada (Allows)	<ul style="list-style-type: none">▪ On the basis of individual confidentiality agreements▪ To whom? Counsel for “parties to the proceeding” and expert witnesses in Tribunal proceedings)
Not Allowed	India, Brazil, South Africa, EU, New Zealand, China (within the scope of the anti-dumping proceeding)
Brazil, South Africa	Allowed on judicial review and upon judicial request

CVD Investigation vs. AD Investigation

Factors	Dumping	Subsidisation
Competitive Advantages of Imports	Pricing Policy of Individual Foreign Exporter	Government Policies, Grants, Loans, Financial Contribution available in Foreign Country to their exporters
Government of Exporting Country	Not a Party to the Investigation	Party to the Investigation. Government is responsible for explaining the nature of the grants and the structure of the disbursements made available to the Exporters

SUBSIDISATION BY GOVERNMENT / PUBLIC AUTHORITY

- Direct transfer of funds (e.g. grants, loans, and equity infusion), potential direct transfers of funds or liabilities by Government
- Government revenue that is otherwise due is foregone or not collected
- Government provides goods or services other than general infrastructure, or purchases goods
- Government makes payments to a funding mechanism, or entrusts or directs a private body to carry out one or more of the type of functions mentioned above;
- There is any form of income or price support
- Actionable Subsidy:** Subsidy is specific and cause financial benefit to the Exporter.
- CVD Duty:** CVD Duty is levied if the **Actionable Subsidy** cause **Material Injury to the Domestic Industry in the Importing Country.**

Subsidies: Traffic Light Analogy

Analysis

Prohibition

	Red	Amber	Yellow	Green
Prohibition	Yes	Actionable	Actionable	Non Actionable for initial 5 years of WTO Agreement.
Types	2	-	Covers All Subsidies which are not Red / Amber / Green	Permissible and Non Countervailable Subsidies . Example:
Contingent on Export Performance	Yes	No, But Injurious due to severity (Ad Valorem >5%		1. Government Assistance for Industrial Research
Contingent upon use of Domestic Goods over Imported Goods	Yes	-		2. Subsidy for Environmental Assistance
Special Treatment to LDC & Developing Countries	Allowed if Per Capita GNP < \$1000	-	-	
Countervailable in Importing Country if cause Material Injury to DI of Importing Country	Yes	Yes	Yes	
Covers Operating Loss / Loan waiver to Exporter in their country	-	Yes		
Burden of Proof of Non Injuriousness	Exporting Country	Exporting Country	DI in Importing Country	

WTO ASCM: Illustrative List of Export Subsidies

- Subsidies contingent, in law or fact, whether solely or as one of several other conditions, upon export performance. These are called export subsidies.
 - Currency retention schemes or any similar practices which involve a bonus on exports
 - Internal transport or freight charges on export shipments provided or mandated by governments, on terms more favourable than for domestic shipments.
 - The full or partial exemption remission or deferral specifically related to exports of direct taxes payable by industrial or commercial enterprises
 - Allowance of special deductions directly related to exports over and above those granted in respect to production for domestic consumption, in the calculation of the base on which direct taxes are charged

Indian Subsidies – Subjected to CVD in Foreign Countries

- Indian schemes most frequently investigated and countervailed by the United States and the European Commission:
 - Duty Entitlement Pass book Scheme
 - Export Promotion of Capital Goods Scheme
 - Pre Shipment and Post Shipment Export Financing
 - Advance License scheme
 - State specific Package Scheme of Incentives
 - Income Tax deductions like the 10A, 10B and 80HHC
 - Certain aspect of the EOU scheme like CST reimbursement and duty drawback on furnace oil
- Schemes that permit duty free import of capital goods are countervailed because the SCM does not recognize capital goods as “inputs”. Thus the entire amount of the duty exemption is countervailed.
- State specific schemes that give electricity duty exemption or sales tax exemption to industries in backward areas are also countervailed because they are held to be “specific’ to a certain region.
- **DEPB** is the most frequently countervailed subsidy scheme for the following reasons:
 - DEPB can be used for duty free imports of inputs that need not necessarily be used in the production of the exported product.
 - The exported product can contain inputs procured domestically
 - the Standard Input Output Norms (SION) are the only method of verification of quantities consumed in the production of the exported product.
 - The SION are inadequate because they do not track excess payment.
 - The Government of India does not carry out an actual examination either
- **Advance License** on the other hand has received mixed treatment from the US Department of Commerce (US DOC) and the EC.
 - US treatment
 - In the US primarily held to be non countervailable because there is 1 to 1 co-relation between the input and the exported product. It is based on actual user condition
 - Quantity based scheme meaning that though it is based on the SION, the license states the quantity of input required for production of the exported product.
 - The licenses and inputs procured thereunder are not transferable.
 - European Commission
 - Although the ALS appears to be subject to actual user condition, it was noted that there was no system or procedure in place to confirm whether and which inputs are consumed in the production process of exported goods. This was in the Graphite Electrode investigation. (COMMISSION REGULATION (EC) No 1008/2004 of 19 May 2004)
 - The system does not make a distinction between the destination of the goods (domestic or export market).
 - However in the Bedlinen investigation (COUNCIL REGULATION (EC) No 74/2004 of 13 January 2004) the exporter was able to demonstrate that the quantities of imported materials, which were exempted from import duties, did not exceed the quantities used for the exported goods. It was not countervailed for this reason.

DGTR INDIA : Antidumping Proformas / Questionnaires

- Proforma of Fresh Application by Domestic Industry
- Proforma of Application for Mid Term Review
- Proforma of Application for Sunset Review
- Proforma of Application for New Shipper Review
- Check List for Producers In India for Application Submission
- Exporters Questionnaires
- Importers Questionnaires
- User Industry Questionnaires

DGTR AD Investigation Stages- Original, Mid-Term & Sunset Reviews

Stages	Process	Department Action
Receipt of Complete Application / Petition (Change in Interested Parties too for MTR)	Allot Case ID & Refer to IO / CO	Deficiency Letter / Hearing
Intimation to Embassies of Exporting Countries u/r 5(5), not must for MTR / SSR	Internal	Analysis
DG Rejection of Application/ Approval for Initiation	Internal	Rejection Order / Notice of Initiation
Communication to Interested Parties { Rule 6- (2),(3),(4)}	Internal	NCV Folder for Inspection by Registered Interested Parties {Rule 6(7)}
Receipt of Questionnaire Response { Rule 6(4)}	Participation	Verification to Domestic Industries & Report
Injury Analysis & Calculation of NIP, NV/CNV	Internal	Internal
Preliminary Findings u/r 12 (Not for SSR)	Participation	Oral Hearings u/r 6(6)
Exporters Verification	Foreign Visit	Report and calculation of NV, NEP & LV
Post Hearing Written Submissions & Rejoinders	Participation	Compilation
Disclosure Statement u/r 16 (DS)	Participation	Receipt of Comments of DS
Final Finding Notification u/r 17	Internal	Remedial Measures notified by Department of Revenue

Petitioners Attentions

- Familiarise with Relevant laws
- Specially to provide adequate information on
 - Information on Imported Product
 - Domestic Industry composition
 - Domestic Market- Demand & Supply
 - Evidence of Dumping
 - Evidence of Injury
 - Evidence of Causal Link
- Both Confidential & Non Confidential Versions to be submitted
- Format is Inclusive, but not Conclusive. Other important information not asked in the format but related to the case may also be provided
- Petitioners to specify Time Period of Investigation (POI)- To be at least 12 months period and correspond with most recent past Accounting Year of Domestic Industry
- Certification Requirements to be complied for Petition Filed

PETITIONERS: Imported Product Information

- Complete Info on Imported Product (Size, Quality, Further Uses, Technical Specification etc.)
- HS/ Customs Classification, Import Policy
- Country of Origin , Third Country Routing possibilities
- Volume, CIF Value Data of Imports of last two years and current year from other countries not included in dumping allegations
- Details of Known Exporters & Manufacturers of Imported Goods in alleged exporting country
- Known Importers and Users details in India
- Known Industry Associations of Users in India
- Reliable Data Sources Accepted: DGCIS / Customs List / Other Published Reputed Sources

PETITIONERS: INDIAN INDUSTRY PROFILE

- Contact Details of All Indian Producers filing the Petition with their Delhi address details if any
- Name / Address of All Indian Producers and their Volume / Value of production of subject good for current year and past two years
- Viable Substiutes? Extent of Substitution
- Relationship of Any Indian Producer with Foreign Exporters / Indian Importers and Extent of Cross Holdings, Quantity and Value of Imports of subject goods
- Charasteristic Differences among Imported Products vs Indian Products
- Differences in Production Processes of Foreign Exporters and Indian Producers and its impact on prices
- Volume & Value Total of Indian Production Data of 3 years: Break up of Supporting Producers, Opposing Producers and Neutral Producers

PETITIONERS: Evidence of Dumping

- **ESTIMATES OF NORMAL VALUE**

- Estimated Ex-Factory Selling Price in the Exporting Country (Exporters Sales Invoice/ Trade Journal etc.)
- If such Estimates not available, Estimated Export Price to Third Countries of Representative Market
- Estimated Cost of Production+SGA+ Reasonable Margin in Exporting Country

- **ESTIMATES OF EXPORT PRICE**

- Country wise Ex-Factory Export Prices for 3 years
- Average EP to India and Basis (FOR/FOB/CIF etc.)
- Overheads incurred on Export after Ex-Factory Price (Inland Freight, Insurance, Taxes etc.)
- Special Export Incentives in Exporting Country
- Net Export Price (After Adjustment of Overheads incurred inland)

- **ESTIMATES OF DUMPING MARGIN**

- Estimated Dumping Margin (NV-EP)
- Figures in Currency of Exporters, Exchange Rate Adjustment for USD, Figures in USD

PETITIONERS: EVIDENCE OF INJURY

- **Objective:** To Assess How Dumped Goods **cause or threaten material injury** to DI or **materially retards its establishment**
- **Varieties of Assessment (3years)**
 - Changes in domestic market share by Indian Producers in India
 - Increased Imports from alleged exporting countries
 - Significant Decline in Production of the Petitioners
 - Significant Decline in Utilization Capacity of DI
 - Significant Decline in Sales Volume of Petitioners
 - Selling Price (Price Erosion/Under Cutting/ Suppression / Depression)
 - Evidence of Lost Contracts / Declining Sales
 - Level of Employment (previous level, current level, lay-offs due to dumping)
 - Profitability Comparison over periods (Petitioners & Entire DI)
 - Other Factors: Capital Investment, Inventory Movements, Captive Consumptions, Other Investment, Net worth etc.)

PETITIONERS: EVIDENCE OF CAUSAL LINK

- **Objectives:**

- Whether Alleged Dumping caused Injury?
- Segregate Other Non Dumping Factors for causing Injury

- **Assessment Process:**

- Volume / Value of imports from Other countries vs. from alleged countries (why imports from other non alleged countries not causing injury to DI)
- Demand of the Product in India in last 3 years
- Whether Change in Demand is causing Injury instead of alleged Dumping?
- Whether Trade Restrictive Competition among Exporters vs DI causing injury
- Technology Development vs. Injury
- Export Performance / Productivity of DI vs. Injury Claim
- Any Other Known Factor Causing Injury

PETITIONERS: FORMATS OF APPLICATION

- Production Process with Flow Chart in detailed format
- RM/PM, Utilities consumption and reconciliation statements (**Format A**)
- RM Consumption Norms vs. Actual Consumption (**Format B**)
- Allocation and Apportionment of Expenses (**Format C**)
- Utility Consumption Statement (**Format D**): POI + Last 3 years
- Sales Realisation (**Format E**) : Month wise for POI & Yearly for last 3 years { Gross Realisation, Discounts/ Commissions/ Taxes/ Other adjustments, Net Realisation}
- Certificate of CEO / Authorised Signatory of DI (**Format F**)
- Declaration by Legal Representative (**Format G**)
- Performance Parameters of DI (**Format H**) : Details of Production, Sales Realisation (Gross / Net), Capacity utilisation, Stock, COP, Profit of last 3 years + POI
- PCN Wise Summarised Statement of Expenses (**Format I**) - *Optional to be submitted*
- Related Party Transactions (**Format J**)
- Calculation of Capital Employed (**Format K**) : Working Capital / Net Fixed Assets – cost to be apportioned among PUC and NPUC
- Calculation of Claimed Non Injurious Price (NIP) plant wise (**Format L**)- POI+3years
- Purchase Policy with Long Term Contracts for Major RMs
- Sales Policy indicating Marketing / Distribution Channels, Commission/ Discount Structure etc.

DGTR-APPLICATION FOR ANTICIRCUMVENTION INVESTIGATION

- **SECTION 9A OF THE CUSTOMS TARIFF ACT 1975**
- **RULE 26 OF THE CUSTOMS TARIFF (IDENTIFICATION, ASSESSMENT AND COLLECTION OF ANTI-DUMPING DUTY ON DUMPED ARTICLES AND FOR DETERMINATION OF INJURY) RULES, 1995**
- **APPLICATION FORMAT FOR ANTI CIRCUMVENTION INVESTIGATION**

1. Name and Postal Address of the applicant filing circumvention petition
2. Describe your status as domestic industry alongwith the producer-wise break-up of the domestic production.
3. Legal Status of the applicant (Form of legal entity)
4. Details of the contact person(s);

Name,
Position,
Telephone number,
Fax number,
E-mail Address
5. Name and similar details of other parties supporting this application.
6. Details of the Anti-Dumping Duties that are being circumvented, including:
 - a. the products under consideration, and their Tariff Classification
 - b. the Countries or Companies/Exporters specified
 - c. Date of Publication of the notification.

DGTR-APPLICATION FOR ANTICIRCUMVENTION INVESTIGATION

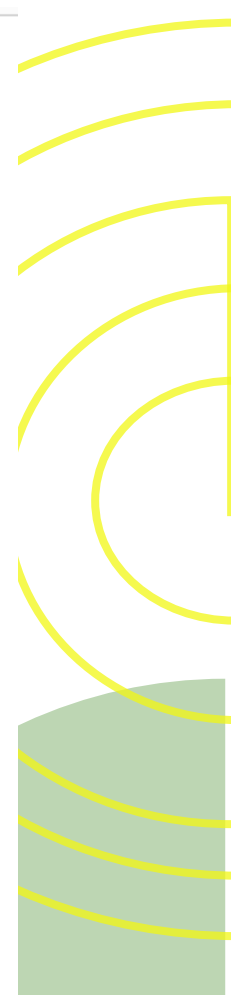
7. Details of as to how the alleged circumvention is taking place, including
 - a. the product forming the object of circumvention, and their Tariff Classification
 - b. the Countries and enterprises involved
8. Detailed statement setting out grounds for circumvention
9. Detailed statement setting out change in pattern of trade. Whether this change stemmed from a practice, process or work for which there was insufficient due cause or economic justification other than the imposition of duty.
10. Evidence to the effect that imports of the article circumventing the anti-dumping duty are dumped imports, including the following
 - a. Normal value with appropriate adjustments
 - b. Export price with appropriate adjustments
 - c. Dumping margin comparing normal value and export price so determined

DGTR-APPLICATION FOR ANTICIRCUMVENTION INVESTIGATION

11. Evidence of remedial effects of anti-dumping duties being undermined with reference to quantities or prices of the product.
12. Names, addresses, telephone numbers and facsimile numbers of other interested parties known to the applicant.
13. Proposed Period of Investigation (POI)

We declare that the information contained in this application provides reasonable grounds for initiation of investigation to determine circumvention of the anti-dumping duty and is complete and correct to the best of our knowledge and belief. Relevant evidence in support of claims made is submitted herewith. A Non-confidential version of the application is also enclosed.

Signature:
Name:
Position:
Company:
Date:





US SYSTEM OF AD & CVD INVESTIGATION

From Perspective of a Foreign Exporter



US SYSTEM OF AD & CVD INVESTIGATION

- Applied Legislations: US Tariff Act & 19 CFR
- Comprehensive and keeps respondents always busy. Need to be 365 days alert
- In majority both AD & CVD Investigations hold simultaneously.
- Injury Determination: US ITC
- AD & CVD Duty Determination: US DOC
- Appellate Authority: US CIT
- Normal Length of Original Investigation: 15 months
- Administrative Reviews: 12 months there after
- Interested Parties:
 - USA: Petitioners in USA, Importers in USA
 - Foreign countries: Exporters/ Central & State Governments/ US Embassy of Exporting country in USA, Industry Association & Export Promotion Council

US AD & CVD Documentation

- PDF Files & Excel Files allowed for uploading in US ACCESS Website
- PDF file size not to exceed 10 MB each & must be OCR enabled. (Optical Characteristic Recognition)
- PDF files should not have External Links active
- Excel Files must not exceed 25 MB each
- Classification of Documents
 - BPI Documents under [[]]
 - BPI Documents under [[]]
 - Public Documents / Public Version of BPI Documents
- PV documents to be uploaded within 1 day of original BPI Submission of such documents. One Day lag submission of BPI allowed if Bracketing is not finalised, to be simultaneously uploaded with PV documents
- Serving of All BPI Documents to Persons in APO Service List and PV/ Public Documents to Persons in Public Service List is mandatory and as per law, need to be done by First Class Courier services prior to uploading of Documents in ACCESS.
- Permission may be taken from such interested parties for serving of documents uploaded by Email / We Transfer / Secured Server of Interested Party

US AD & CVD INVESTIGATION - STAGES

- US ITC Preliminary Injury Submission
- Product Connum Decision
- Respondent Selection (Mandatory / Voluntary)
 - Mandatory Respondents Advantages:
 - Original Questionnaires are issued at Party name
 - Extension Request for Response Submission Allowed
 - Mandatory Physical Verification
 - Individual Duty determined if AFA not applied (AFA: Adverse Fact Applicable)
 - Right to attend Public Hearing
 - Voluntary Respondent:
 - Self Offer to submit voluntary Responses with hope of getting Individual Company specific duty
 - Supplimental Questionairres may / may not be issued
 - No Extension granted for responses submission
 - In case Responses rejected mid-way, falls into categories of Other Exporters from same country for whom weighted average duty is applied based upon duties of the Two Mandatory Respondents

US AD & CVD INVESTIGATION - STAGES

- Preliminary Duty Determination
 - Official Order of US DOC
 - Ministerial Comments by Interested Parties
 - Ministerial Order Memo by USDOC
- Physical Verification (Usual Team size vary: 2-5 investigators)
 - Cost Verification Team : Visit at Company Level only
 - Sales Verification Team: Visit at Company Level only
 - Subsidies Verification Team: Visit to Central / State Governments also along with Companies under investigation
- Additional Information Submission
- Case Brief Submission
- Rebuttal Brief Submission
- Final Duty Determination by US DOC
 - Official Order of US DOC
 - Ministerial Comments by Interested Parties
 - Ministerial Order Memo by USDOC
- Final Injury Assessment by US ITC- Leads to Final Duty Imposition / Customs Refund Process as the case may be
- Appeal before US CIT within 30 days: Case may take 2 years time for disposition
- Administrative Review Application: After 12 months with new POI

US AD & CVD INVESTIGATION - STAGES

- Responses Submission Process
- Original Questionnaires
 - Antidumping
 - Section A – 21 Days
 - Section B, C, D – 40 Days
 - CVD
 - Part-I (Organizational Structure/ Related Parties): 15 days
 - Subsidy Programs: 40 days
- Supplemental Questionnaires: Depends from 3 – 14 days
- Additional information: USDOC discretion

US AD & CVD INVESTIGATION - STAGES

Respondents of Exporting Country	AD Investigation	CVD Investigation
Mandatory Respondents	Yes - Must	Yes - Must
Voluntary Respondents	Yes - Optional	Yes - Optional
Embassy of India	No	No
Government of India	No	Yes
State Governments	No	Attached to GOI
Export Promotion Councils	No	Symbolic
Industry Associations	No	Symbolic
Any other Party	Need to prove their interest in the investigation	



THANK YOU

PRESENTED BY:-CA ATAL BIHARI BHANJA
EMAIL ID:- abbassociates@yahoo.co.in