

Developing a More Inclusive US Trade Policy at Home and Abroad

Kimberly Ann Elliott

Abstract

American policymakers have failed to adequately respond to concerns about globalization's effects and the resulting backlash has taken an ugly turn in recent years. While globalization is only one of many factors contributing to economic dislocation, sluggish wage growth and inequality in the United States, foreigners, and developing countries in particular, are frequently the target of those who are frustrated at being left behind. Yet few realize that US trade policy effectively discriminates against poorer countries. In addition, provisions in trade agreements that tilt the playing field in favor of business interests over those of American consumers and workers also often undermine development priorities in partner countries. American policymakers should rethink the substance and process of trade policy and negotiations to spread the benefits more broadly, at home and abroad.

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Introduction

The long-simmering backlash against globalization has taken an ugly turn, with populists pitting different ethnic and social groups against one another. While technology has been an important driver of dislocation and of globalization—lowering transportation, communication, and other costs of trade—it is often easier to blame foreigners. Riding into office on this wave of populist discontent, President Donald Trump responded by lashing out with increased tariffs. While many of the tariffs affect all imports, and target China in particular, US trade data suggests these tariffs are hitting the poorest countries the hardest (Bown et al. 2018).

A key question, then, is how to respond effectively and fairly to the legitimate concerns of Americans negatively affected by trade, without penalizing the poor in developing countries that are also struggling to provide for their families. Globalization tends to favor internationally mobile capital over relatively immobile labor, and more highly educated workers over those with less.¹ Therefore, a more effective strategy than blaming other countries, would be one that compensates the losers and ensures the benefits of globalization are spread more widely. Such a policy agenda could include a more robust safety net, support for union organizing, and education, health care, and pension policies that help more workers prosper under globalization and technological change.²

While getting this domestic agenda right is critical to reviving support for open markets, American policymakers also need to rebalance trade policy to be fairer and more inclusive. The US economy is quite open on average, but the barriers that remain discriminate against poor workers abroad and poor consumers at home. And trade preference programs aimed at promoting development in poorer countries do little to offset this discrimination in practice.

The US approach to negotiating preferential trade agreements (PTAs) has also become increasingly skewed, prioritizing the interests and concerns of corporations over those of workers and consumers, and pushing PTA partners to accept provisions that may not be optimal for inclusive economic development. Increasingly, trade negotiations entail efforts to harmonize standards or otherwise remove behind the border barriers that are not directly trade-related. These regulatory “barriers” are at least nominally aimed at achieving broad public goals of improving food safety, reducing financial instability, or ensuring access to essential drugs. While everyone would benefit from reducing costly or unnecessary regulations, the right balance between costs and benefits in a given situation is seldom obvious. At a minimum, trying to strike that balance in the context of a trade agreement focused primarily on reducing trade costs undermines public confidence in the outcome.

¹ Rodrik (1997, pp. 13-24) provides a succinct discussion of both foundational and newer trade theories, as well as empirical studies, on how globalization can favor capital over labor, especially for lower wage workers in relatively rich countries. Harrison (2005) also analyzes extensive, cross country data and finds that rising trade shares are associated with lower labor shares of income relative to capital.

² Lindsey et al. (2018) and Alden (2016) illustrate two perspectives from the burgeoning literature on these issues.

A problem with this approach from the perspective of developing countries is that American negotiators use the same trade agreement template for all countries, regardless of their level of development or economic reform needs (Hoekman 2011). Poorer countries have little leverage in negotiations with the United States and often find themselves accepting provisions that do not reflect public priorities or that they do not have the capacity to implement.

This paper reviews the imbalances in US trade policy and explores ways to address them. It begins by analyzing the role of developing countries in US trade, and how trade policy discriminate against them. It then turns to an analysis of US PTAs and how a rebalancing of the interests and influence of various elements of civil society could give these agreements greater legitimacy. A revival of support for multilateral approaches and increased attention to addressing the weaknesses of the World Trade Organization (WTO) could also help to restore the legitimacy of trade agreements. But that will take time, and requires leadership from key emerging powers as well as the United States.³ In the meantime, and hopefully in conjunction with domestic policy changes, it is time to rebalance US trade policy.

Trade with Poorer Countries as an Opportunity

Developing countries with predominantly low wage workers are frequent targets of trade skeptics.⁴ The unfortunate result is often to pit poor Americans against the poor in other countries. Americans clearly feel a moral imperative to care for the poor in other countries, as demonstrated by their support for foreign aid (when the magnitude is properly understood) and charitable giving.⁵ But there are also economic, political, and national security reasons to provide support for inclusive growth in poor countries, including through trade.

Trade can be an important tool for development in poor countries where domestic markets are too small to stimulate industrial development. Trade and foreign investment are also sources of technology and efficiency-enhancing competition.⁶ And trade with developing countries is important for the US exporters because poorer countries are growing faster than rich ones, both in population and income, and these countries will be key players in the global markets of the future.

World Bank data shows that developing countries grew twice as fast, on average, in 2013-15 as high income countries. Lower middle income countries grew almost three times as fast. More trade barriers against their exports, means less foreign exchange, possibly lower growth and less ability to import from the rest of the world, including the United States. In addition

³ A forthcoming paper will address how to begin rebuilding the credibility and effectiveness of the WTO.

⁴ While China is still, technically, a developing country by most definitions, it has reached upper middle income status and is the world's largest trading country. Thus, I am not including China when I speak of developing countries in this paper.

⁵ When polls or reporters follow up with respondents who think the United States gives away too much in foreign aid, they often find those people also think that aid is a much larger share of the budget than it actually is.

⁶ See, in particular, the chapters by Anderson and Winters in Hoekman, Mattoo, and English (2002).

to the role of developing countries in expanding the global economic pie, more prosperous countries are also generally more stable politically.

Trade with developing countries is not unfair just because wages in those countries are far lower than they are in the United States. While there is no question that workers in some developing countries are harshly, and unfairly, exploited, the nominal wage gap between workers in poorer countries and those in richer ones is due primarily to the lower productivity levels in developing countries with limited infrastructure and lower education levels.

Nevertheless, longstanding concerns about trade with low-wage countries have left their mark on the US trade policy structure. Relatively low wage, labor-intensive sectors were the first to feel significant trade pressures from developing countries with a comparative advantage in those activities, and many of those sectors were relatively successful in resisting the efforts to liberalize trade after World War II. But comparative advantage largely won out in the end. Just as textile and apparel production moved from New England to lower wage southeastern states in the early 20th Century, it now takes place mostly in the Global South. Imports now account for the vast majority of US consumption of items such as clothing and footwear, yet high barriers still force consumers to pay more.

US Trade Barriers Discriminate Against the Poor at Home and Abroad

The American economy is generally quite open to trade. Including all merchandise trade under all types of arrangements—the World Trade Organization (WTO), bilateral and regional trade agreements, and unilateral preferences for developing countries—70 percent of imports enter the United States free of tariffs. On this basis, duties collected as a share of all imports—the trade-weighted tariff rate—was just 1.4 percent in 2017.⁷ But high tariffs remain in a few sectors and the pattern, in terms of which exporters and consumers bear the impact, tends to be regressive. Tariffs are highest on products that poorer countries tend to produce and that poorer Americans disproportionately consume (Gresser 2007; Furman et al. 2017). There are programs that provide preferential market access for poorer countries as a tool of development, but there are structural weaknesses that make them far less effective than they should be.

Anti-Poor Patterns in US Trade

As a result of multilateral trade negotiations since World War II, around half of all US imports enter duty-free under “most favored nation” (MFN) status. These are products on which the United States agreed to bind its tariffs at zero for parties to the General Agreement on Tariffs and Trade (GATT)—the WTO’s predecessor. The simple average

⁷ The average tariff rate has gone up since then as a result of new tariffs under President Trump, but those tariffs will hopefully prove to be temporary.

MFN-bound tariff on the remaining tariff lines is 3.4 percent (WTO et al. 2018,p. 174).⁸ The trade-weighted average in 2017 was a bit higher, at nearly 5 percent.⁹ But that masks the true impact of remaining tariff peaks where the rates are high enough to discourage imports and lower the weight applied to those duties. “Most favored nation” is something of a misnomer, however, and has become more so over time. Parties to US free trade agreements (PTAs) or beneficiaries of unilateral trade preference programs receive lower or no duties on additional tariff lines. Under those arrangements, another 20 percent of US imports entered duty-free in 2017, bringing the total under all arrangements to 70 percent.

The products that still receive relatively high levels of protection are mostly agricultural and food products, leather goods, textiles and apparel and footwear. These are categories that include necessities on which poor Americans spend a larger share of household income than the rich. Even more perversely, tariff rates within the highly protected categories often target relatively less expensive items. Imports of plastic or rubber footwear valued at less than \$6.50 per pair face tariffs of around 50 percent while tariffs on leather shoes are generally under 10 percent. Cotton, which has been among the largest beneficiaries of farm bill subsidies over the years, also benefits from an average tariff on cotton yarns and fabrics that is three times as high as the tariff on silk textiles. Cotton t-shirts attract a tariff of 16 percent, while importers of cashmere sweaters are taxed at only 4 percent. Other everyday items, such as jeans and cotton shorts are all taxed at the border at rates of 15 percent and above.

In a detailed empirical analysis, Furman et al. (2017) find that the current pattern of US tariffs discriminates not just against the poor in general, but against women and single parents in particular. Overall, they find that the tariff burden as a share of after-tax household expenditures is five times higher for the lowest income decile than for the highest.

These barriers also discriminate against poor countries that have a comparative advantage in exporting agricultural and leather products, clothing and footwear. The labor intensive manufactured items in these categories account for just 6 percent of US imports (by value), but half the value of all duties collected (figure 1). The average, trade-weighted tariffs for these categories range from 12 percent to 18 percent, far higher than for most other products and, at a detailed product level, some tariffs are well above these averages. For example, the tariff on certain shirts and baby clothes made with synthetic fibers is 32 percent.

Overall, the average tariff on agricultural and food products is far lower—3.6 percent in 2017. But that low average again misses high tariff peaks for a number of goods and does not reflect the impact of producer subsidies and quantitative restrictions that sharply limit imports of “sensitive” products. Including the impact of subsidies, the Organization for

⁸ This is the simple average of tariff rates that the United States negotiated internationally and agreed not to raise, except under approved conditions.

⁹ Throughout this section, the data on imports and duties collected are from the US International Trade Commission, Trade Dataweb, online. Trade-weighted average tariffs were calculated by dividing the value of duties collected by the value of dutiable imports.

Economic Cooperation and Development estimates that the US government provided support to agricultural producers in 2017 equivalent to 10 percent of gross farm receipts (including the value of subsidies).¹⁰

The public support for American agriculture, like tariffs on labor-intensive manufacturers, tends to discriminate against developing country exports (Elliott 2017). The average applied tariff (including the tariff equivalent effect of quantitative restrictions) for dairy products, sugar and sugar-containing products (such as chocolate), as well as beverages and tobacco is 16 percent to 19 percent.¹¹ These categories include tropical products and labor-intensive production where developing countries could export more, especially if they received technical and financial assistance to meet food safety and environmental sustainability standards.

Figure 2 shows that 80 percent of duties in 2017 were collected on imports from just ten countries, four of which are low middle income countries. Imports from these four—Bangladesh, India, Indonesia and Vietnam—account for one-fifth of all US import duties collected. Imports from Vietnam bear a larger overall tariff bill than imports from Japan that are nearly three times as large. Bangladesh is a UN-designated least developed country and exports only about a tenth as much to the United States as does the United Kingdom, yet the value of the duties collected by Customs is more than 50 percent higher for Bangladesh than for the UK.

Overall, the countries facing the highest overall tariff average rates are those with smaller, relatively less diversified economies and exports that are highly concentrated in sectors that receive no preferential access. The only three countries with average trade-weighted tariff rates above 10 percent are Bangladesh (15.2 percent), Cambodia (14.1 percent) and Sri Lanka (11.9 percent).

Trade Policies to Promote Development Have Big Gaps

In the 1970s, industrialized countries adopted Generalized System of Preferences (GSP) programs to unilaterally lower barriers to trade with developing countries. The goal was to better integrate poorer countries in the international trade system and help them develop economically. From the beginning, however, there were serious shortcomings in design and the programs were far less helpful than they might have been.

Most GSP programs, including the American version, exclude key products or have rules of origin that make the preferences hard for poorer countries to utilize. The standard US GSP program reduces duties on eligible products to zero, but, compared to other rich countries, it

¹⁰ Find the Producer Support Estimates database here, <http://www.oecd.org/agriculture/agricultural-policies/producerandconsumersupportestimatesdatabase.htm>, last accessed January 10, 2019.

¹¹ See the US tariff profile in WTO et al. (2018). Those concerned about public health might object to liberalization of trade in sugar and tobacco, or products containing them. But there is no reason to put a disproportionately greater burden on developing country exporters. An equivalent excise tax on domestic and imported products would prevent any price effect that might otherwise encourage increased consumption.

covers a relatively small number of tariff lines. Congress explicitly prohibited GSP treatment for most textiles and apparel products, footwear, and other sensitive imports when it wrote the statute. The EU GSP program covers many more products, but it provides only modest tariff cuts on many of them and, like the US, excludes sensitive items, such as certain agricultural, seafood and textile and apparel products.

The differences between the US and other preference-providing countries are more stark when it comes to enhanced access for the world's poorest countries (CGD 2010). There are special regional programs for Africa and the Caribbean Basin, especially Haiti, that provide broader product coverage.¹² But the United States is the only industrialized country that does not provide completely (or nearly so) duty-free, quota-free market access for UN-designated "least developed countries" (LDCs). The EU, for example, provides barrier free access for "Everything But Arms" under its program for LDCs. US GSP provides preferential duty-free treatment for LDCs on additional products, but the statutory restrictions on textiles and apparel, footwear, and other sensitive products, as well as the exclusion of key agricultural products, still apply and that sharply limits the benefits that most LDCs receive.

The regional programs for the Caribbean and sub-Saharan countries do include some of the sensitive sectors, notably clothing. Special provisions added to the Caribbean arrangements specifically for Haiti have allowed that country to increase its exports of clothing to the United States. And a handful of sub-Saharan countries, led by Lesotho and Kenya, have managed to take advantage of a special rule of origin that facilitates their exports of apparel items under the Africa Growth and Opportunity Act (AGOA). Because they are not eligible for the special regional programs, however, Asian LDC exporters continue to face high barriers to their exports.

Administrative and procedural elements of the US GSP program also undermine the stability and predictability that are important to encourage international trade and investment. For budget reasons, Congress typically only authorizes the program for two to three years at a time.¹³ And, because it is a relatively low priority, the program often experiences lapses of several months or sometimes longer. In 2013, Congress did not get around to renewing the program for two years.¹⁴ This creates uncertainty, which discourages buyers from establishing supply relations with or investing in developing countries. Recognizing that this creates particular problems for the poorest preference beneficiaries, Congress extended the

¹² The Andean Trade Promotion and Drug Eradication Act, a preference program that was expanded in 2002 to help combat drug trafficking, lapsed in 2013 and was not renewed. Two of the previously eligible countries—Colombia and Peru—negotiated bilateral PTAs with the US. Bolivia lost eligibility in 2008 because of inadequate counternarcotics efforts, so only Ecuador remained in the program when it expired. See USITC (2014), p. 14.

¹³ Under "paygo" rules, Congress must identify offsets for increased spending or lost revenue, in this case the value of import duties forgone.

¹⁴ See a chart prepared by the Trade Partnership here, https://tradepartnership.com/wp-content/uploads/2014/06/GSP_Expiration_Renewal_History_1989-2010.pdf, and an explanation of the 2015 renewal here, <https://www.cbp.gov/trade/trade-community/outreach-programs/trade-agreements/special-trade-programs/gsp/gsp-renewal>, last accessed January 7, 2019.

special regional programs for Africa and Haiti for a full decade when they were last renewed in 2015.¹⁵ GSP, however, was extended for only two and a half years and lapsed for a few months before being renewed for another two and a half years in early 2018.

The second potential element at odds with development objectives is the long list of conditions that countries are, in theory, supposed to meet to be eligible for preferential access. Mandatory conditions, of which there are eight, include countries not being communist, which kept China and Vietnam out of the program. Other eligibility conditions include that countries should not participate in price-raising cartels, such as OPEC; should not expropriate the property of American citizens or corporations without compensation; and should not provide sanctuary for international terrorists. The seven discretionary conditions for GSP eligibility include a country's level of economic development; whether other countries are providing GSP benefits; effective protection of intellectual property rights; and whether the country is taking action to "reduce trade distorting investment practices and policies" and reducing barriers to trade in services.

Many of these conditions reflect legitimate concerns, and some behaviors are obviously beyond the pale. But the original idea behind use trade preferences for development was that they would not be reciprocal and they would be generally available. The US programs goes far beyond what most other preference providing countries do in terms of eligibility conditions. Most of them impose little or no conditionality and consider all developing countries potentially eligible. The problem with such a long list of conditions is that countries with weak institutions and limited capacity cannot consistently meet all of them all of the time. Moreover, enforcement tends to be arbitrary and unpredictable, thus creating more risks and uncertainty and further discouraging investment.

Interestingly, "taking steps to afford internationally recognized workers rights" is both a mandatory and a discretionary condition for GSP eligibility. Taking action against the "worst forms" of child labor is also a separate mandatory condition. One unfortunate aspect of the workers rights conditions is that they have not been updated to reflect the 1998 International Labor Organization Declaration on Fundamental Rights and Principles at Work. Thus, while both definitions include freedom of associations rights and prohibitions on forced labor and child labor, the unilateral US definition of workers rights still does not recognize freedom from discrimination as a core right, and instead includes "acceptable conditions of work with respect to minimum wages, hours of work and occupational safety and health."

While serious violations of human or worker rights should be addressed, strict enforcement of all these conditions would likely mean many that very few countries remain eligible. And it's not clear that strict enforcement would improve the underlying conditions of concern. Yet, withdrawing preferences would cost poor workers in the beneficiary country their jobs. And even when those jobs are miserable, they are often better than the available

¹⁵ For additional information on the Haiti and AGOA program, see [https://otexa.trade.gov/HAITI Trade Preference FAQ.htm](https://otexa.trade.gov/HAITI_Trade_Preference_FAQ.htm), and <https://www.trade.gov/agoa/>, last accessed January 10, 2019.

alternatives—subsistence agriculture, domestic service, or, for young women, having to get married sooner than desired. And when the conditions entail policy changes that are politically costly for the targeted government, trade sanctions are unlikely to be effective because the benefits from GSP are simply too meager for most countries (Hufbauer, Schott, and Elliott 2007).

Overall, less than 2 percent of total US merchandise imports enter under unilateral preference programs for developing countries—\$21 billion under GSP, another \$12 billion, mostly petroleum products, under AGOA, and less than \$1 billion under the Caribbean Basin Initiative, which is mostly apparel under the special provisions for Haiti. Preferential imports under PTAs are more than 10 times higher, mostly from Canada and Mexico.

In part because of the weaknesses in the program, a small number of large and mostly more advanced developing countries account for most imports under these programs. The only GSP beneficiaries with over \$1.5 billion or more in exports under the program are India, Thailand, Brazil, Indonesia, Turkey and the Philippines, in that order (table 1).¹⁶ These six countries account for over 80 percent of all imports by non-LDCs under the program. With the exception of Turkey, which has a preferential share of total exports of 18 percent, the other top beneficiaries' preferential exports are only around 10 percent of their total exports to the United States.

Examining the products that enter under preferences, more than a quarter of the total is crude oil from AGOA eligible countries. The average tariff on crude oil is under 1 percent, but the volumes are large enough to make the preference worthwhile for importers. Under GSP, the top exports are electrical machinery and products—think cellphones and other electronics—industrial machinery, plastics and motor vehicles (mostly from South Africa under AGOA). The average tariff across all products in these categories from all sources is just three percent, so the preference margin is not large.

Overall, Congress could improve the development utility of these programs—and enhance the benefits for American business using them—by providing more stability and certainty around them. This would help to encourage international traders and investors to incorporate poorer countries in their supply chains, and allow small and medium enterprises in the US to take advantage as well. Steps in this direction would include authorizing the program for longer than a couple of years at a time and avoiding lapses, while also streamlining the eligibility conditions to focus on the most important threats to development and international norms, especially human rights. Expanded product coverage, especially for the poorest countries, would also allow more countries to take advantage. In addition, executive branch enforcement of the rules should ensure that the people these programs are designed to help do not instead become the unintended victims of poorly executed sanctions.

¹⁶ In early 2019, the Trump administration announced that it was withdrawing GSP eligibility for India, because of barriers to US exports, and Turkey because it is an upper middle income country.

Asymmetries in US PTAs

Preferential trade agreements are another way that developing countries can gain privileged access to the US market. Some developing countries may also choose to use the external discipline provided by a PTA to support and lock in domestic economic reforms (Chauffour and Maur 2011). Because of the inevitable asymmetries in bargaining leverage, however, these negotiations often result in unbalanced outcomes and do not necessarily reflect reform priorities in the developing partner country (Hoekman 2011). Bilateral and regional FTAs are also inherently discriminatory and, while they typically create trade among the signatories, they divert it from third parties (Baldwin 2011). That is a problem for the vast majority of developing countries, especially the poorest, that most PTAs exclude.

PTAs also increasingly incorporate a range of rules on issues that go beyond traditional border measures. Many of these provisions reflect the disproportionate influence of multinational corporations, such as lengthier drug patents and the special dispute resolution mechanism for foreign investors, and these raise concerns for developing countries as well as for many American civil society groups. A fundamental question for developing countries, and for American civil society, is what should be addressed in trade agreements and which issues should be addressed through other mechanisms, or left to domestic policymaking.

Bargaining Asymmetries Facing Developing Countries

In negotiating with a country as large, wealthy, and powerful as the United States, most trade partners will be at a distinct disadvantage. Even so, the relatively small size of most US PTA partners is striking (table 2). Half of them have populations smaller than 10 million and only four have gross domestic products (GDP) over \$1 trillion, compared to almost \$20 trillion for the United States. Seven are low or low-middle income countries, or were at the time they signed the agreement. As a group, these countries account for only 6 percent of global population and 10 percent of global GDP. Excluding Canada and Mexico, other FTA partners account for only 10 percent of total US merchandise trade.

So the only bargaining leverage that most potential partners have is the ability to walk away from the table. Given that, it is not surprising that most US PTAs involve countries that are either nearby and highly dependent on the US market—ten are in Central and South America—or are countries that want to maintain good relations with US for foreign policy or national security reasons—Australia and several countries in the Middle East. The North America Free Trade Agreement (NAFTA), with Canada and Mexico, and the PTA with Korea involve larger, more globally important economies, but they are still much smaller than the United States and are highly dependent on the US market. The Trans-Pacific Partnership (TPP), with eleven other Pacific Rim countries, and the Transatlantic Trade and Investment Partnership (TTIP), with the EU, would have been much bigger deals. But one of President Trump's first actions in office was to withdraw from the TPP, claiming that

President Obama had not gotten a good enough deal, and to suspend the transatlantic negotiations.¹⁷

Typically, however, US PTA negotiations involve important asymmetries in bargaining leverage and influence, which means that US negotiators can retain restrictions on sensitive imports that are important for the developing country partner. Thus, for example, the agreements with Colombia, Central America and the Dominican Republic, and even Australia, expand slightly but do not eliminate quantitative restrictions on US sugar imports.¹⁸ Complex rules of origin also often restrict the market access that would otherwise be provided via tariff cuts, especially in the textile and apparel sectors that are important for many developing countries (Elliott 2016).¹⁹ The disparity in bargaining leverage also means that US negotiators can insist on the inclusion of a range of rules, such as stronger drug patents or investor protections, that developing partner countries would likely not otherwise adopt.

The cases where trade negotiations failed to end in an agreement are telling, including Thailand, the Southern African Customs Union (South Africa, Botswana, Lesotho, Namibia and Swaziland), and the hemisphere-wide Free Trade Area of the Americas, which included Brazil. In these cases, countries were far enough away or had sufficiently diversified export markets that they could refuse US demands they regarded as unfair or undesirable and walk away from the negotiations.

Disproportionate Corporate Influence Drives the Agenda

Trade agreements are less and less about tariffs and quotas and more and more about behind the border, regulatory measures. Many of these provisions raise concerns for developing country negotiators, concerns that are shared by many American civil society groups. Key areas where there is, at a minimum, a debate about the development-friendliness and fairness of the rules include:

- Protections for foreign investors that constrain the use of capital controls and provide an investor-state dispute settlement (ISDS) process that investors have used to challenge nondiscriminatory health and environmental regulations

¹⁷ The Trump administration has begun bilateral trade negotiations with Japan and much narrower—non-automobile industrial goods only—discussions with the European Union. At the time of writing, there did not appear to be much progress on either front.

¹⁸ For those concerned about the potential adverse health effects of increasing the supply of less expensive sugar, a national excise tax could offset the price effect of increased imports while raising revenue that could be devoted to health programs. Elliott (2004) also surveys the history of forced labor practices and environmental degradation related to US sugar cane production.

¹⁹ The American apparel industry long ago adjusted to globalization by refocusing upstream on design and downstream on branding and marketing. Today, 97 percent of US clothing consumption is imported (Danzinger, 2017). The textile industry developed the idea of strict rules of origin to protect its business as its domestic customers moved offshore. For a discussion of rules of origin, see Elliott (2016).

- Intellectual property protection rules that go beyond what the WTO requires, leading to higher costs for drugs, text books, and agricultural inputs
- Digital trade provisions that could undermine the right to privacy
- Pressures for regulatory harmonization

Many critics point to provisions such as these as evidence of how trade agreements can contribute to inequality and cater to business interests. In practice, the effects of these provisions on Americans are usually limited because US negotiators aim to ensure as much as possible that trade agreements reflect existing domestic laws and practices.

But the consequences for developing countries can be quite negative. The theory behind stronger patent terms, for example, is that higher prices help to stimulate innovation. Even in the United States the theory as implemented is subject to growing criticism. IP industries have managed to gain broad support in the US Congress for the seriously misguided idea that ever stronger intellectual property protection should be the goal. To the contrary, policy needs to balance the goal of encouraging innovation with the goal of promoting diffusion of new technologies to benefit the broader public. Yet many believe that balance is now off kilter (Maskus 2007). In a developing country with little innovative activity of its own to protect, there are few offsetting benefits and stronger IP rules involve mainly a transfer of economic rents from the poor to the rich (Maskus 2000).

Similarly, developing countries with limited government resources and institutional capacity can find their much smaller economies whipsawed by sudden swings in foreign investor behavior if PTAs constrain their ability to use capital controls. Such countries may also be more vulnerable to a “regulatory chill” if they fear a costly challenge by foreign investors to public health, environmental or other regulations, even if they think they could eventually prevail.²⁰

In contrast to the multiple provisions protecting and promoting the interests of corporations, unions and other labor advocates point to what they view as relatively weak protections for workers (and the environment) in US PTAs. There have been important changes over time, however. Labor standards have been brought from side agreements, as in the original NAFTA, into the main text of trade agreements and the language and enforcement measures have been strengthened. Still, despite further strengthening in the new NAFTA (also known as the US-Mexico-Canada Agreement), labor groups have concerns about how enforcement will work in practice.

Labor standards is an area, however, where the views of developing country negotiators and American trade agreement critics tend to diverge. From the perspective of developing countries, stronger and more enforceable labor standards in trade agreements raise concerns rooted in uncertainty about the ultimate goal. If they are to protect American workers from unfair competition, might these provisions be manipulated for protectionist purposes? Some

²⁰ Even when not successful, these challenges raise the costs of regulating and could deter some poorer developing countries from doing so in some cases. For an empirical analysis arguing that this is the intent of some investors, see Pelc (n.d.).

developing country governments fear the United States could use trade sanctions, not to enforce legitimate violations, but more loosely to block sensitive imports. Alternatively, if the goal is to promote labor standards broadly in other countries, that turns the trade agreement into an enforcement mechanism that intrudes on national sovereignty in areas far beyond trade, just as stronger patent rules do. While members of the International Labor Organization (ILO) agreed in 1998 that certain core labor standards are fundamental rights that all countries can and should respect, standards related to wages and hours, for example, could be set too high for a country's level of development and threaten export competitiveness.

It can be argued that provisions in US PTAs going beyond the core principles of market access and nondiscrimination often aim to remake partner countries' approaches to regulation more like that in the United States. While regulations can be manipulated to discriminate against imports, and differences across countries can impede trade, harmonization is not necessarily economically efficient when conditions or preferences differ across countries. Moreover, efforts to constrain regulatory autonomy undermine the political legitimacy of trade agreements.

So what to do? One way to address the bargaining asymmetries in bilateral or regional PTA negotiations would be to pause those efforts and focus on trying to revive multilateral processes. From a developing country perspective, WTO negotiations reduce bargaining asymmetries by allowing smaller, weaker countries to band together to pursue common interests. But the need for consensus at the WTO has led to a negotiating stalemate on all but relatively narrow issues. The dispute settlement system for enforcing the current rules is also under stress. As important as these issues are, they are reserved for a future paper.

Even if the WTO can be restored to some semblance of health, however, regionalism is unlikely to disappear entirely. So there still needs to be a conversation about the appropriate breadth and depth of US PTAs. One option is to stick with the current template and rebalance it, by paring back provisions that tilt too far in the direction of business interests and by strengthening implementation of labor (and environmental) provisions. A more farreaching approach would go further in providing policy space and protecting national autonomy, at home and abroad. While President Trump is unlikely to pursue either approach, a less trade-skeptical successor may well be looking for alternatives to the old template. Each option is discussed in turn.

An Incremental Approach to Rebalancing

To gain congressional approval over the years, trade negotiators have had to strike a balance between expanding the rules to cover new areas as desired by the business community, and responding to criticism from labor and other civil society groups that their concerns are being given short shrift. A relatively modest, and perhaps more politically feasible, approach to rebalance US PTAs is to build on these trends. This would entail retrenchment in provisions that impinge on governments' ability to regulate in the public interest, as well as doing more to empower workers to protect their interests in a more global economy. This would be similar to what Tucker (2017) calls "flipping the class bias" in US international

economic policy, though his specific proposals often fall somewhere between the incremental and radical approaches discussed in this paper.

Further rebalancing in these areas could make US PTAs more legitimate in the eyes of American critics, while also giving developing countries more policy space to pursue economic growth in their own ways. This section looks first at provisions in US PTAs that reflect corporate priorities, and then at how to address labor concerns.

Reducing the Pro-Capital Bias

As noted above, the primary areas that raise concern about disproportionate corporate influence on trade agreements include investor rights, intellectual property protection, new rules for digital trade, and the promotion of regulatory harmonization or cooperation. The concern about provisions in these areas is that international capital gains power and influence at the expense of consumers, workers, and other elements of civil society—in the United States and developing countries alike. There have been changes in some of these areas in recent US trade agreements, but not enough for many critics.

Comparing the revised NAFTA, now known as the US Mexico Canada Agreement (USMCA), and the Obama-negotiated TPP to one another, and to previous PTAs, suggests some options for rebalancing the PTA template.²¹ The exercise shows that progressive challenges to trade agreements have resulted, for example, in a more restricted ISDS process, increased space for capital controls for prudential reasons, and a much stronger approach to labor standards, at least on paper. But emerging rules in newer areas, such as regulatory cooperation and digital trade, underscore that getting the balance right is an ongoing struggle.

Investor rights. In contrast to other chapters that provide a process for government to government dispute settlement, the investment chapter allows foreign investors to sue host country governments directly. The investor-state dispute settlement mechanism was originally created to give investors recourse in cases where host governments with weak legal systems expropriated company property without compensation, or otherwise subjected foreign firms to arbitrary and discriminatory treatment. Over time, ISDS expanded to allow claims of indirect or “regulatory expropriation,” or of violations of a vague provision requiring “fair and equitable treatment” for foreign investors.

Under these expanded definitions, multinational companies began to invoke the mechanism to challenge environmental and health regulations that affected their profits or ability to operate. One of the first cases under the original NAFTA involved an American company—Metalclad—wanting to build a landfill in Mexico. The federal government approved the company’s plan but then the local government denied permission for the facility because of environmental concerns. Metalclad filed a complaint under NAFTA’s investment chapter.

²¹ For other assessments of the US-Mexico-Canada Agreement from differing perspectives, see Jarsulic et al. (2019) and Hufbauer and Globerman (2018).

While the arbitral panel lowered the amount of compensation owed to Metalclad, it ruled that denial of a permit for the landfill would “constitute an act tantamount to expropriation.” That turned ISDS into a lightning rod for critics (Hufbauer and Schott 2005, pp. 233-235).

The TPP made some notable changes to the ISDS process, including affirming the right of governments to regulate; tightening up the definitions of “fair and equitable treatment” and regulatory appropriation; permitting the early dismissal of cases that arbitrators deem to be frivolous; and making the process overall more transparent and accountable. The TPP also responded directly to challenges that tobacco companies had made to health and safety regulations in a number of countries by allowing parties to exclude tobacco product control regulations entirely from the ISDS process.²² The text also states explicitly that nothing in the investment chapter should interfere with any government’s right to take nondiscriminatory regulatory actions to promote public health and safety (Bollyky 2016).

The renegotiated NAFTA goes further. It eliminates ISDS in investment disputes involving Canada after three years and sharply constrains its application to disputes in Mexico. There, foreign investors must first exhaust all available local remedies before invoking ISDS. In addition, investors not party to government contracts in designated sectors (energy, telecom, transportation and other infrastructure) can only invoke ISDS to challenge discriminatory treatment (violations of national treatment or MFN), or direct expropriation of their property.

Thus, the USMCA suggests a path for reforming ISDS that restricts its application to cases of clear discrimination or expropriation and require companies to first try to resolve their problems via local institutions. That is about as far as reformers can go without eliminating the mechanism entirely.

Another alternative to getting rid of ISDS entirely would be to expand it so that multinational corporations have responsibilities as well as rights under trade agreements. Some progressive critics of the current mechanism have suggested introducing rights for workers or other civil society groups to sue foreign investors (Compa 2019). For example, in a situation where local governments are unresponsive or undemocratic, workers or environmentalists could take a foreign investor to arbitration over violations of their rights. It could be difficult to enforce remedies in these cases, but Tucker (2017, pp. 25-26) argues that it would at least allow the naming and shaming of unresponsive entities.²³

Another notable new feature that contributed to rebalancing of the TPP investment chapter was an explicit exception for countries to use temporary capital controls in response to

²² This exclusion may not be necessary, given that complaining firms have lost challenges to tobacco control regulations both in ISDS arbitration and at the WTO. See Schacherer (2018) for a discussion of key cases.

²³ Tucker refers to the naming and shaming of governments, so it is not entirely clear whether his proposal would allow unions or others to directly challenge corporations as Compa proposes.

economic crises (or the threat thereof).²⁴ The US insistence on prohibiting the use of capital controls had come under increasing scrutiny after the International Monetary Fund changed its stance on the issue in the wake of the 1990s Asian financial crisis. It appears that the USMCA contains a similar exception allowing for capital controls under some circumstances, perhaps setting a new precedent that future presidents will feel compelled to follow.

Intellectual property protection. Unlike the progress thus far in rebalancing PTA investment provisions, the TPP approach to intellectual property protection shows that reversion to earlier, more business-oriented and less development-friendly versions is possible. In the negotiations over this chapter, the length of the data protection period for new biologic drugs got most of the attention. But the problems from a developing country, or even a developed country, perspective go well beyond that. The stated objective of the agreement as described in the TPP chapter is worth quoting:

The protection and enforcement of intellectual property rights should contribute to the promotion of technological innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to *a balance of rights and obligations* [emphasis added].

But the rules that follow fail to strike that balance for the United States, much less for developing countries that often have relatively little technological development to protect (Maskus 2007; Moser 2013; Boldrin and Levine 2013). Applying the same rules to countries at very different income levels is suboptimal and often entails a transfer of monopoly profits from the poor to the rich (Fink 2008; Fink and Elliott 2008). The copyright protection is also ridiculously long, rising in recent agreements to the life of the author plus 70 years.

Prior to the TPP, provisions on drug patents in US PTAs were rooted in a deal struck between the George W. Bush administration and congressional leaders on May 10, 2007. The newly elected Democratic majority wanted the administration's trade negotiators to recognize that developing countries need more flexibility in the area of patents and access to medicines. For the PTAs with Colombia, Panama and Peru, the May 10 deal rolled back some of the WTO-plus provisions that could delay the introduction of more affordable generic medicines. With the TPP, however, the Obama administration reintroduced the earlier, stronger standards for pharmaceutical patents. Vietnam, by far the poorest TPP member, will have longer to implement some provisions in the chapter, but it will eventually

²⁴ CGD Senior Fellow and former Treasury official Scott Morris provides a brief analysis of the TPP provision in this blog post: <http://www.cgdev.org/blog/hooray-capital-controls-have-won-just-might-reveal-political-vulnerability-tpp>. See also Article 32.4 of the US-Mexico-Canada Agreement, the text of which is available on the USTR website here, https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/Text/32_Exceptions_and_General_Provisions.pdf. Both accessed January 9, 2019.

have to implement the same standards as all other parties to the agreement. And the deadline for doing so is arbitrary and not linked to any measure of development.

Biologic drugs are relatively new and had not been addressed in trade agreements prior to the TPP. US law provides 12 years of protection for data from clinical trials that firms must submit to gain regulatory approval for these drugs. During that period, competitors cannot use the same clinical trial data in their own submissions for regulatory approval. Since it is costly to develop conduct clinical trials, this delays the introductions of generic drugs (called “biosimilars” in this case).

Australia, a party to the TPP talks, provides only five years of data protection for biologics and its negotiators insisted they could not change it. The Obama administration had been pushing to change US law to provide just 7 years of market exclusivity in order to save costs under the Affordable Care Act. But US trade negotiators pushed for 8 years in the TPP in hopes it would satisfy demands from key congressional Republicans, who were in the majority at the time, for more protection. In the face of Australia’s unyielding position, TPP negotiators settled on 8 years, *or* a minimum of 5 years of data protection plus other measures that would achieve a comparable outcome.²⁵ The new NAFTA deal pushed beyond the TPP and raises the period of data protection for biologics to 10 years.

Ever stronger intellectual property protections are neither economically optimal, nor fair and this remains one of the most contentious issues in trade negotiations. Unsurprisingly, the added protection for biologics in the new NAFTA has triggered strong criticism from Democrats in Congress and demands that it be renegotiated as a condition for bringing it to a vote.

Digital trade. The TPP chapter on e-commerce is also not wholly new but it is far more expansive than past agreements in going beyond just proscribing tariffs for e-commerce products and providing for nondiscriminatory treatment for digital products crossing borders in the region. It creates binding rules to ensure the free flow of data across borders and discourage localization requirements, while also requiring countries to have measures to protect consumers and their privacy. But it leaves it to each party to determine the appropriate methods to achieve those protections, subject to certain core principles.

Digital trade is one of the areas where the TPP pushed furthest in creating *binding* commitments in new areas and the USMCA is broadly similar, though it does push the rules a bit further in key areas. The new agreement has stronger language on allowing the cross border transfer of information and it lacks the public policy exception for localization requirements for computing facilities that the TPP had. Digital trade is an increasingly important part of the trade landscape and international rules to address privacy, national security, and other issues would be useful. But here again, the concern is that writing those

²⁵ Branstetter 2016, p. 3 interprets this provision, as do I, as providing eight years one way or the other.

rules in the context of a trade agreement will mean they are not balanced and not necessarily appropriate for affected stakeholders (Aaronson 2017).

Regulatory harmonization/cooperation. The TPP chapter on regulatory issues, which was supposed to be one of the key innovations in 21st Century agreements, ended up focusing on *intra*-governmental coherence, rather than *inter*-governmental cooperation (Bollyky 2012, p. 181). The chapter does not define the scope of covered measures and only calls on parties to “determine and make publicly available” a list of covered measures and to “aim to achieve significant coverage.” Moreover, the provisions on coordination mechanisms and implementation of “core good regulatory practices” are presented as things that countries “should consider” doing or encouraging. The new NAFTA chapter seems to apply similarly broadly and, contrary to TPP, the provisions can be subject to dispute settlement one year after entry into force, though only for “a sustained or recurring course of action or inaction that is inconsistent with a provision of this chapter.” As with the TPP, the new NAFTA focuses on transparency and evidentiary soundness of domestic practices and provides only for “encouragement of regulatory compatibility and cooperation.” It also creates a “Committee on Good Regulatory Practices.”

The TPP chapter on sanitary and phytosanitary standards, covering food, plant, and animal safety goes beyond the previous approach of simply affirming each party’s commitments under the WTO provisions in this area. The TPP provisions also state that standards “shall” be in conformity with international standards or be based on “documented and objective scientific evidence.” But that paragraph is not subject to dispute settlement under the agreement. For some other WTO-plus provisions, dispute settlement is either phased in or not permitted. The USMCA chapter in this area is subject to dispute settlement, though with a requirement for technical consultation first. It seems to be somewhat less assertive in the obligations covered, saying that SPS measures should be based on international standards or guidelines “provided that doing so meets the Party’s appropriate level of sanitary or phytosanitary protection (appropriate level of protection).”

In sum, bilateral or regional trade agreements seeking deeper integration than has been possible at the multilateral raise very different issues. The traditional trade agenda focusing on reducing tariffs and other border barriers tends to pit exporting sectors against those competing with imports. But in most circumstances, consumers and the economy as a whole benefit from the improved efficiency, lower prices and greater variety that comes with increased trade. If the government redistributes some of the broad gains to the losers from trade opening, it is possible for everyone to win. By contrast, developing regulations that are efficient and equitable, including intellectual property rights and online privacy for example, requires a balancing of costs and benefits and the answers are not a priori obvious.

Moreover, trade negotiations with developing country partners should recognize that identical rules, such as lengthy patent terms, are not always appropriate for countries at different levels of income and capacity. Cooperation to lower regulatory compliance costs is an appropriate objective of trade negotiations, but harmonization is often not—especially in the presence of large power asymmetries. Where new rules are appropriate, the current template recognizes difficulties that developing countries may face only by providing for

longer periods to phase in new rules. But those periods are arbitrary and should be based instead on development markers tied to a country's ability to both implement and benefit from the new rules. Overall, US negotiators should take a far more cautious approach to behind the border issues in trade agreements, especially those that tilt the balance of benefits towards corporate interests.

Supporting Worker Rights

Even with adjustments in business-friendly provisions in trade agreements, capital is relatively more likely than labor to be able to take advantage of globalization because it is more internationally mobile. A balanced and inclusive approach to globalization therefore needs to find ways to empower workers to protect their interests. Policies to do this will mostly be rooted in domestic laws and institutions, and in dedicated international institutions, such as the ILO. But trade agreements should, at a minimum, not undermine workers ability to defend their rights.

As noted above, however, labor provisions in US trade agreements raise concerns in developing countries—some legitimate, some driven by narrow business interests. Those provisions have also been politically sensitive in this United States and US trade negotiators have tried to strike a careful balance that avoids losing too many votes in Congress. The direction of change, however, has been a steady ratcheting up of the scope and enforceability of labor standards provisions in US PTAs.²⁶ The questions are how far these provisions should go, while still respecting the national sovereignty of much smaller, weaker developing country partners, and how to make them effective.

The journey from the original NAFTA in the early 1990s to the USMCA in 2018 clearly shows the influence of demands to do more to protect worker rights in trade agreements. NAFTA was just the third US trade agreement outside the GATT system, and the first with a developing country.²⁷ Republican President George H.W. Bush negotiated and signed the agreement with Mexico and Canada without any provisions on labor. His Democratic successor, William J. Clinton, then had to decide whether to seek congressional approval. He chose to do so only after negotiating side agreements on labor standards and environmental protection. In addition to not being an integral part of the NAFTA text, the side agreement created tiers of worker rights that excluded the most important—freedom of association—from the formal dispute settlement process.

Scholars credit the labor side agreement with bringing attention to problems—particularly in Mexico and with regard to treatment of migrant workers in the United States—increasing collaboration among unions in all three countries, and contributing to improvements in some areas (Hufbauer and Schott, 2005; Compa 2019). But critics harshly condemned the

²⁶ This discussion of the evolution of US PTA provisions on labor, up to the TPP, is based on Elliott (2011).

²⁷ The first two were bilateral agreements with Israel (1984) and Canada (1988).

relatively weaker treatment of labor and environmental issues, as well as weak enforcement by all three governments.

In all subsequent US PTAs, chapters dedicated to labor and environmental protection appeared in the main text, alongside chapters devoted to market access and investor protection. But for the first six years under President George W. Bush, the coverage was narrow and the new chapters were still enforced under a different and arguably weaker dispute settlement process.²⁸ That template changed when the Democrats captured the House of Representatives in the 2006 mid-term election and insisted on stronger labor provisions—and weaker IP protections—for pending agreements with Peru, Panama, Colombia, and South Korea. In addition to expanding the scope of potential labor violations covered, the May 10 deal also made violations subject to the same dispute settlement process as other parts of the agreement.

The next iteration of the labor chapter came under President Barack Obama during the TPP negotiations. The TPP chapter largely followed the May 10 agreement template, which shifted from requiring parties to enforce their own labor laws to focusing on implementation and enforcement of the ILO core standards specified in the 1998 Declaration on Fundamental Principles and Rights at Work:

- Freedom of association and the right to bargain collectively
- Freedom from forced labor
- Freedom from child labor, especially the “worst forms,”
- Freedom from discrimination at work

The US definition of “internationally recognized worker rights,” which predates the ILO declaration, also includes “acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.” Prior to May 10, it did not include nondiscrimination.

A key criticism of the May 10 approach from labor advocates is that it bars reference to the underlying ILO conventions, which spell out the obligations covered by the principles in the ILO declaration. Of the eight core conventions, however, the United States has ratified only two. Congressional Republicans adamantly oppose legally binding obligations in trade agreements that might open US practices to challenge under an international convention that the Senate has not ratified.

The TPP did not change that feature of the May 10 template, but added to it in a few areas. Unlike previous agreements, the TPP explicitly calls on parties to take steps to address forced labor. It also explicitly prohibits the waiving or relaxation of labor laws in export processing zones. In addition to these general provisions, US negotiators concluded side agreements with Brunei, Malaysia, and Vietnam to ensure that their laws and practices are

²⁸ Under this model, the failure to rectify violations of the labor chapter after a finding by a dispute settlement panel could only be penalized with relatively small monetary fines. Trade sanctions comparable to the size of the alleged injury could be used in response to violations of other chapters.

consistent with the ILO standards. The Brunei and Malaysian plans include measures to address the abuse of migrant workers. The TPP negotiators, however, missed an opportunity to address abuses of migrant workers generally and to ensure it is a core provision of trade agreements.

The USMCA continues these trends. In a notable departure from earlier agreements, this labor chapter contains a footnote explicitly affirming that the right to strike is inextricably linked to the right of freedom of association.²⁹ It also goes beyond the TPP in prohibiting, not just discouraging, imports of products made with forced labor, though it leaves the appropriate means to each party to determine. The USMCA labor chapter also adds articles addressing violence against workers that could undermine the exercise of their rights; protecting migrant workers' rights, whether or not they are documented; and requiring parties to implement policies to address gender discrimination in employment. There is also an annex in which Mexico committed to passing laws to address long-standing problems undermining union rights, something that incoming President Antonio Manuel Lopez Obrador committed to implementing as soon as possible.³⁰

Supporters of labor rights argue that stronger language in trade agreements is irrelevant if it is not enforced. Since the original NAFTA went into effect, there has only been one complaint, regarding violations of union rights in Guatemala, that went all the way through the dispute settlement process. The panel in that case interpreted the agreement quite narrowly, deciding that Guatemala's failure to enforce labor laws had not affected trade between the parties. The USMCA tries to address this by defining trade-relatedness broadly to cover any violation allegedly committed by persons or industries producing goods or providing services traded between the parties (Compa 2019).

Even with the important textual changes in the USMCA, however, many congressional Democrats and labor advocates want more assurance that enforcement in practice will be forceful enough to make a difference. Proposals to further strengthen enforcement include going beyond state to state dispute settlement and providing a private right of action to contest labor violations. As mentioned above, one such idea is to expand the ISDS mechanism to allow workers to bring complaints before independent arbitrators when foreign corporations allegedly violate their rights. This solution would lend increased legitimacy to what has been a one way dispute settlement mechanism available only to corporations. It seems likely, however, that if foreign investors are faced with a choice of expanding ISDS in this way or getting rid of the mechanism entirely, many would choose the latter.

Shaffer (2018, p. 140) proposes a "social dumping" approach that would expand anti-dumping laws and allow governments to take actions against increased imports that injure a domestic industry in sectors where there is evidence of labor rights violations. Notably the

²⁹ The original NAFTA side agreement explicitly covered the right to strike, but it was in the tier that was excluded from enforcement measures.

³⁰ The Mexican legislature passed reform legislation strengthening workers' rights in April 2019.

proposal does not require petitioners to show that the labor violations *caused* the increase in imports. But if the measure, like the regular anti-dumping law, relies on firms to file complaints, it is more likely to be driven by protectionist motives than concern for workers. And it will be anathema to trade partners already concerned that US anti-dumping laws are biased in favor of domestic complainants.

Jasulic et al. (2019, p. 12), in their assessment of the new NAFTA, make an interesting recommendation that trade agreements “should allow the formation of cross-national unions that have the right to bargain with firms that operate in more than one NAFTA country.” Much earlier, Richardson (2000) suggested similarly that the WTO should have provisions for free trade in worker agency services. He suggested that such an agreement could help address market failures in labor markets, discipline coercive practices in labor relations, and “create countervailing market power to the anti-competitive market power of firms” (ibid., p. 122).³¹ These ideas focus on ways to empower workers to protect themselves, which is likely to be more effective and sustainable than relying on third parties to do it. This approach could also be pursued in conjunction with the broader rewriting of the PTA template proposed below.

The core problem is that there is really no effective way to force governments to enforce provisions aggressively when their priorities are elsewhere, and when key constituencies in the business and labor communities—and their representatives in Congress—strongly disagree over the appropriate role of labor standards enforcement in trade agreements. More generally, advocates on all sides exaggerate the effectiveness of trade sanctions to enforce a range of behind the border issues that involve often controversial changes in domestic laws and practices, from inadequate intellectual property protection to labor standards violations.³² For many of these issues, more tailored enforcement measures and more creative soft law approaches emphasizing dialogue and cooperation may be more effective.

A Radical Approach to Rebalancing

A more radical option than tweaking the current template would be, in effect, to turn back the clock and refocus on basic principles supporting trade openness without infringing so heavily on national sovereignty. To address key development concerns, as well as recognizing the lack of domestic consensus on the issues discussed here—ISDS, drug patents, regulatory harmonization, and labor and the environment—it may be more effective to narrow the focus to egregious, trade-related violations in some of these areas. This option would entail removing or drastically narrowing the reach of behind the border provisions and focusing on market access, nondiscrimination, and illicit trade. This approach might mean getting rid of ISDS and most of the chapters relating to regulatory harmonization, including IP, but also labor and the environment. This would not mean ignoring these

³¹ This article grew out of conversations between myself and Richardson about a broader project to flesh out these ideas that, unfortunately, never came about.

³² Elliott and Freeman (2003), chapter 4; Elliott (2011).

issues. But it would mean addressing them more narrowly, and more effectively, in the context of trade agreements.

The approach of paring back trade agreements to refocus on fundamental principles would mean that promotion and enforcement of standards in other areas that only occasionally touch on trade would primarily take place in other fora, such as the International Labor Organization, or under a new Worker Power Agreement (Tucker 2018), or the United Nations for many environmental agreements. But there would still need to be mechanisms to address violations of international norms when trade is implicated, for example, allowing countries to block imports of counterfeit trademarked products, those produced with forced labor or other egregiously exploitative labor practices, or goods that undermine global public environmental goods.

Among those arguing that globalization “has gone too far” is Dani Rodrik (1997, 2011, 2018). In *The Globalization Paradox* (Rodrik 2011, pp. 252-53), Rodrik argues that the battle to open up global markets is won, and that, “Our challenge today is to render the existing openness sustainable and consistent with broader social goals.” He proposes expanding the WTO’s “escape clause,” which allows countries to block import surges that threaten domestic industries, to include “[d]istributional concerns, conflicts with domestic norms and social arrangements, prevention of the erosion of domestic regulations, or developmental priorities....”

In his most recent book, Rodrik (2018, pp. 224-25) suggests that countries should have the right to protect domestic regulations and institutions and should be able to “do so by raising barriers at the border if necessary, *when trade demonstrably threatens domestic practices enjoying broad popular support.*” (emphasis in original). Yet he also argues (2018, p. 233) that:

There is an important difference, often eluded [sic] in fair trade discussions, between using trade policy to prevent the undermining of domestic standards and the use of trade policy to export our standards to other countries. The first is legitimate, the second much less so.

But there are a number of questions as to how this proposal would work in practice. Rodrik (2011, pp. 255-57) is vague on what constitutes a legitimate basis to invoke the social escape clause. Rather, he focuses on ensuring that the procedures are democratic and prevent political capture by any party, which he suggests would be sufficient to guard against abuse. On the trigger for responding to worker rights issues, he says only that “gross violations” of core labor standards that undermine labor practices at home would be subject to this escape clause. The key procedural requirement would be to show that the decisionmaking followed a democratic process, including transparency, accountability, inclusion, and “evidence based deliberation” (ibid., p. 254). Countries targeted under the expanded escape clause could challenge its use, but dispute settlement panels could only review compliance with the procedural requirements and not the substantive basis for the decision.

Elliott and Freeman (2003, chapter 4) agree that trade rules should allow countries “to retaliate against trade-related and egregious violations of the core labor standards,” but

propose a slightly different approach.³³ This proposal expands Article XX of the General Agreement on Tariffs and Trade, which has been incorporated into the WTO and most US PTAs. This article lists exceptional circumstances in which WTO members can depart from their obligations under the agreement, including Article XX(e) permitting countries to ban imports of goods produced using prison labor.

The Elliott-Freeman proposal builds on Article XX(e) by adding a provision that allows countries to prohibit imports from specific firms or sectors that involve serious violations of core labor standards. Article XX(e) allows members to take action only against imports implicated in the offending behavior, in this case labor standards violations. To minimize the risks of protectionist abuse, this revision of Article XX(e) would focus on egregious and narrowly defined violations of standards. There would also need to be procedural safeguards as proposed by Rodrik. In addition to having a domestic process that emphasizes participation and transparency, the ILO supervisory process should also be used as part of the evidentiary base in determining whether there has been a violation.

Overall, the radical approach proposed here would reverse the trend toward steadily expanding the scope of trade agreements. It calls for focusing more narrowly on trade-related aspects of behind the border issues in trade agreements and pursuing standards harmonization in other fora.

In the case of worker rights, a narrower approach that focuses on egregious and trade-related violations could make it easier to reach agreement with skeptical developing countries that the practices are unacceptable and appropriate for including in a trade agreement. Focusing enforcement on directly implicated imports would also make it easier to rally support for implementing sanctions against them. This narrower approach to enforcing trade agreement provisions on labor standards could, and should where needed, be supplemented with agreements to collaborate on building the partner country's capacity to implement and enforce labor standards that are consistent with international norms, and empower workers to demand that from their governments.

Reforming the Trade Negotiation Process

The secrecy surrounding trade negotiations, and the special procedures for implementing agreements, contribute to concerns about the fairness and legitimacy of the results. There are requirements for consultations with Congress and with outside advisers. But the fact that the business community is more organized and has greater resources than ordinary citizens means that it inevitably has better access to negotiators and policymakers. More fundamentally, whatever justification they might have had in the past, traditional approaches

³³ This proposal shares some similarities with that in Shaffer (2018), but it avoids the problems with using anti-dumping procedures and focuses attention on the unacceptability of the labor violations, rather than the injury to domestic industry.

to conducting and approving trade negotiations need to adjust to an agenda that increasingly encompasses behind the border issues.

Trade negotiators prefer to operate in secret so that opponents cannot pick apart an agreement before the negotiators have a chance to pull the overall package together. While the economy as a whole benefits, agreements to reduce tariffs and other border measures produce losers as well as winners. If negotiations were done in public, the potential losers in each country would organize to oppose any concessions in their sectors and possibly block conclusion of a deal.

Secrecy is never absolute, of course, and technology has made it ever more elusive. Negotiators have to notify Congress when they launch negotiations and keep it informed while they are ongoing. They also have to consult with a range of advisory committees representing industry sectors, labor and other elements of civil society. Draft texts also often leak and become widely available via the internet. But advisers cannot themselves share draft texts or discuss the details with their constituents.

Whether secrecy was ever justified, it is far more questionable today. At least those portions of potential agreements that address regulatory and other behind the border issues should be subject to far more transparency and public scrutiny. New or revised rules in these areas will not necessarily affect all constituencies equally, but to ensure they serve the broader public interest, they should be subject to the same level of domestic debate as purely domestic regulatory changes. Responding to vociferous public criticism of secrecy in trade negotiations, the European Union began releasing the draft texts of its proposals during the Transatlantic Trade and Investment Partnership negotiations. American negotiators refused to do the same, but that should change in future negotiations (Elliott 2016).

The Constitution's delegation of authority over trade regulation to Congress creates other challenges for US negotiators and the traditional approach to addressing them also needs an update. The "fast track" rules, now known as "trade promotion authority," were designed 45 years ago when negotiators were just beginning to grapple with nontariff barriers, and when trade agreements were mostly multilateral, involving dozens of countries. Under those rules, Congress agrees to act on trade agreements within certain time limits and to forgo amendments. The concern was that congressional opposition to certain elements could unravel agreements carefully negotiated across many countries. To avoid uncertainty about the outcome, and thereby enhance the credibility of American negotiators, Congress accepted fast track constraints in return for the executive branch keeping it informed and consulting with it regularly during negotiations.

Since 1974 when Congress first passed fast track, negotiations have changed in ways that make these procedures less necessary and less appropriate (Brainard and Shapiro 2001). Fast track may still be useful for the market access parts of agreements negotiated with multiple countries. But many negotiations today are with just one or a handful of countries, lowering the costs of renegotiation if necessary to satisfy congressional concerns. In addition, limiting debate again undermines trust in trade agreements that, even if scaled back, have far broader reach than when the fast track rules were written.

Given how often draft texts and other details of negotiations leak out, and given how similar US trade agreements are from one to the next, negotiators would give up very little by being more open with the public. Forgoing fast track, at least for parts of agreements involving behind the border issues, would also help to restore public trust and enhance the legitimacy of those agreements.

Summing Up

American policymakers have not responded well to concerns about globalization's effects in recent decades. They have aggressively sought to break down barriers for business while allowing the safety net to fray, neglecting infrastructure, education and training, and other policies that could improve American competitiveness and create better jobs. In addition to that imbalance, negotiators increasingly are challenging as trade barriers regulatory policies that are primarily domestic in orientation, seemingly giving business interests priority over those of consumers and the environment.

Though technology is a more potent source of dislocation and inequality in the United States, it is easier to blame globalization, and developing countries in particular. Yet current trade policy already discriminates against poor countries, with the highest tariffs left on the books targeting food, clothing, and footwear products that developing countries disproportionately produce and poor Americans disproportionately consume. Trade preference programs intended to help developing countries compete reflect the same biases. And policies to promote ever stronger intellectual property rights and protection for foreign investors can undermine development priorities in partner countries.

So it is long past time to rebalance American trade policy. That task must begin with domestic policies that provide adequate compensation for the losers from globalization and better prepare all Americans to thrive in an economy where technological change is happening faster than ever. But there also need to be changes to trade policy that better balance the interests of multinational enterprises with those of workers, consumers, and vulnerable developing countries.

Restoring a commitment to multilateral institutions and approaches is perhaps the most important item on the list of needed changes. The WTO has also overreached in some areas, such as intellectual property, and that has undermined support among developing countries. But their intransigence in international negotiations has in turn driven US and EU negotiators toward regional and bilateral PTAs where they have the negotiating advantage. Renewed American leadership is an essential first step to fixing the WTO, but China and key developing countries, notably India, will also have to play a more constructive role if they want to preserve the multilateral trading system (Elliott forthcoming).

At home, American policymakers should reform trade preference programs to focus more on relatively poorer countries. Congress and the executive branch also need to provide more stability for GSP and improve implementation of preference programs to ensure eligible countries can more effectively utilize them to create jobs and promote development.

The “deep integration” trade agreement template that US negotiators use for bilateral and regional PTAs is also in serious need of a rethink. Options for rectifying the imbalance between business interests and those of workers, consumers, and others range from modest trimming—as has been happening in response to civil society pressures—to pruning entire branches that reach too far behind borders. The more radical alternative would restore nondiscrimination as the guiding principle of trade agreements and eschew efforts to harmonize a broad range of domestic policies just because they might also impede trade. It is certainly the case that many regulations are suboptimal and more costly than they need to be. But trying to fix that through trade agreements undermines their legitimacy. Moreover, harmonization efforts are inefficient when differences in levels of development, social preferences, or other conditions call for different regulatory approaches.

Thus, rather than tweaking the deep integration PTA template, it may be time to consider which elements are really necessary to keep trade open and fair and carve out the rest. This would include not only business priorities, such as intellectual property protection and ISDS, but also the chapters on labor and the environment. The issues should not be ignored in trade agreements, but they would be addressed only when they violate international norms and are directly trade-related, such as with counterfeit goods or those produced under conditions that violate fundamental worker rights. Narrowing the focus on behind the border issues in this way would make trade agreements more legitimate and enforcement more effective.

Finally, the process for developing, negotiating and ratifying trade agreements needs to be more open, transparent, and accountable.³⁴ Even with a pared back agenda, traditional trade barriers are relatively low in most countries and trade negotiators will continue to want to address behind the border issues that affect trade to some degree. In that context, negotiating in secret and then requiring Congress to vote on all parts of resulting trade agreements without being able to amend them is no longer viable. Given how controversial trade agreements have become, there are no easy answers on how to do this. But that does not excuse ignoring the issue.

³⁴ Tucker (2017) discusses some options for this in more detail.

References

- Aaronson, Susan. 2017. What are We Talking About When We Discuss Digital Protectionism? Working Paper for the Economic Research Institute of Asia, July.
- Alden, Edward. 2016. *Failure to Adjust: How Americans Got Left Behind in the Global Economy*. A Council on Foreign Relations Book. New York: Rowman & Littlefield.
- Baldwin, Richard. 2011. "Economics." In *Preferential Trade Agreement Policies for Development: A Handbook*, edited by Jean-Pierre Chauffour and Jean-Christophe Maur. Washington: The World Bank.
- Birdsall, Nancy. 2008. *White House and the World*. Washington: Center for Global Development.
- Boldrin, Michele, and David K. Levine. 2013. "The Case against Patents." *Journal of Economic Perspectives*, 27(1): 3-22.
- Bollyky, Thomas J. 2016. "TPP Tobacco Exception Proves the New Rule in Trade." Expert Brief. New York: Council on Foreign Relations, February 4.
- _____. 2012. "Regulatory Coherence in the TPP Talks." In *The Trans-Pacific Partnership: A Quest for a Twenty-first-Century Trade Agreement*, edited by C. L. Lim, Deborah K. Elms, and Patrick Low. Cambridge, UK: Cambridge University Press.
- Bown, Chad P., Euijin Jung, and Eva (Yiwen) Zhang. 2018. "Trump's Steel Tariffs Have Hit Smaller and Poorer Countries the Hardest." Trade and Investment Policy Watch, November 15. Peterson Institute for International Economics. Available online here, <https://piie.com/blogs/trade-investment-policy-watch/trumps-steel-tariffs-have-hit-smaller-and-poorer-countries>, accessed January 9, 2019.
- Brainard, Lael, and Ron Shapiro. 2001. Fast Track Trade Promotion Authority. Policy Brief No. 91. Washington: Brookings Institution.
- Branstetter, Lee. 2016. "TPP and the Conflict over Drugs: Incentives for Innovation versus Access to Medicines." In *Assessing the Trans-Pacific Partnership, Volume 2*. PIIE Briefing 16-4. Washington: Peterson Institute for International Economics, March.
- Center for Global Development (CGD). 2010. Open Markets for the Poorest Countries: Trade Preferences that Work. Report of the CGD Working Group on Global Trade Preference Reform. Washington: Center for Global Development.
- Chauffour, Jean-Pierre, and Jean-Christophe Maur. 2011. "Beyond Market Access." In *Preferential Trade Agreement Policies for Development: A Handbook*, edited by Jean-Pierre Chauffour and Jean-Christophe Maur. Washington: The World Bank.
- Compa, Lance. 2019. "Trump, Trade, and Trabajo: Renegotiating NAFTA's Labor Accord in a Fraught Political Climate." *Indiana Journal of Global Legal Studies*, vol. 26, no. 1.
- _____. 2016. "How to Make the Trans-Pacific Partnership Work for Workers and Communities." *The Nation*, January 14.
- Danzinger, Pamela N. 2017. "Fashion Industry's Dependence on Imports: Good or Bad for the U.S. Economy." *Forbes*, August 31, online at
- Elliott, Kimberly Ann. 2017. "Labor Standards." In *Handbook on Globalisation and Development*, edited by Kenneth A. Reinert. Edward Elgar.
- _____. 2017. *Global Agriculture and the American Farmer: Opportunities for U.S. Leadership*. Washington: Center for Global Development.

- _____. 2016. How Much “Mega” in the Mega-Regional TPP and TTIP: Implications for Developing Countries. CGD Policy Paper. Washington: Center for Global Development, March.
- _____. 2016. "TPP Risks and TTIP Opportunities: Rules of Origin, Trade Diversion, and Developing Countries." CGD Policy Paper. Washington: Center for Global Development, March.
- _____. 2011. “Labor Rights.” In *A Handbook on Preferential Trade Agreement Policies for Development*, edited by Jean-Pierre Chaffour and Jean-Christophe Maur. Washington: World Bank.
- _____, and Richard B. Freeman. 2003. *Can Labor Standards Improve Under Globalization?* Washington: Institute for International Economics.
- Fink, Carsten. 2008. “Intellectual Property and Public Health: An Overview of the Debate with a Focus on US Policy.” CGD Working Paper. Washington: Center for Global Development.
- _____, and Kimberly Ann Elliott. 2008. “Tripping over Health: US Policy on Patents and Drug Access in Developing Countries,” in Nancy Birdsall, editor, *White House and the World: A Global Development Agenda for the Next U.S. President*. Washington: Center for Global Development.
- Furman, Jason, Katheryn Russ, and Jay Shambaugh. 2017. “US tariffs are an arbitrary and regressive tax.” *VoxEU*, 12 January.
- Gresser, Edward. 2007. *Freedom from Want: American Liberalism and the Global Economy*. Brooklyn, NY: Soft Skull Press.
- Harrison, Ann E. 2005. Has Globalization Eroded Labor’s Share? Some Cross-Country Evidence. MPRA Paper No. 39649. Posted to Munich Personal RePEc Archive, June 12, 2012 at <https://mpra.ub.uni-muenchen.de/39649>.
- Hoekman, Bernard. 2011. “North-South Preferential Trade Agreements.” In *Preferential Trade Agreement Policies for Development: A Handbook*, edited by Jean-Pierre Chaffour and Jean-Christophe Maur. Washington: The World Bank.
- Hoekman, Bernard, Aaditya Mattoo, and Philip English. 2002. *Development, Trade, and the WTO: A Handbook*. Washington: The World Bank.
- Hufbauer, Gary Clyde, and Jeffrey J. Schott. 2005. *NAFTA Revisited: Achievements and Challenges*. Washington: Institute for International Economics.
- Hufbauer, Gary Clyde, Jeffrey J. Schott, and Kimberly Ann Elliott. 2007. *Economic Sanctions Reconsidered*. Third edition, revised. Washington: Peterson Institute for International Economics.
- Hufbauer, Gary Clyde, and Steven Globerman. 2018. “The United States-Mexico-Canada Agreement: Overview and Outlook.” Fraser Research Bulletin, November. Vancouver, British Columbia: The Fraser Institute.
- Jarsulic, Marc, Andy Green, and Daniella Zessoules. 2019. Trump’s Trade Deal and the Road Not Taken. Washington: Center for American Progress.
- Lindsey, Brink, Steven Teles, Will Wilkinson, Samuel Hammond. 2018. The Center Can Hold: Public Policy for an Age of Extremes. Policy Essay. Washington: Niskanen Center.
- Maskus, Keith. 2007. *Reforming U.S. Patent Policy: Getting the Incentives Right*. Council Special Report No. 19. New York: Council on Foreign Relations Press.

- _____. 2000. *Intellectual Property Rights in the Global Economy*. Washington: Institute for International Economics.
- Moser, Petra. 2013. "Patents and Innovation: Evidence from Economic History." *Journal of Economic Perspectives*, 27(1): 23-44.
- Pelc, Krzysztof J. n.d. Does the International Investment Regime Induce Frivolous Litigation? Processed.
- Richardson, J. David. 2000. "The WTO and Market-Supportive Regulation: A Way Forward on New Competition, Technological and Labor Issues." *Federal Reserve Bank of St. Louis Review* (July/August): pp. 115-126.
- Rodrik, Dani. 2018. *Straight Talk on Trade: Ideas for a Sane World Economy*. Princeton: Princeton University Press.
- _____. 2011. *The Globalization Paradox: Democracy and the Future of the World Economy*. New York: W.W. Norton and Company.
- _____. 1997. *Has Globalization Gone Too Far?* Washington: Institute for International Economics.
- Schacherer, Stefanie. 2018. "Philip Morris v. Uruguay." *International Treaty News*, October 18.
- Tucker, Todd N. 2018. *Seven Strategies to Rebuild Worker Power for the 21st Century Global Economy: A Comparative and Historical Framework for Policy Action*. New York and Washington: The Roosevelt Institute.
- _____. 2017. *The Sustainable Equitable Trade Doctrine: Building Progressive International Cooperation to Counter Right-Wing Economic Authoritarianism*. New York and Washington: The Roosevelt Institute.
- United States International Trade Commission (USITC). 2014. *Andean Trade Preference Act: Impact on U.S. Industries and Consumers and on Drug Crop Eradication and Crop Substitution, 2013*. Publication no. 4486. Washington, September.
- World Trade Organization, International Trade Centre, and UN Conference for Trade and Development. 2018. *World Tariff Profiles 2018*. Geneva.

Table 1. US imports under GSP, by country (million dollars, percent)

Source	Under GSP	Under MFN	GSP Share
India	5,691	42,491	12
Thailand	4,153	26,966	13
Brazil	2,498	26,457	9
Indonesia	1,963	18,213	10
Turkey	1,659	7,660	18
Philippines	1,494	10,099	13
Total	21,332	1,890,543	1

Source: US International Trade Commission, Trade Dataweb, online.

Table 2. Key economic indicators for US PTA partners, 2017

Country	US Exports	US imports	GDP	GDP per capita	Population
	(million US dollars)			(US dollars)	(millions)
Australia	24,527	10,045	1,323,421	53,800	24.6
Bahrain	898	996	35,307	23,655	1.5
Canada	282,265	299,319	1,653,043	45,032	36.7
Chile	13,605	10,551	277,076	15,346	18.1
Colombia	13,312	13,557	309,191	6,302	49.1
Costa Rica	6,170	4,564	57,057	11,631	4.9
Dominican Rep	7,828	4,746	75,932	7,052	10.8
El Salvador	3,058	2,470	24,805	3,889	6.4
Guatemala	6,895	4,015	75,620	4,471	16.9
Honduras	5,080	4,581	22,979	2,480	9.3
Israel	12,550	21,945	350,851	40,270	8.7
Jordan	1,921	1,687	40,068	4,130	9.7
Korea	48,326	71,444	1,530,751	29,743	51.5
Mexico	243,314	314,267	1,149,919	8,903	129.2
Morocco	2,220	1,233	109,139	3,007	35.7
Nicaragua	1,589	3,263	13,814	2,222	6.2
Oman	1,985	1,067	72,643	15,668	4.6
Panama	6,301	443	61,838	15,088	4.1
Peru	8,663	7,283	211,389	6,572	32.2
Singapore	29,806	19,367	323,907	57,714	5.6
World	1,546,273	2,341,963	80,683,787	N/A	7530.4
PTA partner total	720,313	796,843	7,718,751		466
PTA partner/ world (percent)	47	34	10		6

Sources: US International Trade Commission, Trade Dataweb, online; World Bank, *World Development Indicators*, online.

FIGURE 1 US IMPORT DUTIES, BY PRODUCT
(Average Tariff Rate in Parentheses)

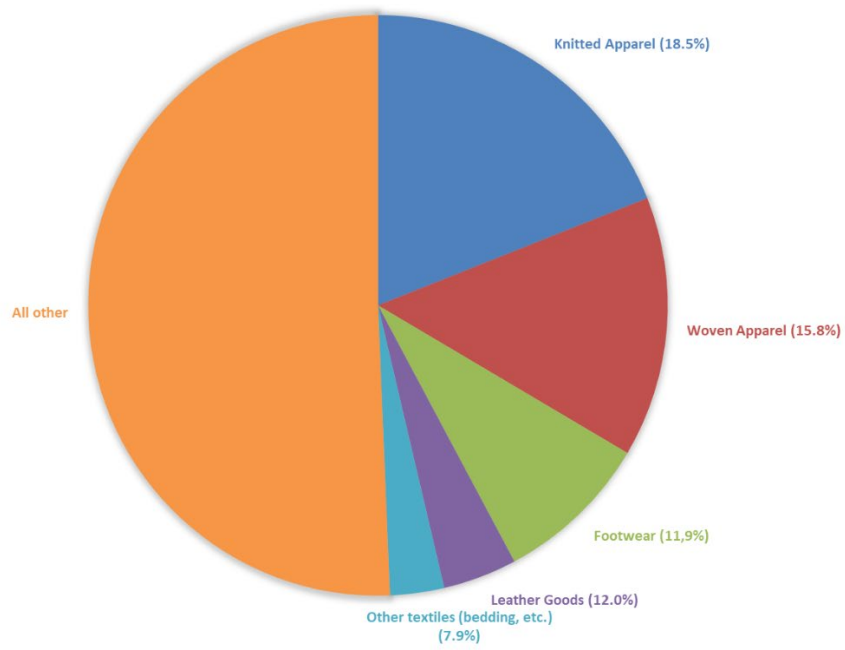


FIGURE 2 US IMPORT DUTIES BY COUNTRY OF ORIGIN

