

Leveraging the WTO System to Get Trade Right

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Economic and Political Reality



- 1. China's State-Owned Enterprises (SOEs) are not going away**
 - **Despite massive decline post-2001, some resurgence post-2013**
- 2. China's SOEs raise problems for trading partners and for the system**
 - **Asymmetric adjustment burden: workers and firms**
 - **Strategic behavior, profit-shifting**
 - **Global concentration and potential future predatory behavior**
 - **Global efficiency losses**
- 3. WTO needs to adapt to accommodate reality**

Economic and Political Reality



Policy actions to date have treated symptoms, not underlying problems

Steel and aluminium tariff sagas

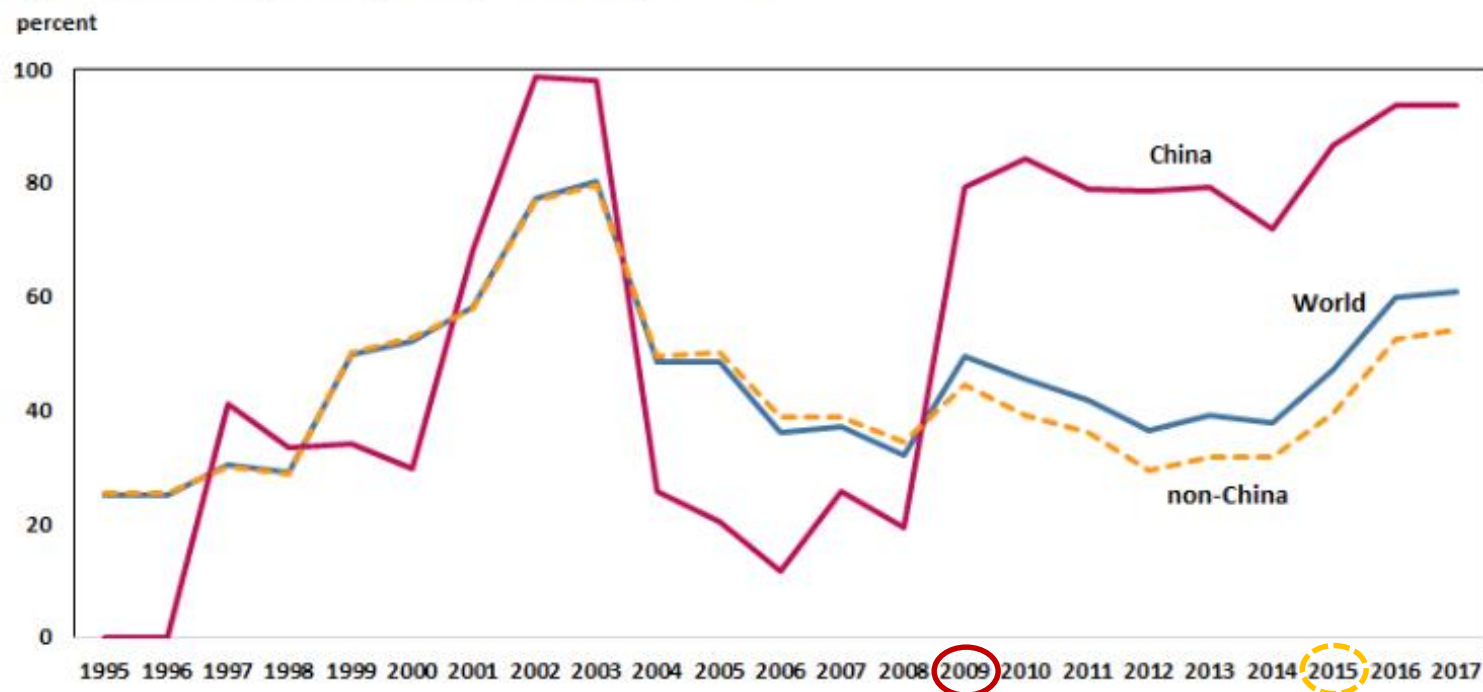
- Trade remedies/trade defense instruments
- National security and safeguard tariffs

US Policy Response Has Been Ineffective: Steel



Bilateral tariffs (e.g., antidumping) don't resolve problems

Figure 1 US steel imports subject to special tariffs, 1995-2017



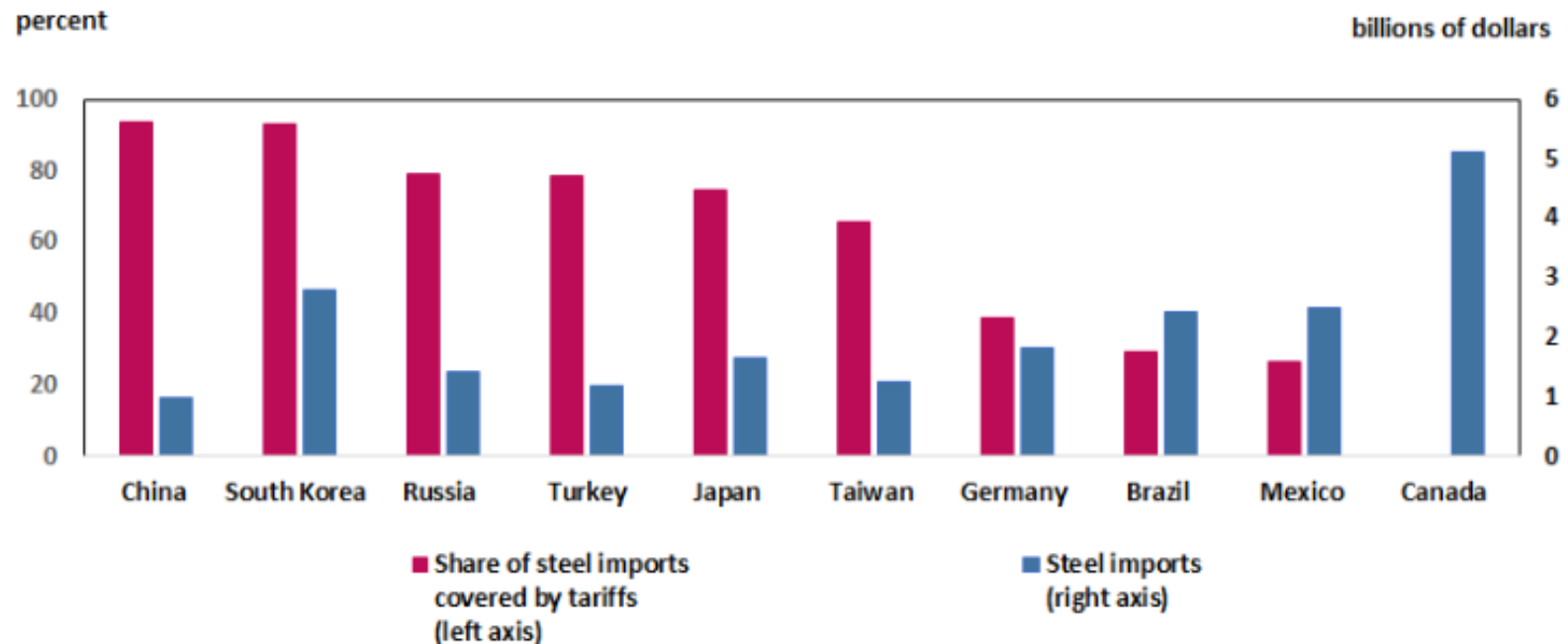
Note: Special tariffs include safeguards, antidumping, and countervailing duties.

Source: Bown, Chad P., "Trump's Steel and Aluminum Tariffs Are Counterproductive. Here Are 5 More Things You Need to Know." [PIIE Trade & Investment Policy Blog](#), 7 March 2018.

US Policy Response Has Been Counterproductive: Steel

Bilateral tariffs (e.g., under antidumping) don't resolve problems

Figure 2 Share of US steel imports covered by special tariffs and US steel imports by partner, 2017



Note: Special tariffs include safeguards, antidumping, and countervailing duties.

Source: Bown, Chad P., "Trump's Steel and Aluminum Tariffs Are Counterproductive. Here Are 5 More Things You Need to Know." [PIIE Trade & Investment Policy Blog](#), 7 March 2018.



Lessons from Steel Tariffs Saga

1. **US tariffs on China “stopped” direct imports from China but left unaddressed the problem (China’s SOEs, capacity)**
 - **China’s growth slowdown: exporting a greater share of domestic production, driving down world prices**
 - **US tariff legacy created economic incentives...**
 - ...for China to move into downstream products more quickly
 - ...for US imports to arise from other partners (arbitrage)

2. **US increasingly applies tariffs on third countries – even those who have not contributed to overcapacity – and on downstream products**
 - **Was happening via antidumping before the Section 232 tariffs**

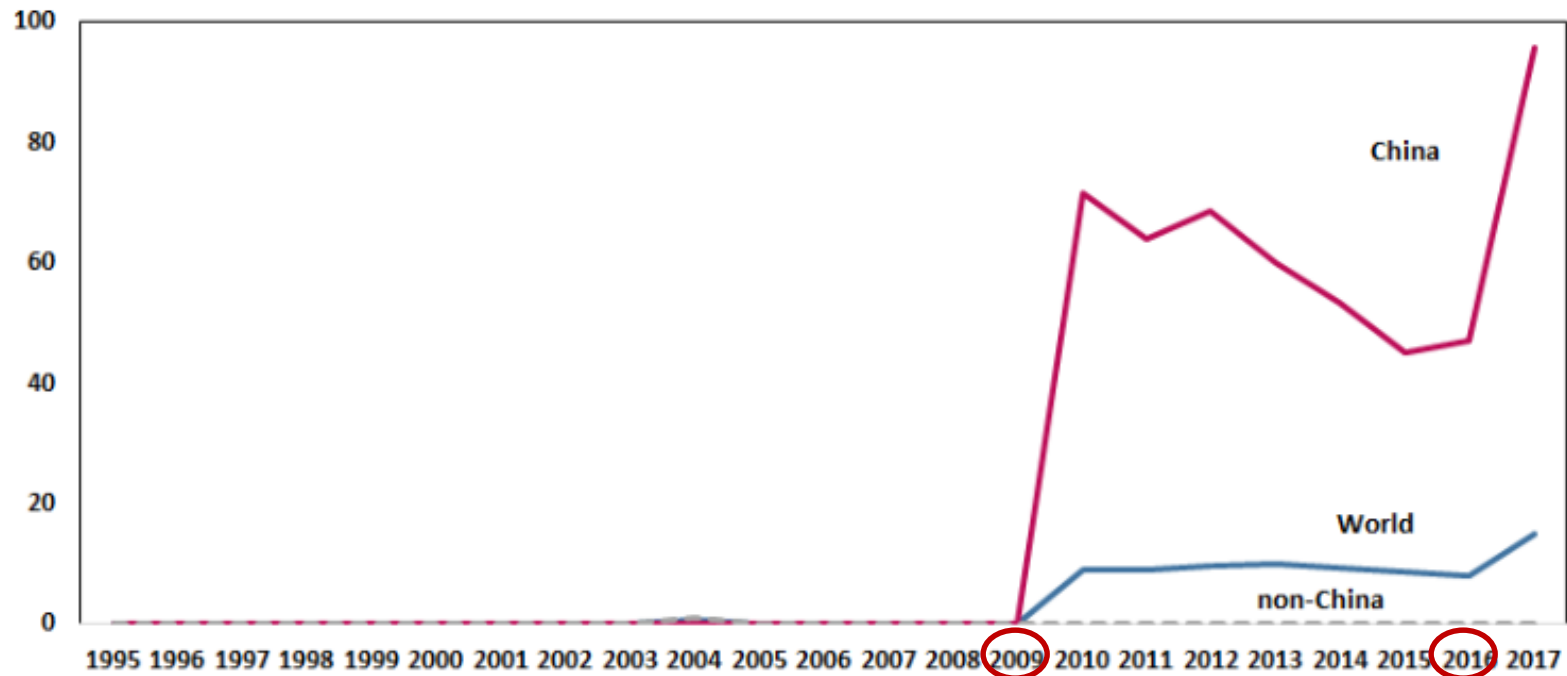
US Policy Response Has Been Ineffective: Aluminium



Bilateral tariffs (e.g., under antidumping) don't resolve problems

Figure 3 US aluminum imports subject to special tariffs, 1995-2017

percent



Note: Special tariffs include safeguards, antidumping, and countervailing duties.

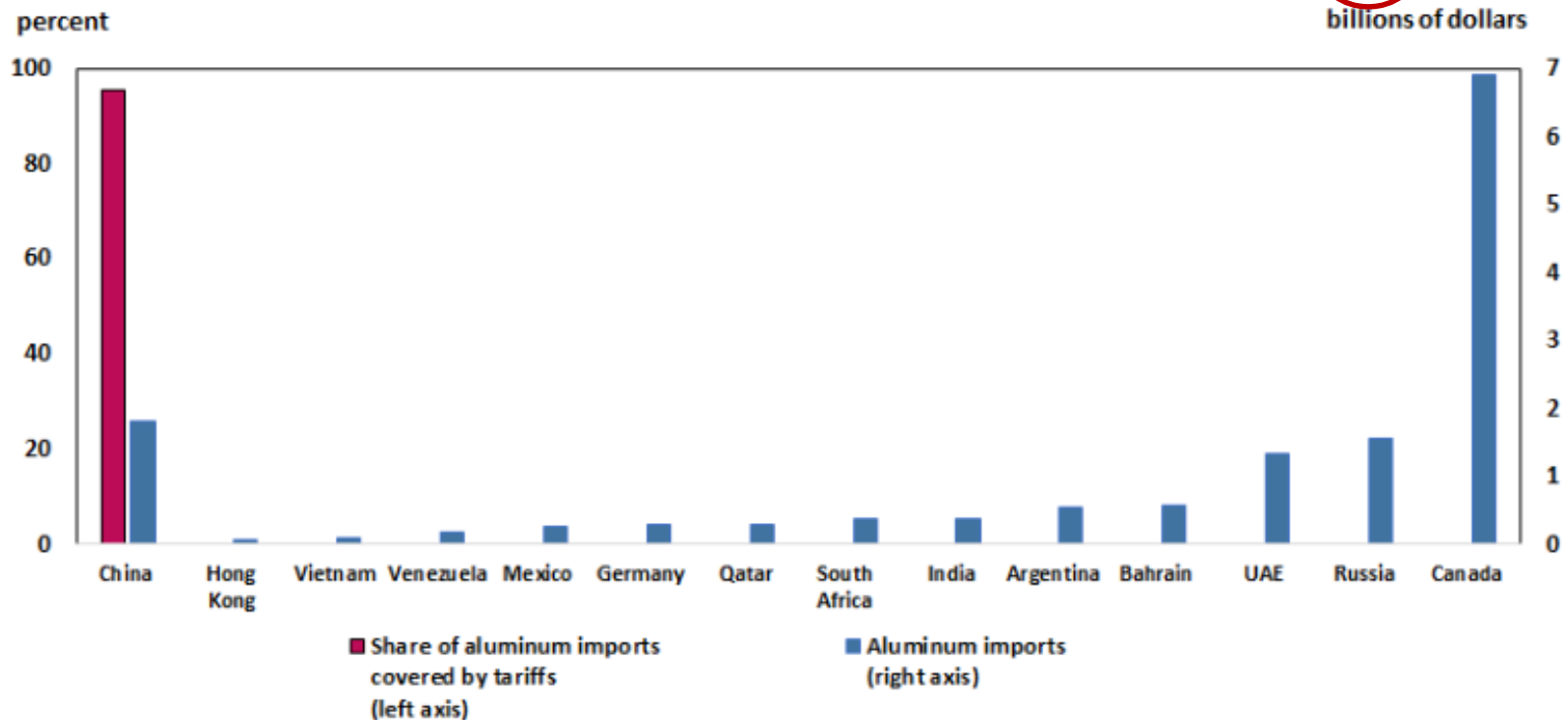
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US Policy Response Has Been Ineffective: Aluminium



Bilateral tariffs (e.g., under antidumping) don't resolve problems

Figure 4 Share of US aluminum imports covered by special tariffs and US aluminum imports by partner, 2017



Note: Special tariffs include safeguards, antidumping, and countervailing duties.

Source: Bown, Chad P., "Trump's Steel and Aluminum Tariffs Are Counterproductive. Here Are 5 More Things You Need to Know." [PIIE Trade & Investment Policy Blog](#), 7 March 2018.



Lessons from Aluminium and Steel Tariffs

Policy actions thus far treated *symptoms*, not the problem

Approach: Uncoordinated, national trade policies

- Inadequate to address underlying problem
- Can make matters worse in the short-term (international cooperation)
- ALSO: the **story** for aluminium is **not the same** as steel

What is the problem?

- “Overcapacity,” but driven by SOE behavior

The Reality



1. China's SOEs are not going away
2. China's SOEs raise political and economic problems for trading partners and for the system
3. National trade policies...
 - have not and arguably *cannot* address the underlying problem
 - make matters **worse**, regarding international cooperation

The multilateral system *needs to adapt to* accommodate reality of China's SOEs

How?

New Approach: WTO-based Negotiations



***Goal:* Create new multilateral and enforceable rules for SOEs**

***How:* Build from existing work programmes**

***How:* Simultaneously leverage WTO dispute settlement system to...**

...shed light on limitations of current rules

...incentivize China's engagement (carrot/stick)

Starting Points for Negotiations: Existing Work



- **Recent trade agreements with SOE chapters**
 - (CP)TPP, CETA, TTIP
 - EU agreements – e.g., EU-Mexico, EU-MERCOSUR
- **OECD**
 - Work program on SOEs
 - Global Forum on Steel Excess Capacity
- **European Commission**
 - Regulating member states SOEs, ‘state aid’ rules

SOE chapter in the Trans-Pacific Partnership Agreement



CHAPTER 17

STATE-OWNED ENTERPRISES AND DESIGNATED MONOPOLIES

Article 17.1: Definitions

For the purposes of this Chapter:

Arrangement means the *Arrangement on Officially Supported Export Credits*, developed within the framework of the Organization for Economic Co-operation and Development (OECD), or a successor undertaking, whether developed within or outside of the OECD framework, that has been adopted by at least 12 original WTO Members that were Participants to the Arrangement as of January 1, 1979;

commercial activities means activities which an enterprise undertakes with an orientation toward profit-making¹ and which result in the production of a good or supply of a service that will be sold to a consumer in the relevant market in quantities and at prices determined by the enterprise;²

commercial considerations means price, quality, availability, marketability, transportation, and other terms and conditions of purchase or sale, or other factors that would normally be taken into account in the commercial decisions of a privately owned enterprise in the relevant business or industry;

designate means to establish, designate or authorise a monopoly, or to expand the scope of a monopoly to cover an additional good or service;

designated monopoly means a privately owned monopoly that is designated after the date of entry into force of this Agreement and any government monopoly that a Party designates or has designated;

government monopoly means a monopoly that is owned, or controlled through ownership interests, by a Party or by another government monopoly;

independent pension fund means an enterprise that is owned, or controlled through ownership interests, by a Party that:

- (a) is engaged exclusively in the following activities:
 - (i) administering or providing a plan for pension, retirement, social security, disability, death or employee benefits, or any

¹ For greater certainty, activities undertaken by an enterprise which operates on a not-for-profit basis or on a cost-recovery basis are not activities undertaken with an orientation toward profit-making.

² For greater certainty, measures of general application to the relevant market shall not be construed as the determination by a Party of pricing, production, or supply decisions of an enterprise.

Create New Multilateral and Enforceable Rules for SOEs



- **Transparency**
 - Corporate governance (ownership, directorship)
 - Receipt of implicit/explicit subsidies
- **Understand SOE motivations *ex ante***
 - If noncommercial (social) objectives, what are they?
- **Principles to guide SOE behavior**
 - Nondiscriminatory treatment
 - Commercial considerations (prices, quantities)
 - Non-commercial assistance
- **Enforceable through dispute settlement, retaliation**
 - When behavioral violations cause injury or adverse effects to partners
 - Will state-to-state “enforcement” be enough? (see European Commission)

But...Reality Check for WTO Today



Trump administration has triggered a crisis in Geneva

- Appellate Body **judges** held up
- De-legitimized past WTO legal **rulings**
- US trade policy behavior **outside** of traditional **norms**
 - National security tariffs, unilateral China/Section 301 remedy
 - Partners already filed 9 formal disputes against Trump policies: Canada (3), South Korea (3), China (2) and India (1)
 - Eight partners now “rebalancing” – i.e., retaliating with tariffs on US exports – at the margins of WTO rules due to Trump’s steel/aluminium tariffs, which further threatens the system



Strategy for a New WTO approach

1. File a set of disputes against China

- Multiple countries – go ahead *without* US leadership
- Multiple issues: **Subsidies**, but pair with investment disputes, intellectual property disputes...
- “**Non-violation**” systemic complaint – even if no specific rules broken
- Dispute: puts pressure on both China *and* WTO

2. Negotiate simultaneous plurilateral agreement on SOE rules

Negotiate Plurilateral Agreement on SOE rules



How: Involve critical mass of countries only

How: Include China in the negotiations

- **WTO-authorizable retaliation if via a dispute (e.g., see above) creates incentive for China to engage**

Examples of plurilaterals

- **Informational Technology Agreements**
- **GATT Tokyo Round Codes**
 - **Antidumping, Subsidies and Countervailing Measures, Standards, etc.**

Concluding Thoughts



- **Global forum for aluminium overcapacity a good start**
- **But, more needed over long-run**
 - **New and enforceable rules for SOEs**
 - **Political sustainability requires accommodation for China's system**
- **Looking ahead: part of a “grand bargain” between market-oriented economies and China**
 - **SOEs, investment rules, intellectual property...**
- **Final economic worry: we should not be setting up a global cartel**