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Can the World Trade Organization Act as a
Bulwark Against Deglobalization?

Simon Evenett (University of St Gallen)

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The WTO as a Bulwark against Deglobalisation

Simon J. Evenett¹

University of St. Gallen and CEPR

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Abstract:

Whether existing multilateral trade commitments could deter larger trading nations from taking steps that further weaken cross-border commercial ties is the subject of this paper. Evidence from salient commercial policy episodes of recent years is combined with information on the actual leeway available to G20 members under extant WTO rules. The Glass House Syndrome will attenuate the deterrent effect from restoring the Appellate stage of the Dispute Settlement Understanding. The upshot is a bleak assessment of the capacity of the existing multilateral trade rulebook to rein in any major attempts to “deglobalise” the world economy. Attendees at the Bretton Woods Conference must be spinning in their graves.

JEL codes: F13, F52, F53.

¹ Professor of International Trade and Economic Development, Department of Economics, University of St. Gallen and Founder, St. Gallen Endowment for Prosperity Through Trade. I thank Fernando Martin Espejo and André Brotto for help assembling the figures and tables presented in this paper. The section discussing the Glass House Syndrome in the context of the diminished use of the WTO Dispute Settlement System by the G20 members was originally developed in joint work with Johannes Fritz (see Evenett and Fritz 2019). Contact email address: simon.evenett@unisg.ch.

1. Introduction

After the Global Financial Crisis analysts debated whether globalisation—the ever-greater integration of national markets—was slowing down. Recently, the debate has shifted to whether the world economy has entered a phase of deglobalisation. In light of growing geopolitical tensions and the so-called Polycrisis, some have gone so far as to argue that deglobalisation—taken here to mean the conscious thinning of cross-border commercial tie through state action—is necessary.

My goal here is not to assess whether the world economy is or has been deglobalising (Baldwin 2022a,b,c,d; Evenett 2023; and Goldberg and Reed 2023). Nor is my purpose to assess whether deglobalisation is desirable or what its end point might be (Evenett 2023). Nor will I consider the factors that have triggered discussions of deglobalisation (Leonard 2021). Here I ask a different question: if a government contemplated trade policy measures that markedly thinned cross-border commercial ties would the current corpus of multilateral trade rules prevent them from doing so?

Put more provocatively, as matters currently stand², can a government hellbent on decoupling or the geopolitical fragmentation of markets remain a member of the World Trade Organization (WTO) in good standing? At a more practical level, could a government impose an across-the-board import tariff increase of the scale of the 1930 Smoot Hawley tariff (a 7% increase) and not violate its multilateral trade obligations? In short, I will examine what contemporary evidence reveals about the degree to which WTO rules can act as a bulwark against deglobalisation.

The approach taken in this paper is not to assume or contend that existing multilateral trade rules have no bite. Demonstrating such a strong proposition is unnecessary given my research objective. Rather I will marshal enough evidence on actual contemporary commercial policy decisions and on the leeway afforded to governments in current WTO accords that might give a reader inclined to believe that existing multilateral trade rules will act as an effective bulwark against deglobalisation second thoughts. If this argument is correct then, as geopolitical rivalries intensify, we should moderate our expectations as to what WTO accords can deliver and look elsewhere for centripetal forces that will hold the world trading system together.

To appreciate the significance of this line of questioning, first put yourself in the shoes of the attendees of the Bretton Woods Conference. Those officials came together to design a system

² As opposed to how we might like them to be.

of international economic governance that sought to discourage governments from repeating the mistakes of the 1920s and 1930s. Unilateral, beggar-thy-neighbour policy would be replaced by a stability-inducing system of rules, institutions, and inter-governmental cooperation. The trade pillar of that system took the form of the General Agreements on Tariffs and Trade (GATT) and subsequently in the WTO. A succession of rounds of multilateral trade negotiation resulted in a set of commitments by governments in respect of their policies towards trade in goods and services, regulation of intellectual property, amongst others. Governments agreed to adhere to certain principles, to make commitments limiting their use of certain commercial policy instruments, and, ultimately, to accept binding rulings from a specially-tailored dispute settlement process. A rules-based system replaced the chaos of unilateralism and war-time restrictions that resulted from an earlier episode of macroeconomic and geopolitical disfunction. In the future should major trading nations resort to unilateral measures that fragment global markets—a possible deglobalisation scenario—then the attendees at Bretton Woods would be spinning in their graves.

There is more than a (vital) historical legacy at stake. If it can be shown that current multilateral trade rules offer little constraint on state-led deglobalisation then our understanding of how the multilateral trading system works may need to be revised. The Embedded Liberalism understanding of trade rules draws a distinction external stability (stable trade relations) and internal stability and, critically, privileges the latter. Deviations from the principles of non-discrimination in the multilateral trading system are permitted during crises and other exceptional circumstances. That is, the objective of external stability can be subordinated to the imperative of internal stability. But what happens if there is a succession of crises that the exception of discrimination essentially becomes the new normal? What mechanisms exist to unwind notionally temporary policy interventions that discriminate against foreign commercial interests? Moreover, looking forward, if there are decades of geopolitical rivalry to come, and external stability is repeatedly sacrificed to internal stability, then the exception (discrimination) will remain the norm. What rules or understandings should govern the exception? More to the point, what constraints are governments likely to accept here?

Should sustained departures from principles of non-discrimination be evidenced, for the “modern” economic theory of the WTO the challenge is no longer to explain why governments sign accords that forgo unilateral action, but rather why existing multilateral trade accords have not deterred first-order unilateral trade policy acts. How can the non-transitory unilateral revocation by the United States of China’s Most Favoured Nations (MFN) tariff treatment be

reconciled with a theory whose primary purpose is to explain collective tariff restraint? Furthermore, how can export controls on the sophisticated technologies needed to produce semiconductors be understood in this approach?

The evidence presented in this paper is organised into four sections. The next section recounts the scale and duration of the “trade war” between China and the United States as well as two other salient trade policy episodes. The section that follows looks back further to commercial policy developments since the Global Financial Crisis. The fourth section examines the degree to which the largest economies of the world—the G20 members—can raise their import tariffs without violating their multilateral trade obligations. The discussion here speaks to how much restraint the provisions of the multilateral trading system actually provide when government contemplate setting import tariffs, the quintessential discriminatory trade policy instrument.

The fifth section of the paper presents evidence that casts doubt on the proposition that restoring the Appellate Body stage of the WTO’s system of dispute settlement would fundamentally strengthen the deterrence generated by multilateral trade rules. A final section reflects on the evidence presented here and draws out implications for policymaking and for those with a stake in an open world trading system.

2. Evidence from high-profile recent commercial policy episodes

In this section evidence from three salient trade policy episodes is presented. The first episode is the so-called trade war between the United States and China.

Perhaps the most basic multilateral trade obligations relate to the imposition of taxes on imported goods, so called import tariffs. For each tariff line, every WTO member has committed whether or not to have a maximum allowed (or bound) tariff rate and, if so, what that maximum rate is. Furthermore, even since the GATT was formed in 1947, the Most Favoured Nation (MFN) principle applies. Indeed, that principle was so important it is listed in the first article of the agreed texts, known by their shorthand GATT 1947. That article states:

“any advantage, favour, privilege or immunity granted by any contracting party to any product originating in or destined for any other country shall be accorded immediately and unconditionally to the like product originating in or destined for the territories of all other contracting parties.”

The United States was a founding member of the GATT and became a contracting party to the World Trade Organization. China acceded to the WTO in 2001. Both parties are therefore obligated to treat imports from the other no worse than from any other party. Moreover, whatever tariffs are charged on imports must not exceed their bound or maximum levels.

As has been meticulously documented by Bown and Kolb (2023), the United States unilaterally decided to investigate China's "laws, policies, practices, or actions that may be unreasonable or discriminatory and that may be harming American intellectual property rights, innovation, or technology development" in August 2017. The United States did not bring a case to the WTO DSU; instead, the Trump Administration chose to investigate China's practices itself.

This American investigation resulted in import tariffs of 25% to be imposed on 1,333 products sourced from China on 3 April 2018. The next day China threatened to retaliate with 25% import tariffs on 106 products. On 5 April 2018 President Trump instructs his officials to consider imposing higher tariffs on \$100 billion more of Chinese imports. This cycle of action and reaction was repeated at different points throughout 2018. Further tariff increases were imposed by both sides during 2019. Ultimately, a "phase one deal" was signed in January 2020. That deal did not include unwinding the import tariffs imposed but it did stave off the imposition of even more tariffs. As part of this deal, China is said to have agreed to quantitative targets that increase their imports of American goods and services, where the stated goal was to reduce the size of the bilateral trade surplus China enjoys with respect to the United States.

Figure 1 reports the evolution of the share of Chinese goods exports to the United States that are covered by import tariff increases from 2009 through to 2023, that is, from before the so-called U.S.-China trade war broke out and since the "phase one deal" in 2020. The comparable share of U.S. goods exports to China facing higher import tariffs is shown as well. The annual estimates presented are based only on import tariff increases in effect that year (that were implemented since the start of 2009.)

Only import tariff increases that were implemented count towards these totals; threats to raise import tariffs do not. The annual estimates are duration-adjusted so tariff increases imposed later in the year are given less weight than those imposed earlier in the year and that remain in force. It is, therefore, possible to check whether the share of each country's goods exports to the other that face higher import tariffs increased significantly once the trade war began and whether those tariffs were unwound; that is, whether this outbreak of import tariff increases was transitory.

Figure 1 shows that the shares of bilateral U.S.-Chinese goods exports facing higher import tariffs increased sharply in 2018 to one third.³ The shares rise further, plateauing at around 0.6 in 2020. Since then the import shares facing tariff hikes have not reduced—in short, the import tariffs on both sides have not been removed. What is remarkable is the almost identical movement in these import shares once the trade war began, which is consistent with classic tit-for-tat behaviour.

It is important to bear in mind that the tariff increases described above were not applied across-the-board to all of China's or the United States' trading partners. Moreover, the size of the import tariffs imposed exceeded the bound rates for many of the goods imported by both parties. I conclude from this episode:

- Membership of the WTO did not stop the United States from revoking MFN tariff treatment for China.
- Membership of the WTO did not stop the United States from imposing tariffs on goods that exceeded relevant bound tariff rates.
- Membership of the WTO did not stop China from retaliating by imposing tariffs on the United States' goods exports, doing so in a way that essentially revokes MFN tariff treatment for American goods.
- Membership of the WTO did not stop China from raising tariffs above bound rates either.
- That these import tariff changes have not been reversed, may be permanent, and are at minimum, non-transitory.

It should be noted, however, that these revocations of MFN tariff treatment did not spread to other WTO members. No other WTO member followed the lead of the United States and revoked the MFN tariff treatment of China; likewise, no other WTO member revoked MFN tariff treatment on goods originating in the United States. So, there was not a complete breakdown in norm compliance. Nevertheless, governments representing the two largest economies in the world violated a core principle of the WTO. These two governments are still members of the WTO, calling into question whether there is much price to be paid for breaking

³ The UN COMTRADE database was used to calculate these import coverage shares. Bilateral trade at the six digit level of product classification was used. The dates each tranche of tariff increases went into effect was taken from records in the Global Trade Alert database. Annual import coverage estimates were adjusted for the length of time a tariff increase was in effect (not when it was threatened, only imposed tariffs count.) As a benchmark, which will be referred to in a later section of this paper, information on the import shares covered by tariff increases was supplemented by calculations of the import shares covered by all policy interventions that favoured domestic firms. The latter import shares equal or exceed the former import shares by construction and are therefore represented by a different plotted line.

a cardinal principle of the multilateral trading system. If this can happen once, what prevents similar violations from occurring should governments decide to selectively decouple—or thin commercial ties—with certain trading partners?

The second episode discussed here relates to the apparent “weaponization” of medical goods and food exports in recent years. For all of its strictures, multilateral trade rules allow for exceptions. In the case of export controls on goods, although generally banned under Article XI of the GATT, exceptions are allowed. Article XI.2(a) states:

“Export prohibitions or restrictions temporarily applied to prevent or relieve critical shortages of foodstuffs or other products essential to the exporting contracting party.”

My understanding is that there is no agreed list of what products are deemed essential. Moreover, the application of this exception is self-judging, in the sense that a government can determine when the exception is invoked.

The outbreak of the COVID-19 pandemic witnessed a significant increase in demand for a range of medical equipment and medical consumables (such as personal protective equipment.) The vulnerability of populations to COVID-19, potential treatment, duration and other key factors were not known at the start of the pandemic. Many governments resorted to export controls on medical kit. Figure 2 shows the total number of such controls in force peaked in April 2020 and then fell back slightly. Of the 329 export restrictions documented by the Global Trade Alert team in its Essential Goods Monitoring initiative, a total of 198 have stated removal dates. This implies that 131 export controls have no phase out dates and, therefore, may not be temporary. In fact, for 31% of all export controls on medical equipment and consumables implemented in 2020 there is no evidence to suggest they have been removed.

Concerns about security of supply of food are longstanding in the world trading system. When COVID-19 broke out concerns were flagged then; those concerns were to intensify once the Russian invasion of Ukraine threatened the delivery of wheat, sunflower oil, and other foodstuffs in 2022. Some governments invoked Article XI exceptions and restricted the export of food stuffs. As in the case of medical goods, were these exceptions temporary? The Global Trade Alert team documented 427 export bans, quotas, taxes, and other restrictions on food products since the start of 2020. Of those 427 measures, only 276 had known or recorded termination dates. Matters have not improved since the invasion of Ukraine. A total of 221 export controls on food have been recorded and only two thirds (141 to be precise) have known

phase-out dates, a necessary condition for a measure to be temporary. The weekly totals of the number of export controls in force on food and agri-food products is shown in Figure 3.

Failures to unwind temporary export restrictions and the fact that there is no multilateral mechanism to ensure removal raise the possibility that a sequence of systemic crises could result in a permanent reduction of cross-border trade in “essential goods.” Is discrimination in the form of export controls the exception or has it become the norm? This matter is significant nowadays as the wisdom of sourcing all manner of so-called essential goods and critical minerals from geopolitical rivals has been challenged by some officials and analysts (Inkster 2020).

In light of discussions about security of supply and the desire of some to reduce dependence on imports, Figures 2 and 3 are revealing in one other critical respect. In both the food and medical sectors since the beginning of 2022 a growing number of import restrictions have been imposed. Even more striking is the huge number of subsidies awarded to local producers. Both of these measures increase the incentive for domestic production, expanding the potential for imports to be substituted by domestic sourcing.⁴ While few tout a return to the Import Substitution Industrialisation policies of yesteryear, it is striking that current multilateral rules have not prevented governments from taking steps that reduce “dependence” on imports.

The third episode relates to invoking national security as a rationale for trade discrimination. Given the concern that intensifying geopolitical rivalries may result in state measures that decouple economies or that induce deglobalisation, the following episode is germane. Soon after taking office, in April 2017, President Trump instructed his Secretary of Commerce to investigate whether imports of aluminium and steel products constitute a threat to the national security of the United States. Section 232 of the Trade Expansion Act of 1962 was invoked to initiate these investigations, one for aluminium and one for steel.

In February 2018 the U.S. Commerce Department ruled that these imports harmed national security and on 1 March 2018 additional import tariffs of 25% on steel and 10% on aluminium were imposed on approximately \$48 billion of trade. What followed were threats of retaliation from trading partners and some exemptions were granted by the Trump Administration. Still, significant tariff increases went into effect on 23 March 2018 (Bown and Kolb 2023). Ultimately, in the 15 months that followed Canada, China, the European Union, India and Turkiye retaliated in one form or another, typically raising import tariffs on some U.S. exports.

⁴ Of course, if demand for these goods is increasing faster than domestic supply then total imports need not fall.

Meanwhile China, Norway, Switzerland, and Turkey started WTO dispute settlement proceedings against the United States. The United States brought countersuits against those trading partners that have retaliated against its initial tariffs. On 9 December 2022 a WTO Panel found against the United States. One ground of that finding is that the U.S. measures did not meet the required standard of being “taken in time of war or other emergency in international relations.”

These Panel reports prompted a sharp retort from the United States. At a 27 January 2023 meeting of the WTO Dispute Settlement Body, the U.S. Permanent Representative to the WTO, Ambassador Pagan, made a wide-ranging statement that including the following statement “For over 70 years, the United States has held the clear and unequivocal position that issues of national security cannot be reviewed in WTO dispute settlement and the WTO has no authority to second-guess the ability of a WTO Member to respond to a wide-range of threats to its security.” While this robust stance was taken by the Biden Administration, completeness requires reporting that during 2022 the United States took steps to partially roll back the import tariff increases imposed by the Trump Administration on steel and aluminium imports from certain trading partners.

In this section I have provided examples of outright unpunished and non-transitory rule violations by the governments of the two largest economies on Earth. In addition, I have shown that compliance with rules permitting exceptions to non-discrimination has been shaky as well—a finding that implicates many more governments. Whether by salient example (the U.S.-China trade war) or by learning by doing (security of supply concerns relating to medical products and to food), some governments have gotten away with breaking accepted multilateral norms—outcomes that are probably not lost on other WTO members.

Against these negative findings is the fact that no other government joined China and the United States in revoking either of these country’s MFN tariff treatment. Furthermore, as shown in Figures 2 and 3, import regimes for medical goods and food were liberalised hundreds of times since the start of 2020. My argument is not that every WTO member defied multilateral rules—indeed, many governments have taken unilateral measures that increase their sourcing from global markets when items appear to be in short supply at home.

3. Evidence on commercial policy choice since the Global Financial Crisis

Some readers may be tempted to dismiss the evidence presented in the last section as relying too much on high profile exceptional cases. On this view, for sure, multilateral trade rules may not work *in extremis* but in terms of day-to-day operation, these rules constrain resort to discriminatory or selective policy intervention that disadvantages commercial interests of trading partners. Sadly, this argument is at odds with the evidence, as I will show in this section.

By and large, officially collected information on unilateral commercial policy changes outside of crises is confined to import tariffs, trade defence actions, and subsidies in the agricultural sector. To this should be added, information on new health and safety regulations, which can apply to agricultural and manufactured goods.⁵ In principle, if governments made complete and meaningful notifications on the subsidy schemes and their awards to corporations then the WTO Secretariat would have information about that public policy instrument. In practice, however, the amount of information that the WTO Secretariat can draw upon is limited and often includes gaps, as shown by its periodic monitoring reports. Matters are no better at the International Monetary Fund (IMF), where some governments either refuse to supply or refuse to allow publication of information on the subsidies they grant to companies. For researchers, who understandably prefer to download data than incur the costs of collecting it, this data deficit narrows the assessments of both trade policy stance and of compliance with the norms and rules of the multilateral trading system.

Determined to fill in this data gap, with colleagues, I created first the Global Trade Alert (GTA) and then the Digital Policy Alert. The former is pertinent to the discussion here, not least because many of the policy interventions tracked in the GTA are also the subject of multilateral trade disciplines. While it is debated whether certain policies affecting the digital economy fall within the remit of WTO rules, at this time there is no binding multilateral trade accord that refers specifically to the digital economy. In what follows, then, I focus on the implications of the GTA's evidence collection.

As described in Evenett (2019), the Global Trade Alert tracks changes in over 60 types of commercial policy intervention—covering trade in goods and services, foreign direct investments, treatment of foreign labour, and intellectual property. Health and safety measures are not tracked by the GTA team. A combination of trade policy and coding expertise is used to spot, acquire, process, classify, document, and check reports on in-scope commercial policy

⁵ So called sanitary and phyto-sanitary measures (SPS) and technical barriers to trade (TBT), respectively.

intervention taken worldwide since 1 November 2008. One important feature of the reports in the GTA database is that they state when a measure is announced, when it is implemented (if relevant), and when it lapses (if relevant). Consequently, it is possible to assess whether the total number of policy interventions in force is growing over time and whether previously implemented measures are being unwound.

Public policy interventions are classified according to whether they improve the treatment of local commercial interests relative to the relevant affected foreign rivals. Depending on the context such measures are deemed discriminatory, selective, or distortive. Policy interventions that improve the competitive conditions of foreign firms vis-à-vis local or domestic rivals are deemed liberalising measures. For goods measures, where they can credibly be established, a conservative methodology is used to identify which six-digit product codes from the United Nations Harmonized System (HS) are affected by a measure. This last step is critical as it allows us to calculate how much trade is covered by all of the discriminatory and liberalising measures in force at a given point in time or in a given year. In this manner we can assess whether the share of world goods trade that is free from discriminatory policy is rising or falling over time.

At the time of writing, the GTA database contains information on over 51,000 commercial policy interventions implemented by 196 customs territories since 1 November 2008. A total of 8,864 such interventions improve the competitive position of foreign commercial interests, amounting to 17.3% of the sample of recorded policy interventions. That means that for every liberalising measure recorded on average there are five measures that disadvantage foreign commercial interests. Over 28,000 entries in the GTA database refer to some form of subsidisation of firms competing in national or overseas markets.

Figure 4 traces out the changes over time in the share of world goods trade that are covered by (a) an import tariff increase in force in a given year, (b) a subsidy award to one or more local firms in force in a given year, (c) a state-provided export incentive in force in a given year and (d) any measure that favours domestic commercial interests over foreign rivals. Given the GTA database started collecting information on in-scope commercial policy intervention since 1 November 2008, annual totals from 2009 on are provided. By construction Figure 4 does not include any policy intervention in force before the Global Financial Crisis. As such, the evidence in Figure 4 will understate the degree to which goods trade is distorted by selective policy intervention in favour of domestic firms.

The import coverage shares reported in Figure 4 speak to the medium-term capacity of multilateral trade rules to discourage resort to discriminatory commercial policies. The first point to note relate to the developments during the Global Financial Crisis. By 2010 half of world goods trade was in products and to markets where competitive conditions had been skewed towards favoured firms. Critically, as pointed out at the time by many economists and officials, governments did not repeat the mistakes of the 1930s and raise import tariffs. Less than 5% of world goods trade faced a tariff increase by 2010 that wasn't in force before 1 November 2008. Instead, governments resorted to subsidies to import-competing local firms and to exporters, in particular to the latter. Since Figure 4 refers to trade in goods none of the bank bailouts (with their huge price tags) count towards the calculations reported there. Moreover, the export incentives provided were mainly furnished through national tax systems and, by and large, evaded detection by the media and international organisations.

The second finding from Figure 4 is that the share of world goods trade covered by discriminatory unilateral policy grows over time and now stands at approximately 80%. This is multiples of the 28% of world goods trade that has benefited from liberalising measures that is still in force. If the share of world goods trade where there is a level playing field (no discriminatory measures in force) is an indicator of how well current multilateral trade rules have protected the world trading system, then that share has fallen to 0.2.⁶

For sure, that share has been stable since 2018, so its low level cannot be attributed to the COVID-19 pandemic or to the fallout from the conflict in Ukraine. That share did fall a little when compared to 2017, implying the U.S.-China trade war contributed—but the damage was largely done well before that. This is significant because the salient trade policy events of the past decade have tended to pile trade discrimination on top of a world trading system that was already thoroughly distorted (by a sustained build-up of corporate subsidies witnessed since the onset of the Global Financial Crisis.)

There are compelling political economy reasons for the resort to often firm-specific corporate subsidies as opposed to the import tariff increases. The latter are easier to detect and therefore more likely to irk trading partners. In contrast, many governments publish information on subsidy awards with a considerable lag—the favouritism is dispensed before a trading partner finds out about it.

⁶ In Figure 4 the share of undistorted global goods trade in a given year is shown by the vertical distance between the upper most line in that year and horizontal line representing one on the vertical axis.

Moreover, the firm-specific nature of corporate subsidies makes them particularly attractive to recipient firms. Such subsidies give recipients a commercial advantage over other local firms as well as foreign rivals. Plus, governments may find it convenient to “play favourites,” rewarding some local firms and not others. In principle, subsidies are a call on the public finances, but even here governments have found creative ways to shift subsidy awards off the central government’s fiscal accounts.

More and more subsidies have been awarded by development banks, supranational bodies like the European Investment Bank, export credit agencies (some of which have transformed themselves into *de facto* development banks), and even central banks have been found to advance advantageous loans directly to companies in distress. Lastly, governments have realised that giving away permits—especially for CO₂ emissions—is another way to limit direct government outlays.

For sure, the WTO has an agreement covering subsidies. However, it is incomplete in scope (for example, only some subsidies for exporters are explicitly banned), it is contested which public authorities are subject to the disciplines, and rules to allow certain potentially welfare-improving subsidies are uncertain (indeed a key provision in this regard, Article VIII of the relevant WTO accord lapsed). Consequently, this agreement is widely regarded as not fit for purpose, hence the current proposals to start discussions on this matter in Geneva.

To sum up, perhaps the best that can be said about the influence of multilateral trade rules on its members’ resort to discrimination is that pressure to favour local or national firms has, by and large, been channelled away from salient policy instruments, such as tariff increases. The consequence, however, is a world trading system where subsidies have become pervasive. Governments have substituted away from a transparent policy tool where the rules are relatively stronger to an instrument that is easier to hide and where existing disciplines are weaker. This dynamic was well underway before American patience with Chinese commercial policies snapped. Now that geopolitical tensions are more far reaching and given that the world trading system has been buffeted by a string of systemic shocks, whatever restraint was generated by multilateral trade rules has almost certainly eroded. Taking a medium-term perspective reinforces a pessimistic assessment of the ability of existing multilateral trading system to act as a bulwark against deglobalisation.

Some social scientists may react to the evidence presented in this section by arguing that only a fully-fledged counterfactual can fully assess whether multilateral trade rules had any bite

since the onset of the Global Financial Crisis. This argument has some merit, in particular if my contention was that multilateral trade rules had no bite. But my argument here is different. My goal is to present evidence that highlights the (regrettable) weaknesses in the current rule book. A counterfactual exercise is unlikely to yield a meaningfully different result at least as far as the share of distorted world goods trade is concerned. Suppose the counterfactual found that in the absence of the WTO 85% of world goods trade would have been covered by discriminatory commercial policies. The gap between the 80% figure I reported above and a counterfactual percentage (which presumably would be larger in a no-WTO scenario) arithmetically cannot be that large. And, recall that the methodology used by the GTA team is conservative, so the 80% finding is likely to be an underestimate. Plus, as more and more corporate subsidies are documented, the likelihood that the principal findings in this section will be overturned is slight.

4. Evidence from the WTO tariff schedules of the G20 members

In this section I focus on the extent to which the governments of the largest economies of the world can raise their taxes on imports without breaking their WTO commitments. Of course, as we have already seen, tariff bindings aren't quite the constraint they may have been in the past—both China and the United States have raised some tariffs above maximum permitted levels in their trade war. Nevertheless, it is worth exploring just how much leeway G20 members have to raise their import tariffs. In this regard, it may be useful to bear in mind that the Smoot Hawley Tariff of 1930—widely regarded in trade policy circles as one of the mistakes of the 1930s—raised the average applied U.S. import tariff by 7%. How many G20 members can legally raise their applied tariffs that much without breaking their tariff bindings is one of the questions addressed in this section.

The tariff schedules that members have lodged at the WTO have many facets that influence how much leeway a government has to raise taxes on imported goods. First, there may be some goods for which tariffs have not been bound at all. Second, there is the average size of the tariff binding overhang. Third, there is the distribution of that overhang. Fourth, there is the room to increase import tariffs legally to 15% or above (so-called tariff peaks). Fifth, there is number of times the applied tariff rates exceed the bound tariff rates. To be sure the last metric is not a measure of the amount of leeway to legally raise import tariffs. Rather, assuming there are no averaging and reporting errors, it is a potential indication of the degree to which a G20 member

has already departed from its multilateral tariff obligations. Each of these matters is examined in turn for both manufactured and agricultural products.

The latest *World Tariff Profiles 2022*, published by the WTO Secretariat, reports the extent to which members have bound their import tariffs on manufactured goods. As the first numerical column in Table 1 shows, over 7% of South Africa and South Korea's tariff lines are unbound, just under 30% of India's tariff lines have no cap, and a remarkable 57% of Turkey's tariff lines are not subject to maximum rates.

With respect to the average tariff binding overhang, the difference between the mean bound tariff rate and the mean applied tariff rate, eight G20 members could legally raise import tariff rates on manufactured goods by more than the Smoot Hawley tariff. Those eight nations are Argentina, Brazil, Australia, India, Indonesia, Mexico, South Africa, and Turkiye (see Table 1). For agricultural goods eight G20 members could also legally raise average imports tariffs by 7%, the Smoot Hawley amount. For agricultural goods Australia drops out of the list above and is replaced by Saudi Arabia (see Table 2).

Average measures sometimes hide interesting variation in the underlying distribution. It turns out that this is the case for import tariff binding overhangs for manufactured goods. Figures 5-20 plot the distribution at the tariff line level of the import tariff binding overhang. Negative values are possible for those product lines where the applied tariff rate exceeds the bound tariff rate, but more on that later. For now, it is instructive to compare across the distributions of presented in these figures. Only the EU, Japan, and the United States have distributions that are concentrated around zero. That is, these three G20 members have exhausted their capacity to legally raise import tariffs. Every other G20 members, including some higher-income members of that group, have substantial upper tails to their distributions of tariff binding overhangs. This means that for non-trivial shares of their tariff schedules they can raise their tariff rates markedly.

With respect to the leeway to raise tariffs to 15% or above (thereby creating so-called tariff peaks), for manufactured goods a total of nine G20 members could do so legally on 10% or more of the goods in their multilateral tariff schedules. With respect to agricultural goods, seven G20 members have the room to do likewise.

To recap. What does this evidence imply? Suppose your mental model of multilateral tariff bindings is that they have curtailed the ability of the governments of the largest economies to raise import tariffs. Well, this mental model only applies to the EU, Japan, the United Kingdom,

and the United States. All of the other G20 members have room to significantly increase some, if not all, of their import tariffs. If the Smoot Hawley tariff increase is the right benchmark for undesirable behaviour, then eight G20 members could implement such a tariff hike and still comply with their multilateral trade obligations. For these WTO members how can anyone credibly argue that extant multilateral tariff bindings prevent a government hellbent on decoupling? Or is the Smoot Hawley precedent the wrong benchmark?

The last piece of evidence in this section may be a function of how certain averages are calculated or how information is reported in the WTO Tariff Download Facility. Still, completeness requires that I report these results. As the fifth column of Table 1 reveals, with the exception of Mexico and the United Kingdom, every other G20 member appears to have some applied tariffs on manufactured goods that exceed their bound rates. This phenomenon appears to be most prevalent in the three G20 members that have the tightest distributions of import tariff binding overhang and low average bound import tariffs on manufactured goods—namely, the EU, Japan, and the United States. If these three G20 members are breaking their tariff bindings as often as the data presented in Table 1 implies, then it casts further doubt on whether existing multilateral trade obligations actually curtails unilateral commercial policy choice. Since tariff obligations are the clearest cut, easiest to understand multilateral trade obligation, if there are concerns about their efficacy then what does that imply about the likely efficacy of other more complicated, potentially more contested, and harder to monitor multilateral trade obligations?

5. Evidence of falling resort to DSU by G20 members

One reaction to the evidence presented here is that much of it is besides the point now that the Appellate Body stage of the WTO DSU has gone into abeyance. Here I consider the argument that without an effective DSU, there is no deterrent to breaking multilateral trade obligations. Unfavourable Panel decisions can be appealed (as the saying goes) “into the void”, which in turn undermines the incentive to bring DSU cases in the first place. With no threat of enforcement, the argument might proceed, why should an errant government refrain from taking steps to thin commercial ties or to decouple?

Again, I will invoke specific features of the former fully operational DSU to argue that, even if the former Appellate Body stage were restored, then there are good reasons to doubt such deterrence arguments. First, deterrence requires the credible threat of punishment. But the

existing DSU allows an errant government to withdraw an offending measure and not face sanction. Put differently, as I understand it, only if a government refuses to withdraw an offending measure can the harmed party withdraw concessions. In which case, one cannot argue that a government intending on breaking a multilateral trade obligation for a certain finite period of time, which could be years, will be deterred by DSU. It is the very fact that sanctions are not imposed on governments that come back into line with their multilateral trade obligations that induces voluntary compliance after the dispute settlement process is completed. Sanctions in the former system incentivise coming back into compliance. They do not deter rule-breaking in the first place.

A second practical consideration can be referred to as the Glass House Syndrome. As the saying goes, those who live in glass houses should not throw stones. In the present context the owners of the houses are the G20 members that have contributed to the build-up of trade distortions witnessed since the Global Financial Crisis. Government A may be frustrated with the commercial policy measures of government B but refrains from bringing a case because government A knows that government B has plenty of information on the harmful commercial policy intervention by government A. Since under the DSU only WTO members can bring cases against one another, the Glass House Syndrome can account for why over time some WTO members bring fewer and fewer cases against each other relative to the amount of bilateral trade between them.

Johannes Fritz and I explored this hypothesis in the 24th Global Trade Alert report and I restate the results here (with the help of Figures 21 and 22). In the years before the Appellate Body could no longer function, from 2005, on the number of cases brought by G20 members against other G20 members was stable (see the dotted blue line in Figure 21). The annual totals of the number of cases brought to DSU did not keep up with the growth of intra-G20 trade, implying that every billion U.S. dollars of intra-G20 trade was less and less likely to trigger a dispute (see the dotted brown line in Figure 21).

This relative decline in the resort to DSU by the G20 members was associated with growing shares of bilateral trade among the G20 being covered by policies likely to impede market access (Evenett and Fritz 2019). The heat map in Figure 22 shows the percentage of an affected G20 member's exports that face market access impediments in an implementing nation, which in this case is another G20 member. Using a traffic light system, the darker the orange and the more red the cell the more market impediments there are. Looking up and down the columns of Figure 22 reveals which G20 members are likely to be discouraged to bring DSU cases

against other G20 members that “have the goods” on them (that is, are likely to have motive and the material to launch a countersuit.) On this metric, China, India and the European Union probably have the most to fear; Australia, Japan, and Mexico the least.

In sum, restoring the DSU to its former glory is unlikely to add much deterrence value to existing multilateral trade rules. Governments seeking to implement time-limited discriminatory measures won’t be deterred in the first place. But since the context here is a potentially decades-long geopolitical rivalry, then such shorter-term arguments may have less force. Even so, the Glass House Syndrome and the considerable build-up over time of G20-on-G20 commercial harm will discourage resort to WTO dispute settlement to counter state-induced moves towards deglobalisation.

6. Assessment of the evidence: Can the WTO form a defensive wall around pressures to deglobalise?

The evidence presented in this paper implies that we should moderate our expectations as to how far existing multilateral trade rules can limit state-induced deglobalisation. The WTO rule book is incomplete—for example, there are no rules on digital trade. Rules on foreign direct investment are patchy. Where multilateral trade rules have been agreed, they allow many governments significant leeway to fragment markets (recall the size of the import tariff binding overhangs), or contain exceptions (recall the Article XI exceptions and those pertaining to national security) or they can be honoured more in the breach (recall the evidence on the build up of corporate subsidies.) Even when the rules were subject to dispute settlement, foundational principles—such as the MFN tariff treatment—have been simply ignored by major trading nations.

The best that can be said about the current multilateral trade rulebook is that, to date, many governments (of mainly small and medium-sized economies) have chosen not to openly violate their commitments. Pressures to favour national interests have been channelled away from transparent forms of trade discrimination (such as import tariffs) to less transparent forms of selective intervention (corporate subsidies, government procurement measures, export controls and the like.) This shift towards harder to detect and less closely observed commercial policy intervention may have created the impression of a system capable of deterring government steps that fragment markets. The public revocation of MFN tariff treatment for most of China’s exports by the United States shattered that illusion. China’s retaliation and the enduring breach

of the MFN principle have not been lost on observers either. Furthermore, the manner in which governments reacted to the crises of recent years and to intensifying geopolitical rivalry suggest little interest among the larger trading nations in returning to rules of the game agreed at the end of the Uruguay Round thirty years ago.

That multilateral trade rules are not likely to be an effective bulwark against conscious efforts to fragment markets or to offers of inducements to move factories across borders does not imply that these are desirable policy interventions. Indeed, that so many governments have chosen not to abandon the MFN principle and that dozens of WTO members chose to lower trade barriers on medical goods and food during the crises of recent years suggests that unilateral commercial policy is not always moving in a discriminatory direction. My conclusion here is that, for better or for worse, we have reached a point where governments have options that are no longer meaningfully constrained by multilateral trade rules. Of course, these findings makes a mockery of the mantra that governments have insufficient policy space.

Given the absence of meaningful multilateral constraint, it is difficult to assess how far deglobalisation will go. Some of those advocating deglobalisation expect intensified regional trade links will result (Foroohar 2022). On the face of it, such regionalisation calls for a reorientation of trade flows, not isolationism. However, history teaches us that less commercial engagement with geopolitical rivals and stronger trade ties within blocs can turn out to be a way station on the road to full scale isolationism (de Bromhead et al 2019). Still, in principle regional trade agreements could deter state-led deglobalisation—although that proposition ought to be evaluated on a case-by-case basis.

So if multilateral trade rules cannot do the job of discouraging deliberate deglobalisation, what can? The decisive battles over unilateral policy will take place in national capitals. With intensifying geopolitical rivalry, we can reasonably expect that national security and foreign policy officials are likely to play a greater role in shaping commercial policymaking. To many of the former cross-border commercial ties are said to be a source of risk so little discouragement to deglobalise can be expected from that quarter. To many of the latter, trade policy is, at best, part of second order diplomacy, to be invoked symbolically and not because of any expectation that curbing trade will actually change a foreign government's actions.

The most likely countervailing power comes from that part of the business community which has a significant stake in open global trading system. Whether enough senior executives are willing to do so is an open question. The Census of the United States reports that just 0.4% of

American exporters sell in 50 or more foreign nations. Renault was unable to resist pressures from the French government to sell its subsidiary in Russia even though that commercial operation accounted for a large share of its global footprint. In contrast, German automobile producers see China as their largest source of sales growth in the decade ahead. Much will turn on what priority is given by senior executives to maintaining access to foreign markets. That priority may be demoted if firms call on government support in response to further macro disruption, to the ongoing energy transition, and to other societal imperatives or should business models shift away from relying heavily on scale. No supporter of an open trading system should be content with this fragile situation.

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Figure 1: Revocation of MFN tariff treatment has been sustained.

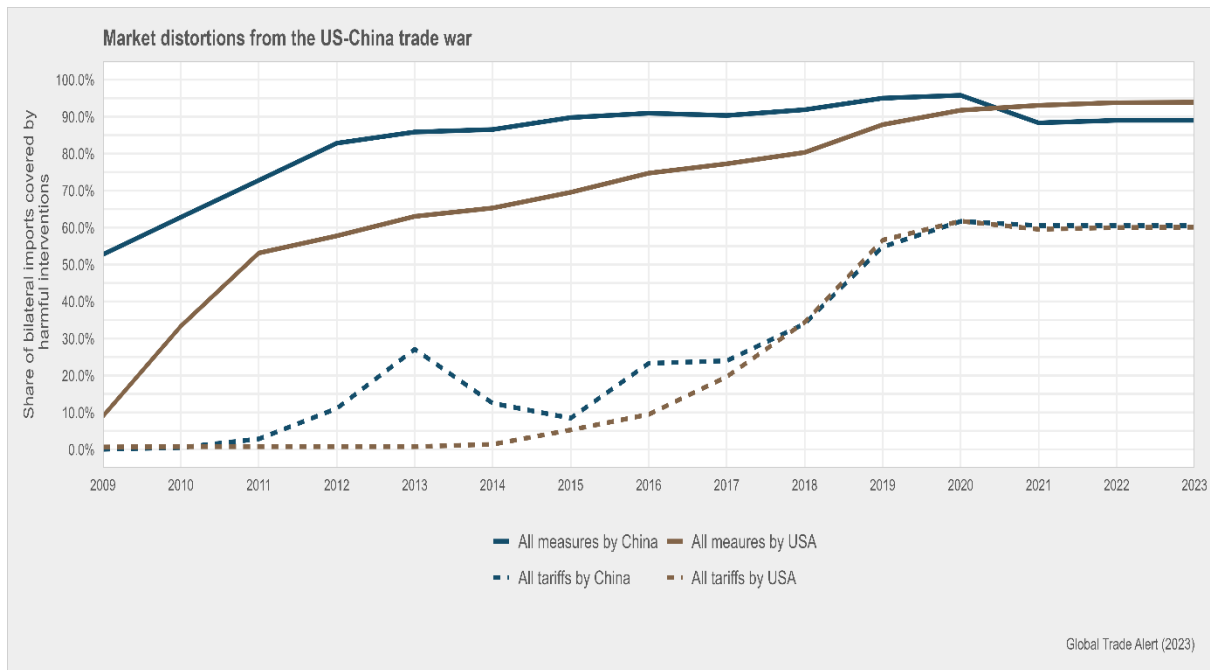


Figure 2: Three years after the outbreak of COVID-19, many “temporary” export bans remain in force.

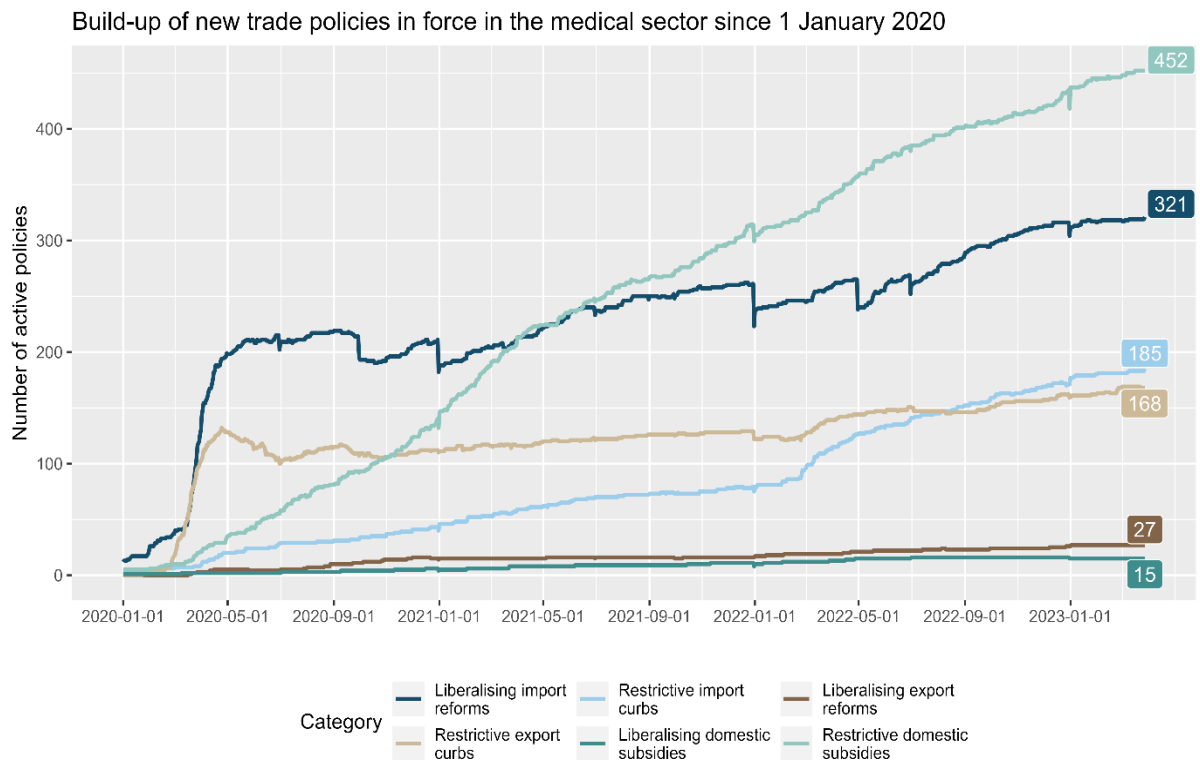
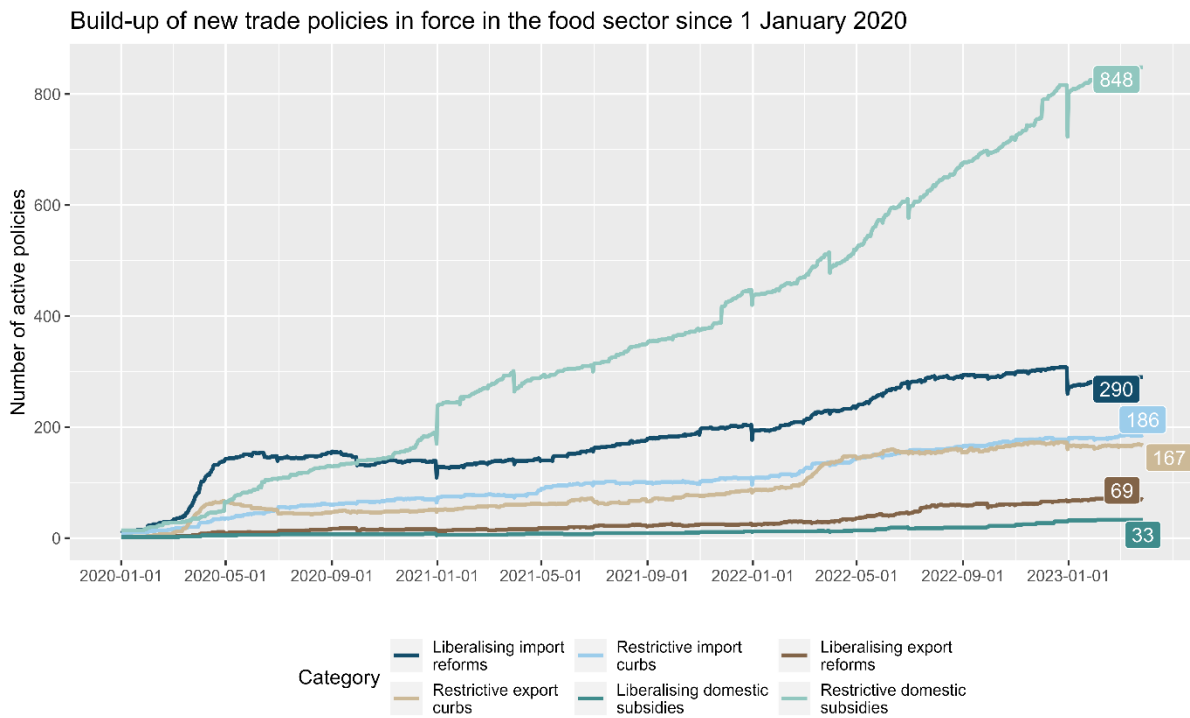


Figure 3: The fallout from attempts to weaponise food trade is more export controls, higher import tariffs, and subsidies to local producers—showing the emphasis on domestic food suppliers.



Source: Global Trade Alert, April 2023 release

Figure 4: Existing WTO rules have not prevented a significant build up of corporate subsidies in traded goods sectors.

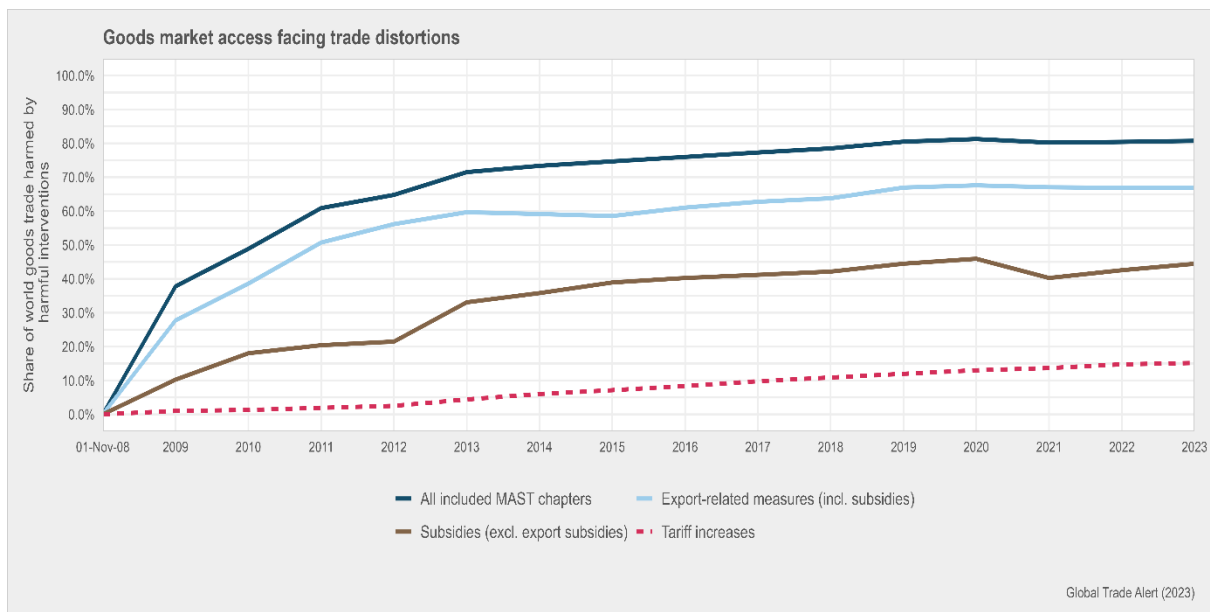


Table 1: In addition to huge import tariff binding overhangs for many G20 members and significant variation in the percentage of NAMA tariffs bound, only Mexico does breach tariff bindings.

Country	Binding coverage	Simple Mean duties			Duty-free		Non ad valorem duties		Duties > 15%		Maximum duty		Number of MFN applied tariff lines
		Bound	MFN applied	Number of Tariffs where Applied > Bound	Bound	MFN applied	Bound	MFN applied	Bound	MFN applied	Bound	MFN applied	
Argentina	100	31.6	13.9	16	0	6.3	0	0	98.2	38.3	35	35	9713
Australia	96.8	10.5	2.6	15	22	48	0.9	0	14.5	0	55	5	5628
Brazil	100	30.7	13.8	17	0.7	4.8	0	0	96.5	38.2	35	35	9237
Canada	99.7	5.1	2.1	25	39	79.3	0.3	0	6.7	6.2	20	25	5560
China	100	9.1	6.5	79	6.6	8.6	0	0.3	13.3	1.4	50	50	7465
EU	100	4.1	4.1	332	30	28.6	0.5	0.5	1.6	1.5	26	26	7392
India	70.1	36	14.9	32	2.6	1.8	5.7	5.5	67	28.6	150	328	10383
Indonesia	95.5	35.8	8	29	2.2	13.8	0	0	89.4	9.8	60	150	9443
Japan	99.6	2.5	2.5	216	55.9	55.9	1.7	1.9	0.8	0.7	473	297	7716
Mexico	100	34.8	6	0	0.2	52.3	0	0.4	99.2	7.3	156	50	6896
Russia	100	7.1	6.1	45	3.4	16.7	7	6.9	0.8	0.8	121	121	9600
Saudi Arabia	100	10.4	5.6	91	8	8.5	0.1	0.4	0.4	0.4	20	20	13032
South Africa	92.9	15.6	7.6	5	12.8	62.5	0	0.9	32.9	20.3	50	744	6874
South Korea	92.5	9.9	6.6	42	18	18.9	0	0	11.9	3.9	50	50	10745
Türkiye	43	17.2	5.8	72	3.3	23.8	0.1	0.6	20.4	6.1	100	82	9229
United Kingdom	100	4.1	3	NA	29.7	54.6	0.5	0.3	1.6	1.4	26	25	7401
USA	100	3.2	3.1	154	49.8	50	3.2	3.1	2.3	2.2	57	57	9906

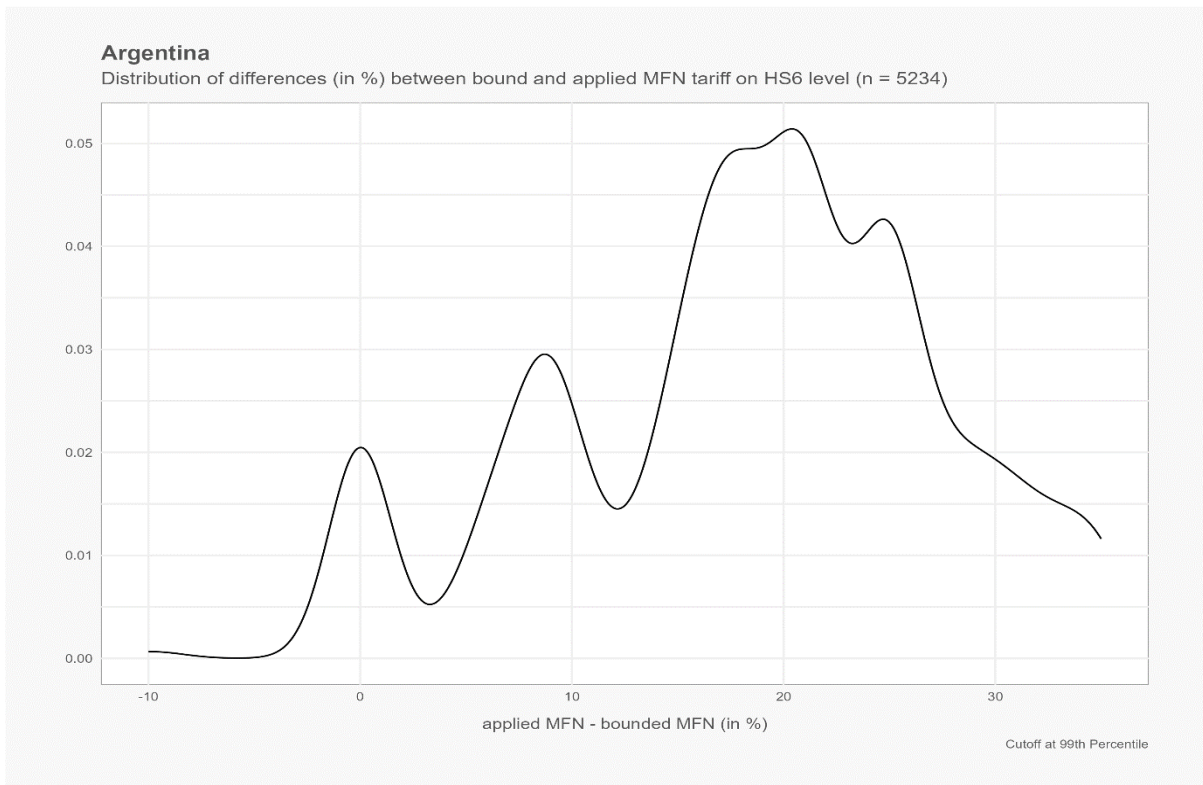
Source: WTO World Tariff Profiles 2022.

Table 2: Tariff overhangs are larger in agricultural products than in NAMA.

Country	Simple Mean duties			Duty-free		Non ad valorem duties		Duties > 15%		Maximum duty		Number of MFN applied tariff lines
	Bound	MFN applied	Number of Tariffs where Applied > Bound	Bound	MFN applied	Bound	MFN applied	Bound	MFN applied	Bound	MFN applied	
Argentina	32.5	10.3	16	0.2	7.3	0	0	95.2	15.1	35	35	1080
Australia	3.2	1.2	4	33.1	76.8	1.6	0.9	3.1	0.3	29	22	856
Brazil	35.5	10.1	6	2.7	7.1	0	0	95.7	14.4	55	35	1064
Canada	16.1	15.9	25	48	68.5	18.4	11.1	9.1	9	559	559	1266
China	15.7	13.8	57	5.9	7.2	0	0.3	35.5	27.3	65	65	1175
EU	12.6	11.7	119	30.4	31.7	33.2	31.6	25.1	23.5	360	160	2101
India	113.1	39.2	1	0	2.9	0.3	0.3	98.3	94.7	300	150	1524
Indonesia	47.3	8.7	0	0	8.5	0	1.4	99.5	9.6	210	150	1369
Japan	18.4	14.9	172	34.1	35.8	15.1	13.2	23.5	21.6	628	628	1866
Mexico	46.4	13.5	3	0.4	22	7.9	4.8	95.6	38.7	254	75	905
Russia	10.8	9.7	65	3	10.3	22.9	24	7.6	7.3	106	106	2709
Saudi Arabia	17.8	10.7	4	0.1	22.5	8.9	9.8	6.3	6	>1000	>1000	1998
South Africa	39	8.8	2	22.5	46.1	0	13.7	71.8	22.6	597	110	1185
South Korea	64.9	56.8	20	2	5.5	5.3	3.1	76.5	53.1	887	887	1731
Türkiye	61.8	41.1	13	0	18.1	0	0.5	87.7	64	225	225	2272
United Kingdom	12.5	10	NA	30.4	39.5	33.2	26.4	25.6	21.6	331	143	2127
USA	4.5	5.2	33	30.7	30.6	42	41.7	4.9	5.5	350	350	1705

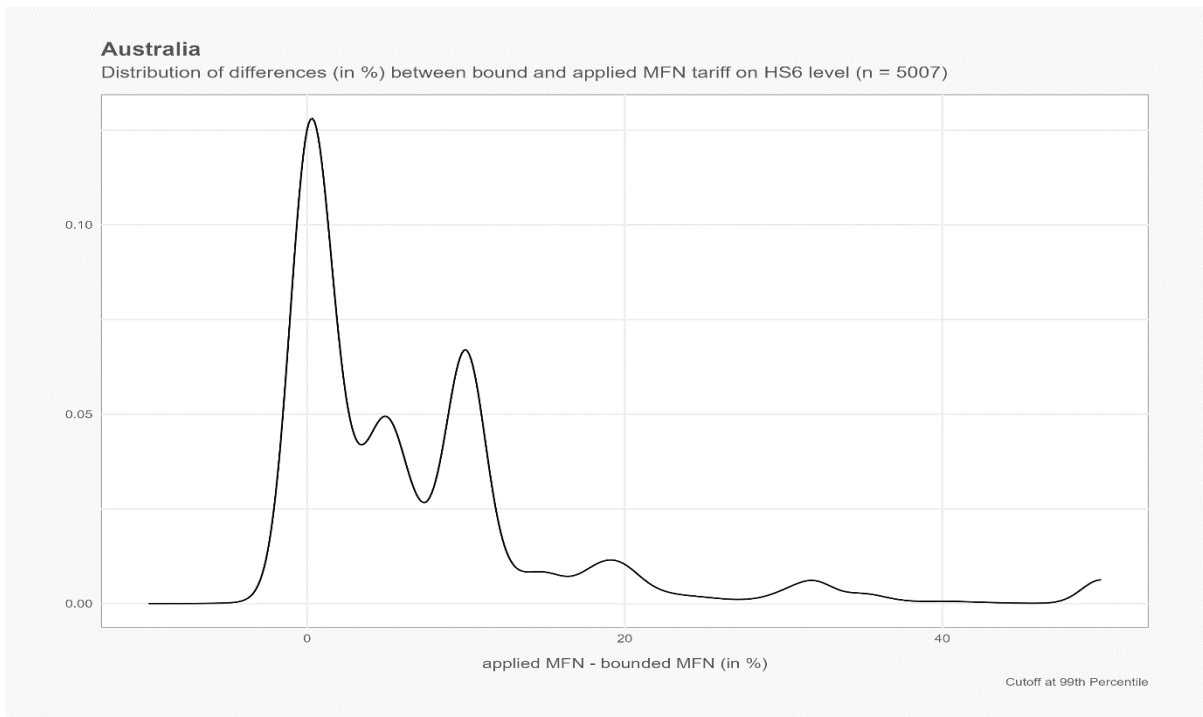
Source: WTO World Tariff Profiles 2022.

Figure 5: Argentina has significant leeway to legally raise its import tariffs under current WTO rules.



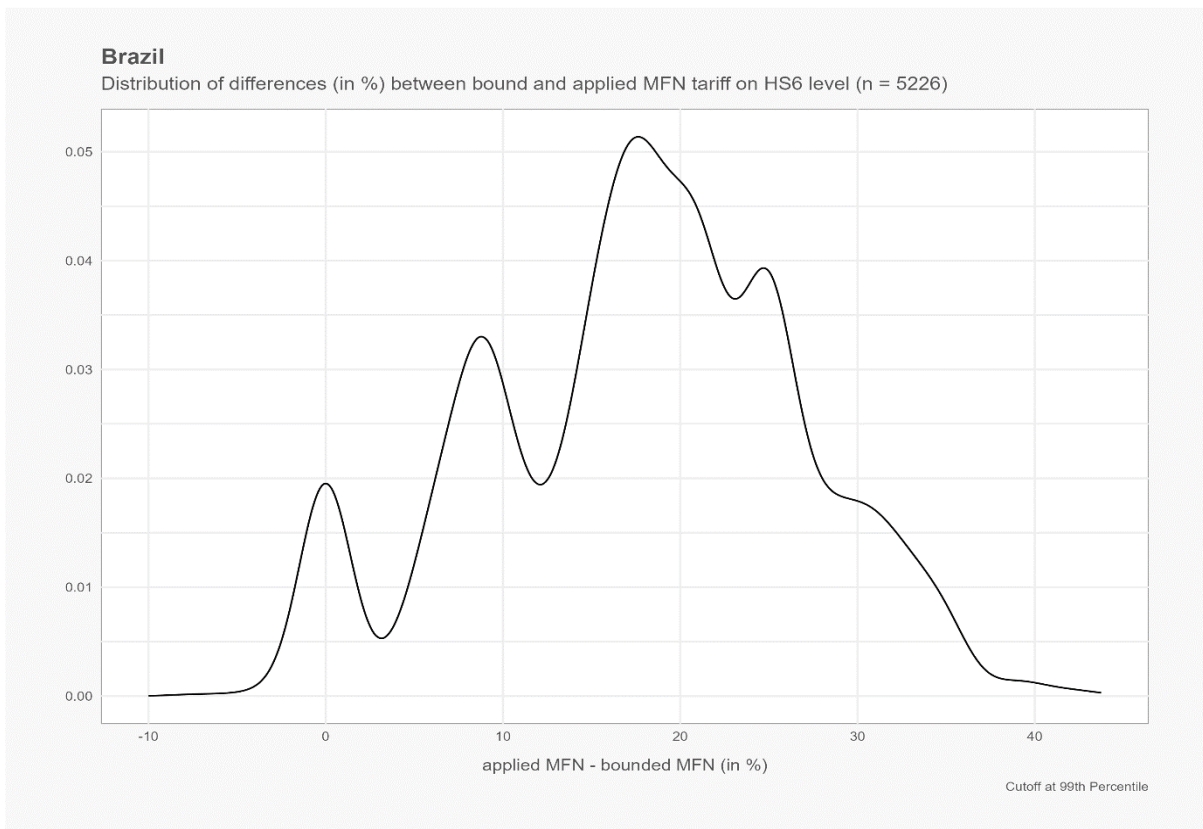
Source: WTO, *Tariff Download Facility*, latest available data.

Figure 6: Australia could implement the Smoot Hawley tariff increase and not violate WTO rules.



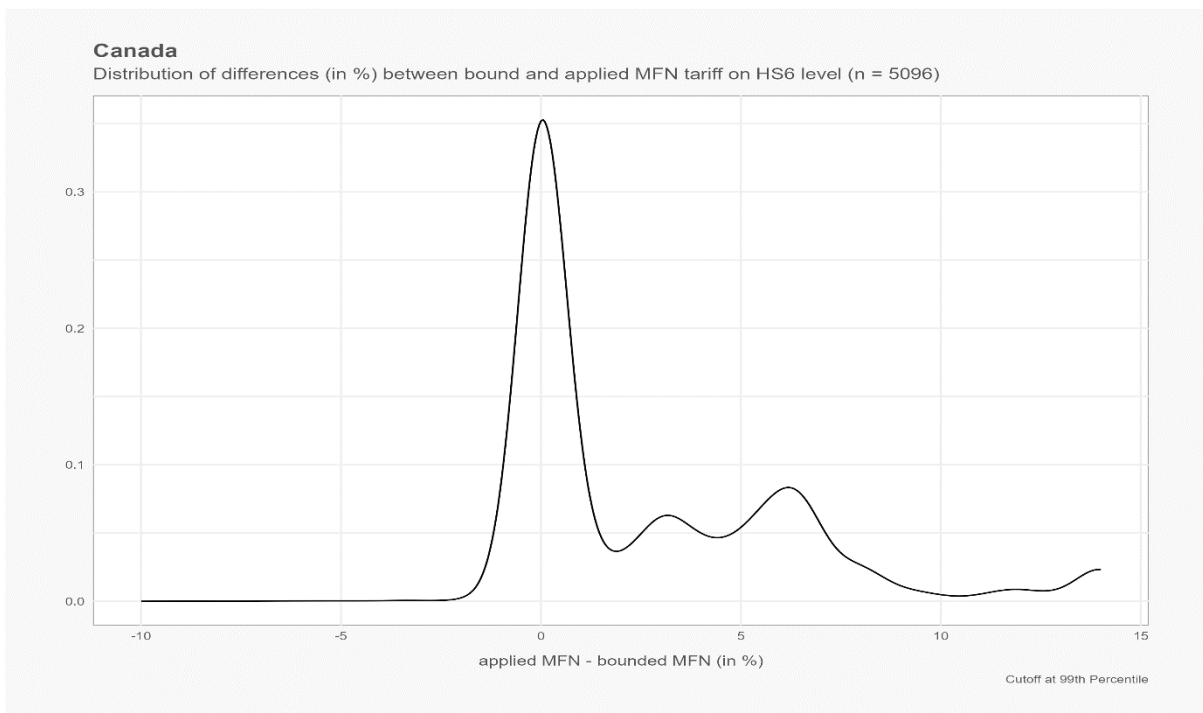
Source: WTO, *Tariff Download Facility*, latest available data.

Figure 7: Brazil could raise significant shares of its import tariffs by 20% or more.



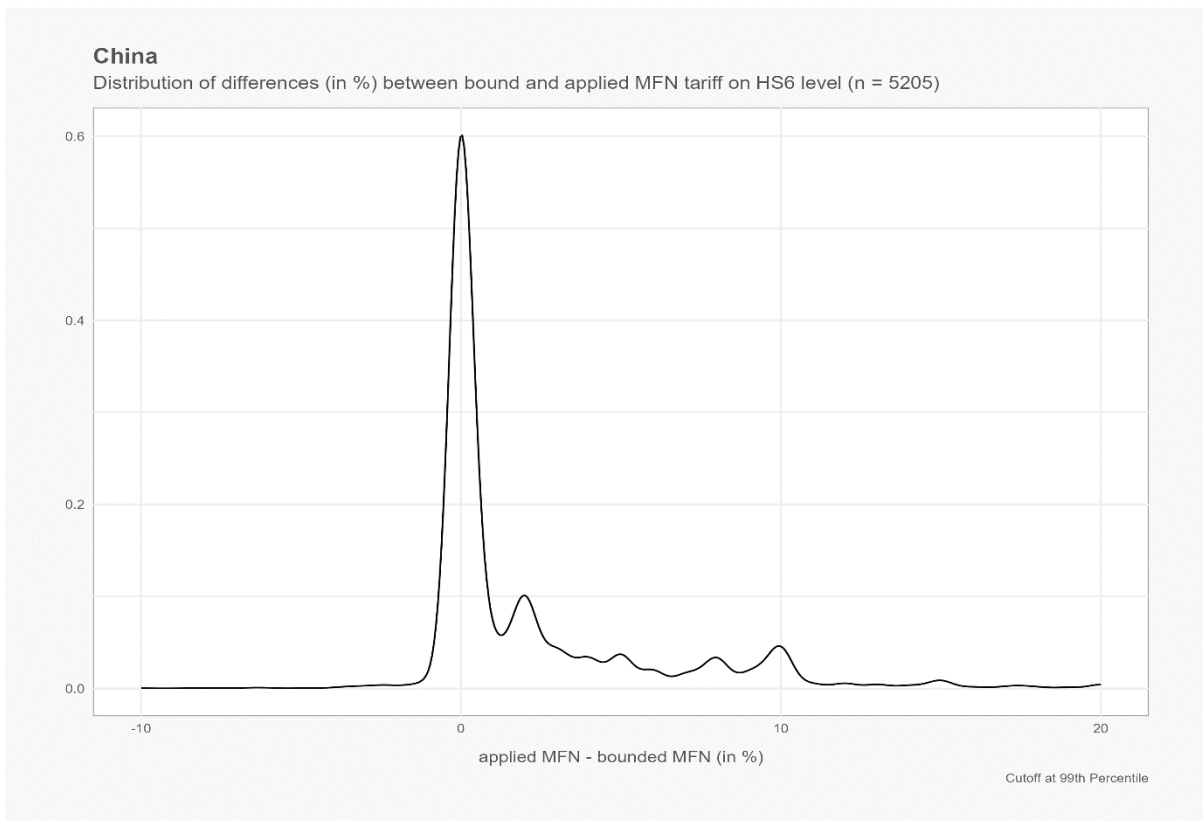
Source: WTO, *Tariff Download Facility*, latest available data.

Figure 8: Canada's low average tariff overhang still allows for some significant legal tariff increases.



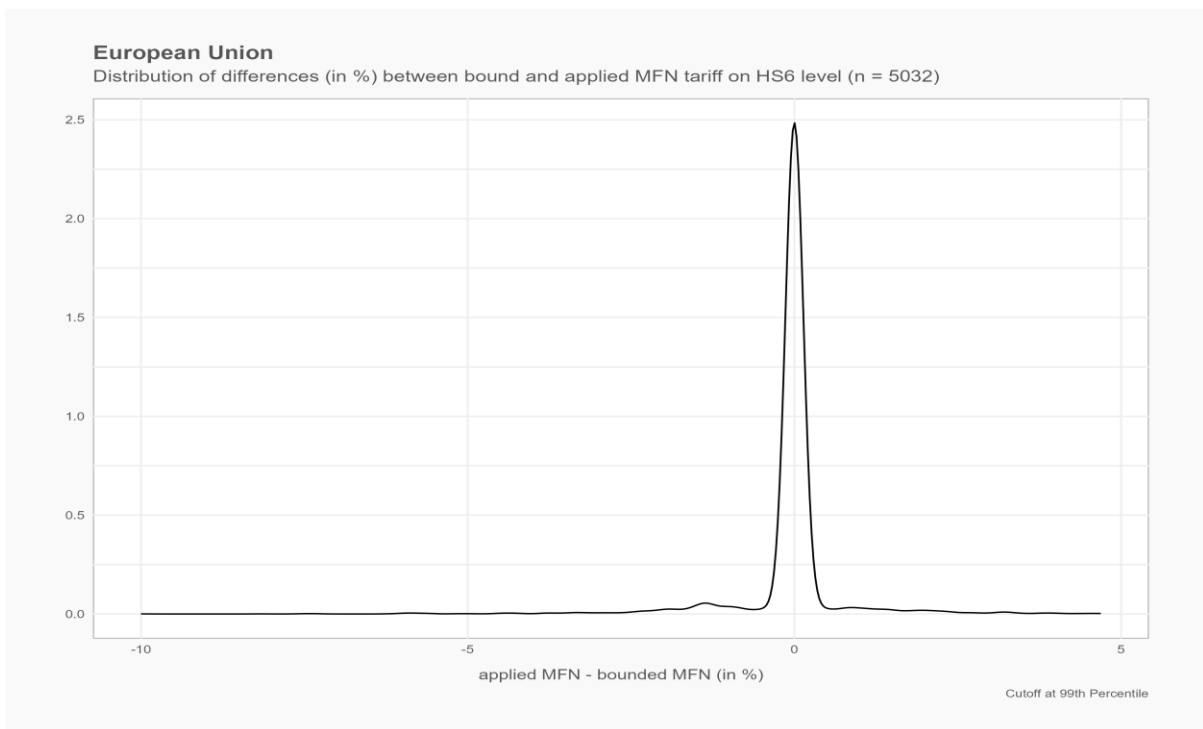
Source: WTO, *Tariff Download Facility*, latest available data.

Figure 9: China could raise nearly a third of its import tariffs by up to 10%.



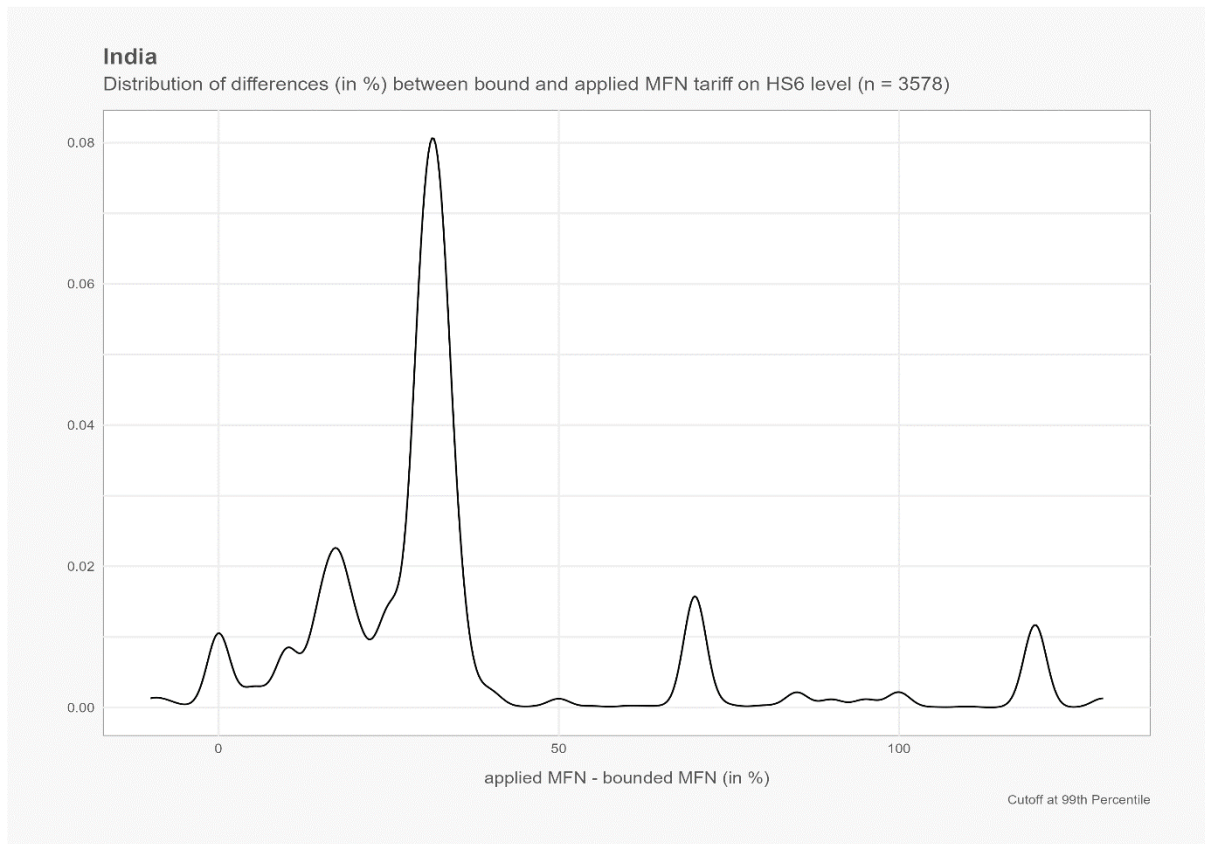
Source: WTO, *Tariff Download Facility*, latest available data.

Figure 10: The EU has exhausted its ability to raise import tariffs further without breaking WTO rules.



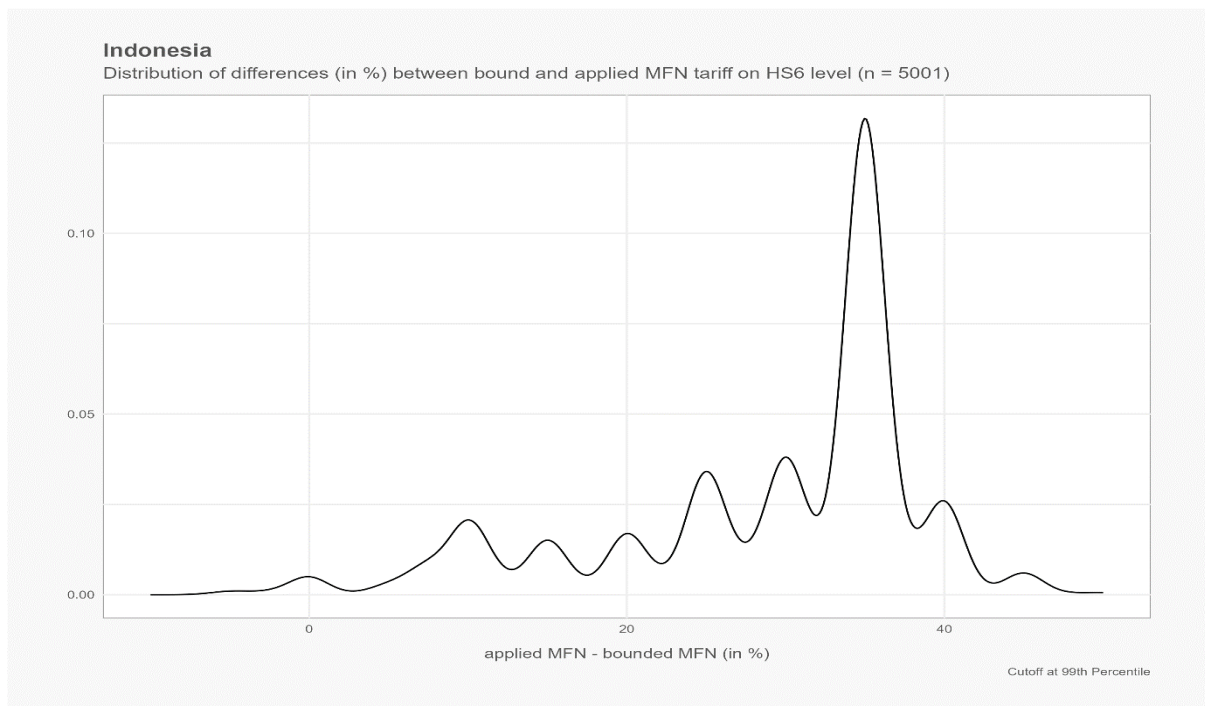
Source: WTO, *Tariff Download Facility*, latest available data.

Figure 11: India could legally raise its import tariffs by multiples of the Smoot Hawley tariff hike.



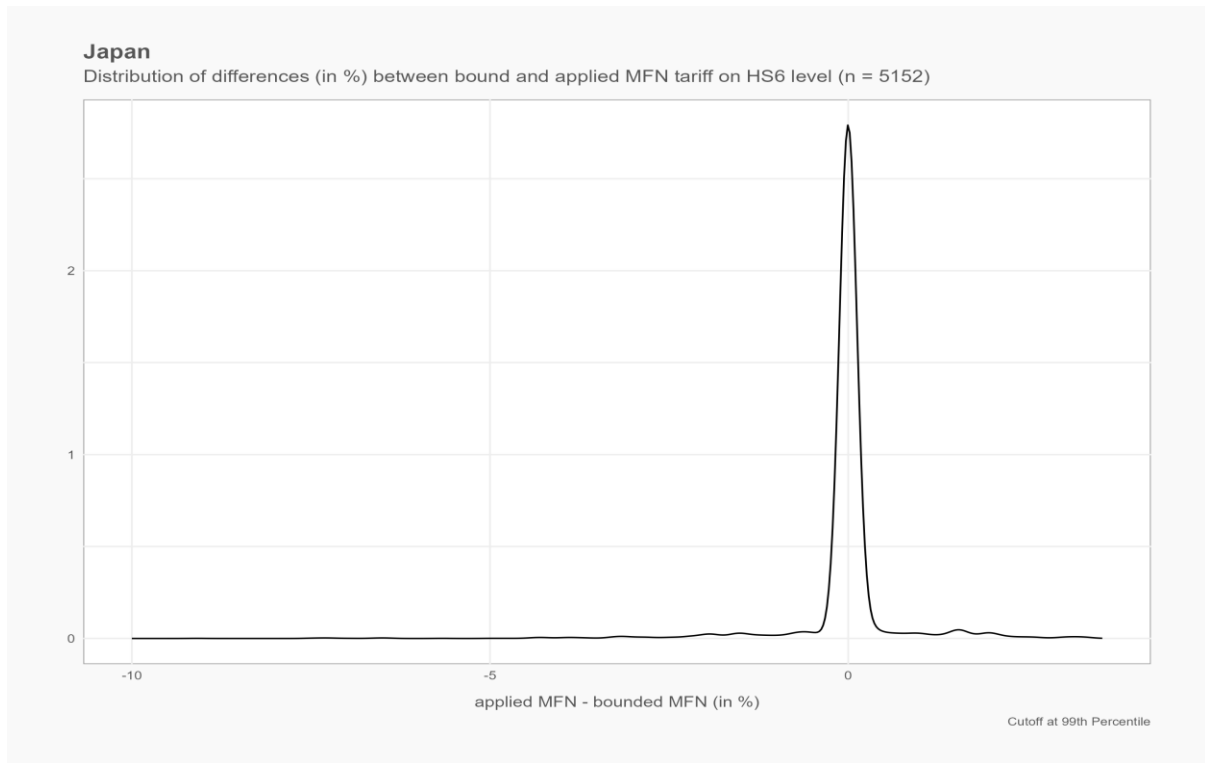
Source: WTO, *Tariff Download Facility*, latest available data.

Figure 12: As far as import tariffs are concerned, Indonesia retains significant policy space.



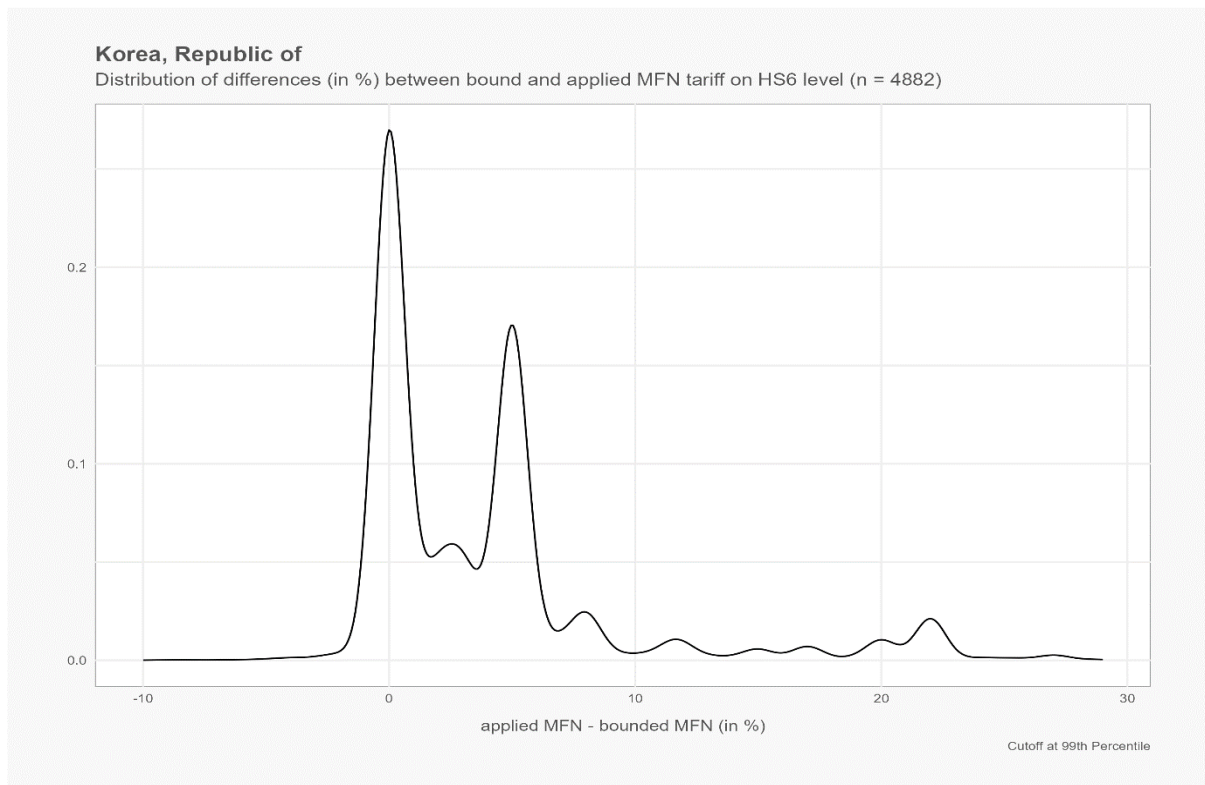
Source: WTO, *Tariff Download Facility*, latest available data.

Figure 13: Like the EU and the United States, Japan has exhausted its capacity to legally raise tariffs.



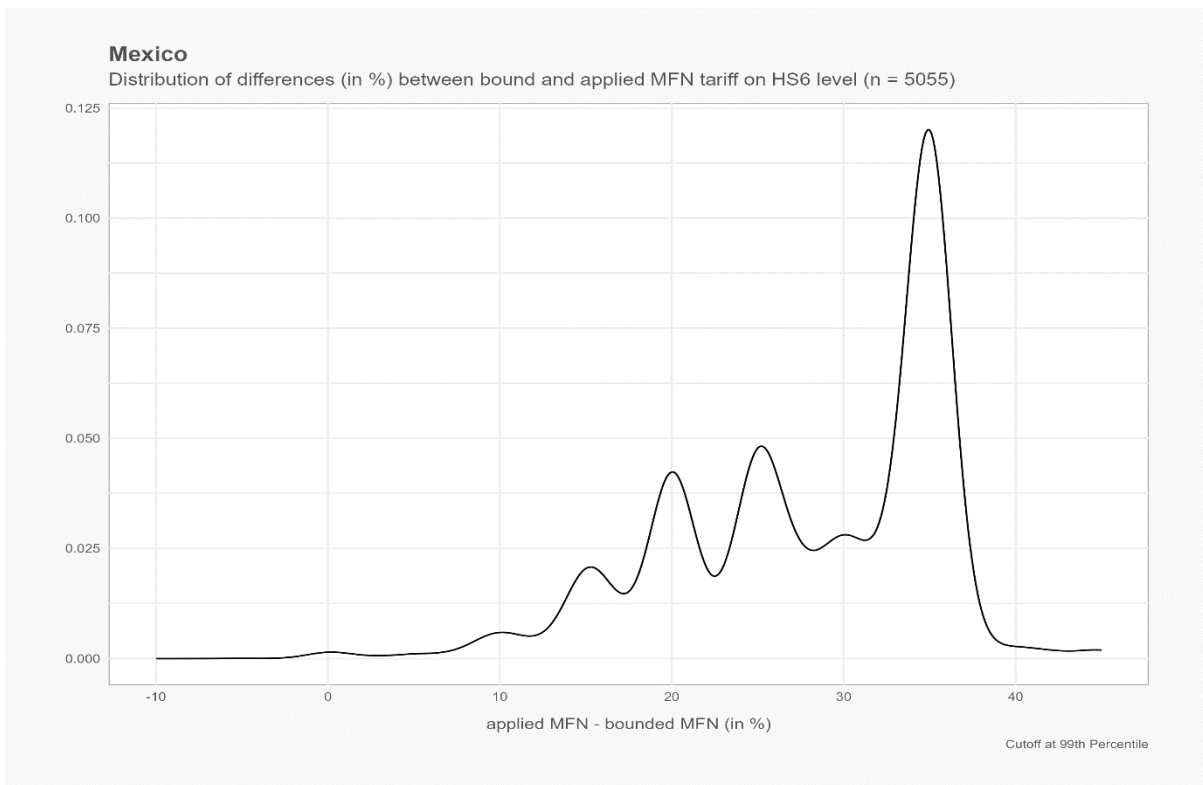
Source: WTO, *Tariff Download Facility*, latest available data.

Figure 14: Korea can legally raise import tariffs on a wide range of imports.



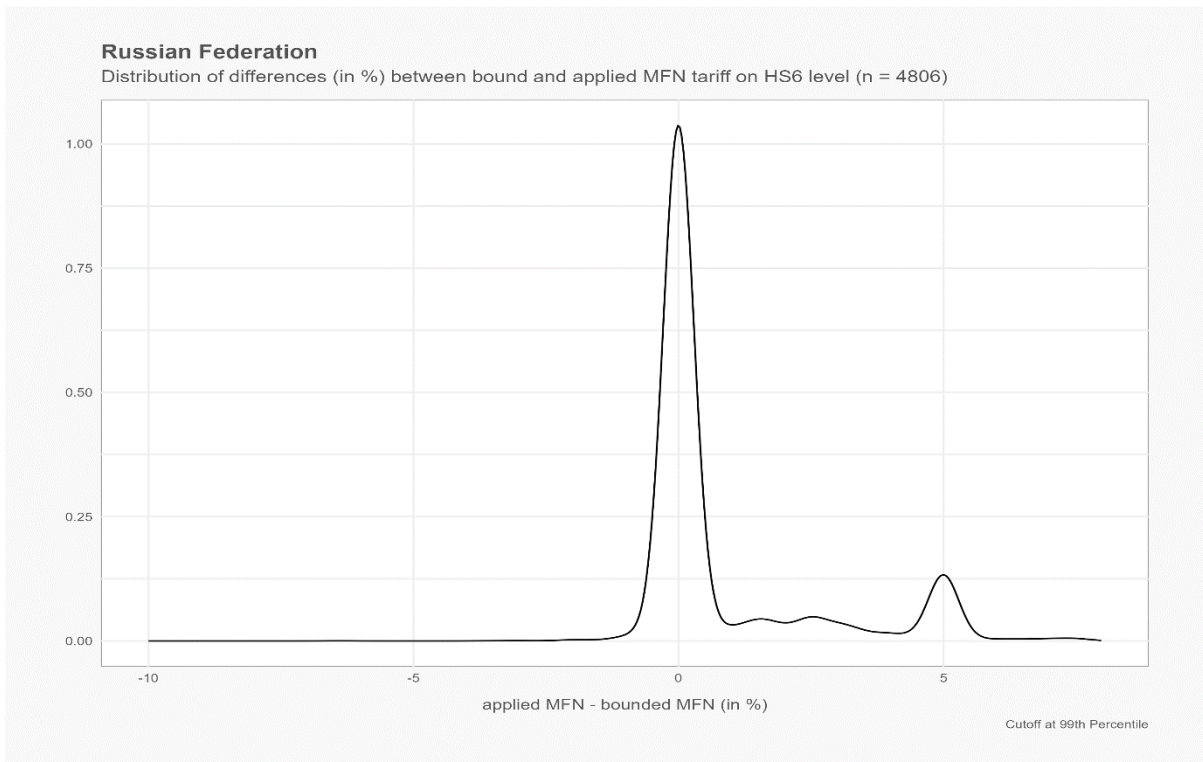
Source: WTO, *Tariff Download Facility*, latest available data.

Figure 15: Mexico's WTO tariff schedule presents little constraint on tariff increases.



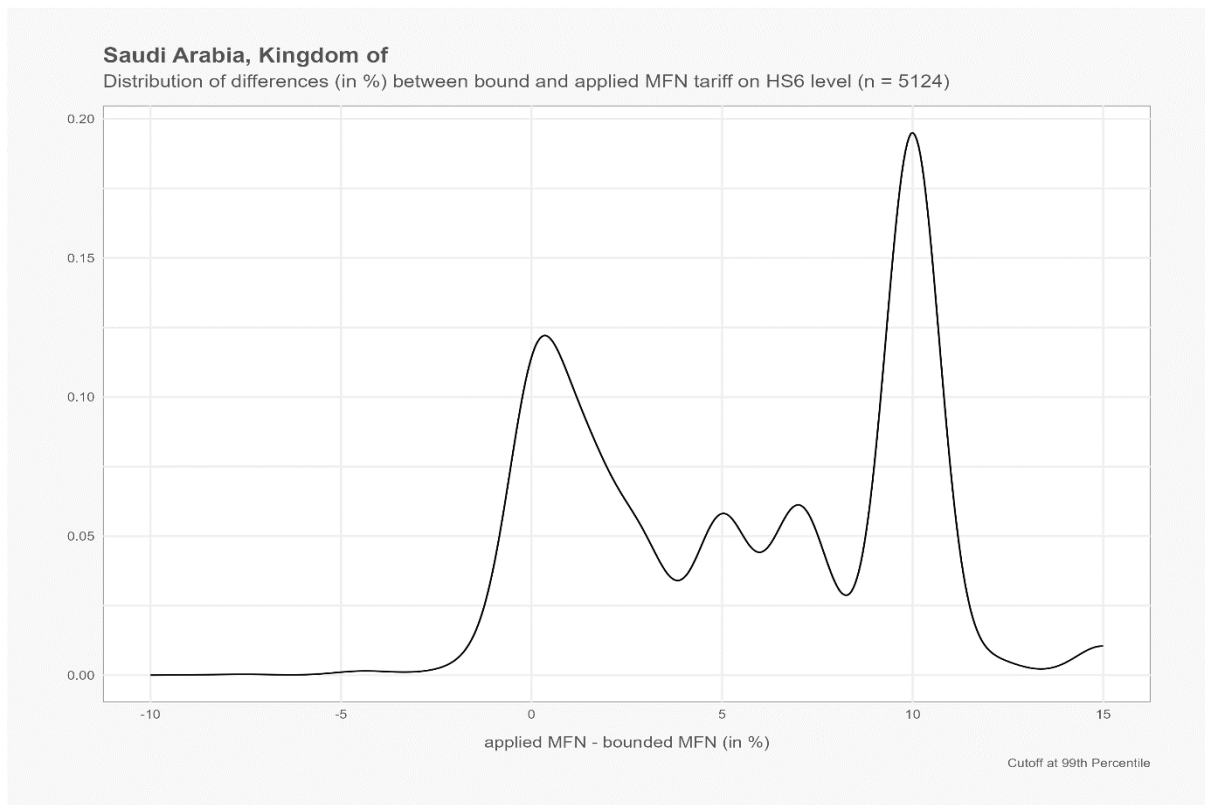
Source: WTO, *Tariff Download Facility*, latest available data.

Figure 16: Compared to many other G20 members, Russia has less leeway to legally raise import tariffs.



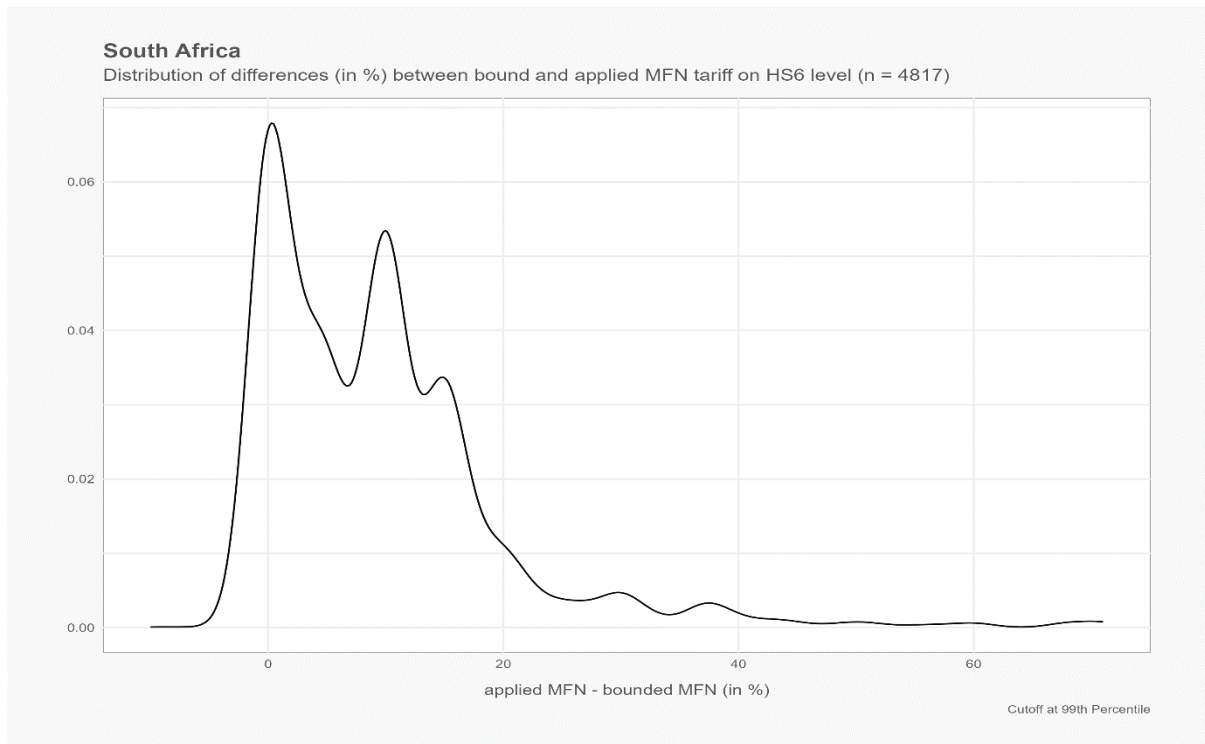
Source: WTO, *Tariff Download Facility*, latest available data.

Figure 17: Many Saudi import tariffs can be raised by up to 10%.



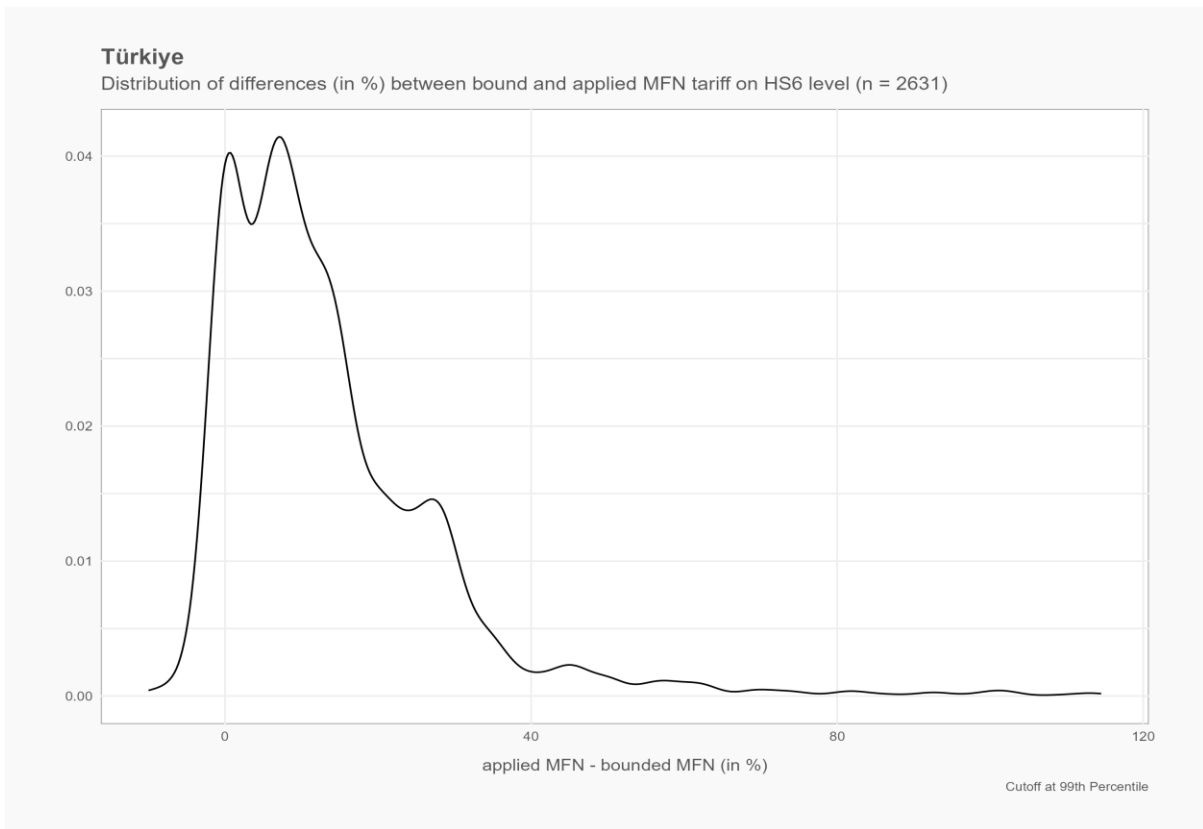
Source: WTO, *Tariff Download Facility*, latest available data.

Figure 18: South Africa could copy the Smoot Hawley tariff hike and not violate WTO obligations.



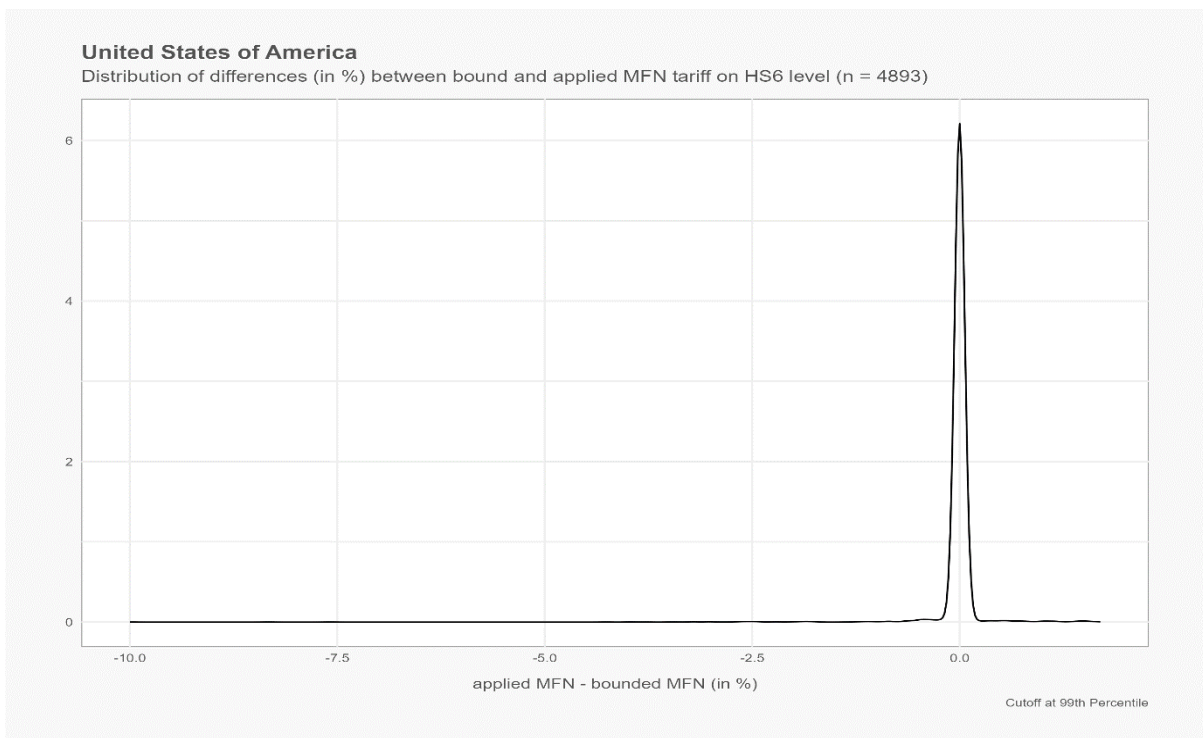
Source: WTO, *Tariff Download Facility*, latest available data.

Figure 19: Turkey can raise a significant share of its import tariffs by up to 40%.



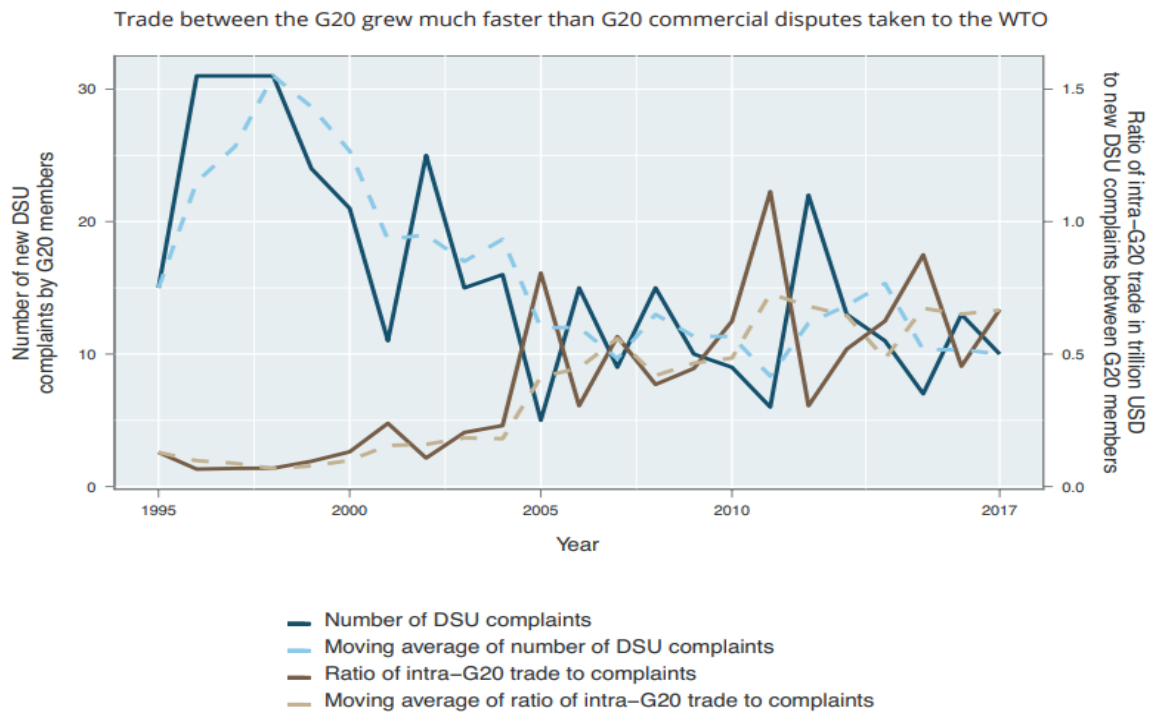
Source: WTO, *Tariff Download Facility*, latest available data.

Figure 20: Like the EU and Japan, the US has no room to legally increase import tariffs.



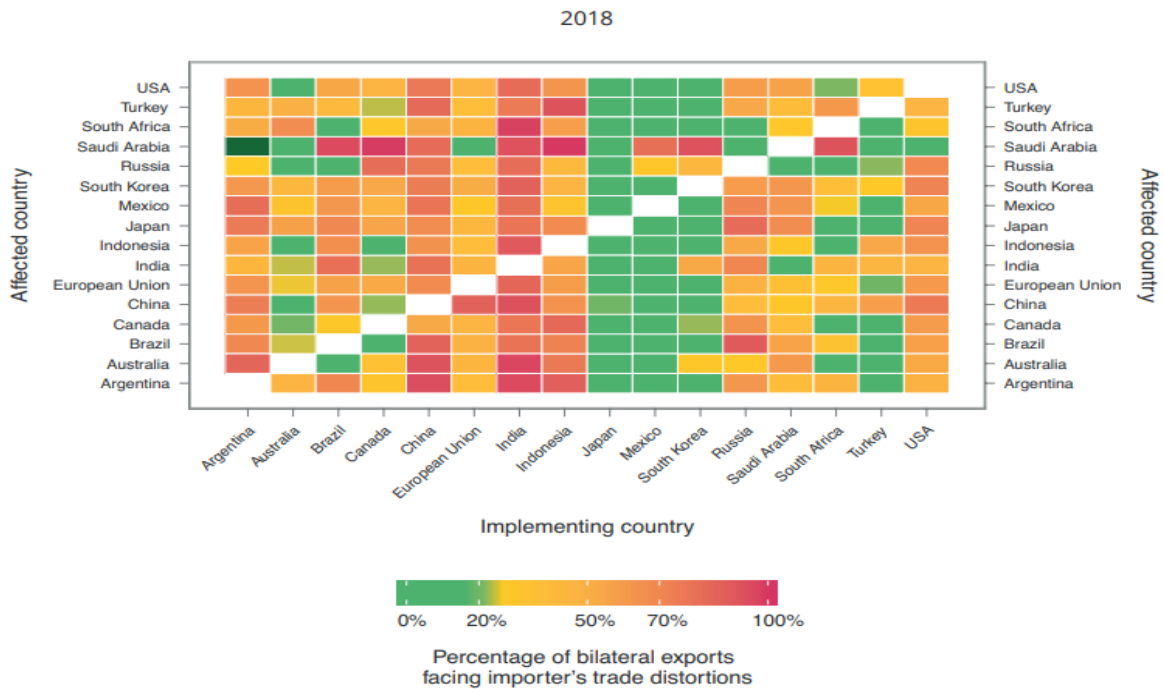
Source: WTO, *Tariff Download Facility*, latest available data.

Figure 21: Even before the Appellate Body ceased operation, G20 members were bringing fewer DSU cases against each other (when benchmarked to the quantum of intra-G20 goods trade).



Source: Evenett and Fritz (2019).

Figure 22: By the time the Appellate Body lapsed, most G20 members could credibly file counter-suits if another member brought a suit in the first place.



Source: Evenett and Fritz (2019).