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WTO Reform and Industrial Policy Space: An Indian Perspective for MC14

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Introduction

Industrial policy has evolved from being viewed as market-distorting intervention to re-emerging as a central instrument of economic strategy. Major economies are actively deploying subsidies, local content requirements, supply-chain controls, and state-backed financing to secure strategic sectors ranging from semiconductors to clean energy. At the same time, discussions on reforming the World Trade Organization (WTO) are intensifying. The renewed centrality of state intervention, particularly amid geoeconomic rivalry and technological transformation, has brought industrial policy and WTO disciplines into direct tension. The debate has shifted from the legitimacy of industrial policy to its governance mechanism in the current rules-based trade order.

This tension reflects a deeper divergence in perspectives. Developed countries like the US and EU increasingly attribute global imbalances to unfair trade practices, excessive industrial subsidies, and market distortions that generate overcapacity and undermine competitive neutrality. From this standpoint, stronger disciplines under the Agreement on Subsidies and Countervailing Measures (ASCM) under WTO are essential to enhance transparency, and stricter enforcement and restore fairness in global trade. Reform proposals from these countries therefore emphasise tightening subsidy rules and expanding notification requirements.

From developing countries perspective, global imbalances are interpreted through the lens of structural inequities embedded in the international economic system.

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These include disparities in capital accumulation, technological capability, and integration into global value chains (GVCs) that constrain their ability to move up the value ladder. As a result, they remain concentrated in lower value-added segments, unable to exploit economies of scale or favorable terms of trade, often resulting in structural trade deficits. For these economies, industrial policy is not a distortion but a development imperative, a necessary tool for structural transformation, technological upgrading, and diversification. From this perspective, policy space within the WTO framework is development-critical.

These divergent diagnoses of global imbalances lie at the heart of current WTO reform debates. The disagreement is not merely technical but historical and structural. During the Uruguay Round negotiations of the 1980s and 1990s, advanced economies and several East Asian economies had already leveraged subsidies, local content requirements, and coordinated state support to build technological depth and globally competitive industries particularly in high-value "alpha" sectors[1]. However, the establishment of the WTO and the introduction of the ASCM imposed stricter subsidy disciplines. Over time, special and differential treatment (S&DT) provisions for developing countries have narrowed, effectively contracting policy space. While China's accession to the WTO presents a distinct trajectory marked by extensive but often non-transparent state support, most developing countries lack comparable scale, institutional capacity, or fiscal strength.

For countries like India, the stakes are substantial. Industrial upgrading, green transition, and middle-income transformation require calibrated policy instruments. WTO reform that disproportionately constrains developmental tools risks deepening existing asymmetries. The central challenge, therefore, is to reconcile competitive neutrality with development asymmetry.

The Re-emergence of Industrial Policy: A Structural Shift

Industrial policy has re-emerged globally in response to digital transformation, climate transition, and intensified geopolitical contestation[2]. Concerns over technological sovereignty, supply-chain resilience, and strategic autonomy have shifted policy priorities away from pure efficiency toward resilience and control over critical sectors. Governments are increasingly deploying subsidies, regulatory instruments, and financial coordination mechanisms to secure domestic production capacity, particularly in capital-intensive and high-technology industries.

In 2022 alone, more than 2,500 industrial policy measures were implemented worldwide, with nearly two-thirds assessed as trade-distorting or detrimental to foreign firms. The number of subsidy interventions has more than quadrupled since 2020, reflecting a sharp resurgence of state intervention in global markets. Advanced economies account for nearly half of these measures. Global Trade Alert's recent analysis highlights that state support interventions benefit from a refined taxonomy distinguishing

[1] Alpha industries refer to technologically complex sectors that command a dominant share of value in global manufacturing and trade. These include advanced engineering, complex chemicals, specialized materials, electronics, precision equipment, pharmaceuticals, automobiles, shipbuilding, and aviation.

[2] Naudé, W. (2010). Industrial policy: Old and new issues (No. 2010/106). WIDER Working Paper.

[3] Ilyina, A., Pazarbasioglu, C., & Ruta, M. (2024). Industrial Policy is Back but the Bar to Get it Right Is High. IMF Blog.

[4] WTO (World Trade Organization). (2024). Special and Differential Treatment in Trade Policies.WTO, REPORT ON G20 TRADE MEASURES (MID-OCTOBER 2023 TO MID-OCTOBER 2024)

[5] Ilyina, A., Pazarbasioglu, C., & Ruta, M. (2024). Supra note 3

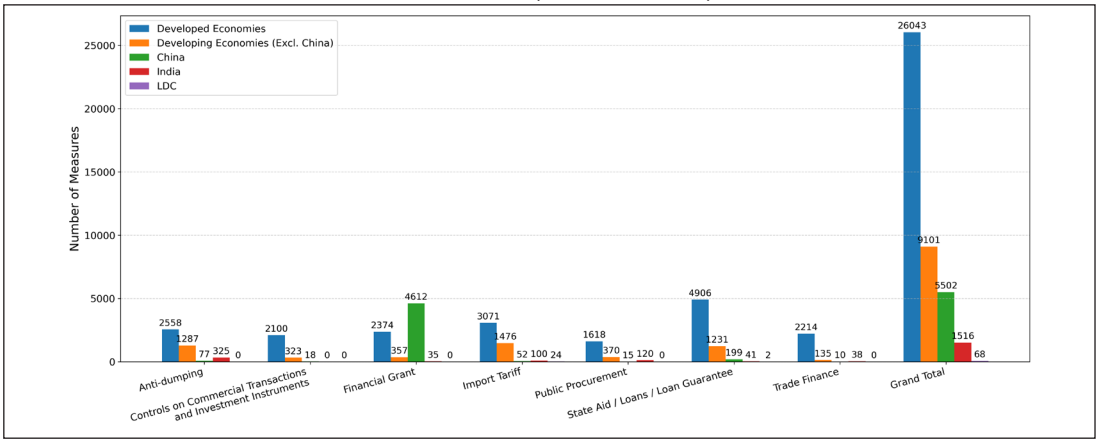
[6] Wu, Mark (2016) The "China, Inc." Challenge to Global Trade Governance, Harvard International Law Journal, Vol. 5, No.2

direct government subsidies from those channelled through financial intermediaries, improving analytical precision by clarifying not only the volume of support but also the institutional mechanisms through which it is delivered. It finds that approximately 68 per cent of all recorded subsidy programmes since 2009 were implemented from 2020 onwards, indicating a pronounced resurgence of state capitalism among major economies (Sancho & Fritz, 2026). In parallel, policy measures such as the European Union's Carbon Border Adjustment Mechanism (CBAM) and the European Union Deforestation Regulation (EUDR), alongside the United States' Section 301 actions under the Trade Act of 1974 and subsequent retaliatory tariff measures in 2025, have raised concerns regarding consistency with World Trade Organization rules (WTO, 2024) or detrimental to foreign firms[3]. The number of subsidy interventions has more than quadrupled since 2020. Advanced economies account for nearly half of these measures. The European Union's Carbon Border Adjustment Mechanism (CBAM) and European Union Deforestation Regulation (EUDR), alongside the United States' Section 301 actions under the Trade Act of 1974 and subsequent retaliatory tariff measures in 2025, illustrate raised concerns regarding WTO consistency (WTO,2024)[4].

Beyond the number of measures, the critical issue is fiscal magnitude. Developed economies dedicate substantially larger financial resources to industrial policy instruments[5]. As shown in Figure 1, there exists a pronounced gap between developed and developing countries (excluding China) in the deployment of major industrial policy tools, particularly financial grants, state aid, and related support measures. India's financial support remains modest in comparison. This asymmetry suggests that while industrial policy has become mainstream, the capacity to exercise it effectively remains highly uneven.

The divergence is even more pronounced in "alpha industries" - strategic sectors characterised by strong economies of scale, intellectual property intensity, and technological spillovers. Control over intellectual property regimes, global standards, advanced technologies, and

Figure 1: Major Distortive Industrial Policy Tools: Developed vs Developing Economies (All Products)



Source: Author's Compilation based on NIPO (New Industrial Policy Observatory) –GTA (Global Trade Alert) Database (2008 – 2025).

7 Atkinson, R. D., & Tufts, I. (2023). The Hamilton index, 2023: China is running away with strategic industries. ITIF, December.

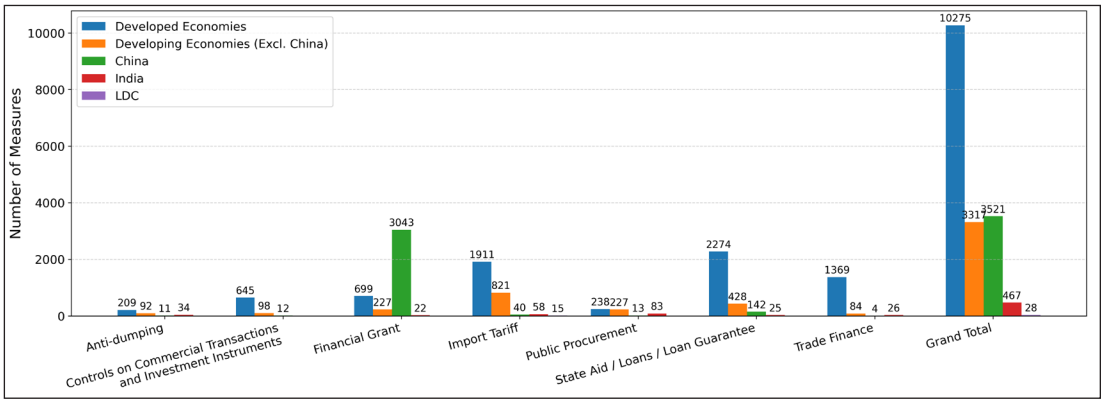
8 Banerjee, P., Hussain, Z., & Karwal, K. (2025). Navigating the development divide: The case for policy space in India's industrial policy strategy amid rising global protectionism (CRIT/CWS Working Paper No. 85). Centre for WTO Studies, Indian Institute of Foreign Trade. https://wtocentre.iift.ac.in/workingpaper/CWS_WorkingPaper_85.pdf

9 Policy Space for Industrial Development - A Case for Rebalancing Trade Rules to Promote Industrialization and to Address Emerging Challenges such ss Climate Change, Concentration of Production and Digital Industrialization, WT/GC/W/868, G/C/W/825, WT/COMTD/W/270, IP/C/W/695, WT/WGTTT/W/33, March 1, 2023

10 Article 3, footnote 9, GATT.

11 Article 15, footnote 45, GATT.

Figure 2: Major Distortive Industrial Policy Tools: Developed vs Developing Economies (Advanced Technology Products: Alpha Industry)



***Source*:** Author's Compilation based on NIPO (New Industrial Policy Observatory) –GTA (Global Trade Alert) Database (2008 – 2025).

post-production services enables advanced economies to capture the highest value-added segments of global value chains. Figure 2 demonstrates that financial grants and state-backed instruments in these sectors are overwhelmingly concentrated in developed economies. China represents a distinct case within this landscape. Its state-led development model marked by state-owned enterprises, targeted subsidies, managed capital flows, and policy-directed credit (with state control over nine of the ten largest banks[6]) enables degrees of coordination unmatched in most democratic jurisdictions. According to the ITIF Hamilton Index, China dominates seven of ten advanced technology sectors, representing over USD 10 trillion in global production[7]. China's financial grants exceed those of the developing country group as a whole, underscoring the scale of intervention in strategic industries.

The combined effect of expansive industrial policies in advanced economies and China's coordinated state capitalism creates a dual structural challenge for other developing countries. Simultaneously, reshoring and "friend-shoring" strategies are redirecting investment and supply chains toward a narrower set of politically aligned economies.

Developed Country Reform Agenda: Compression of Policy Space

The contemporary push for WTO reform is increasingly shaped by proposals advanced by major developed economies, particularly the United States and the European Union, aimed at recalibrating subsidy disciplines within the multilateral trading system. In recent communications, the United States has argued that existing WTO rules have failed to adequately discipline "non-market" economic systems and has called for a fundamental overhaul of the organisation's rulebook and enforcement architecture. As geopolitical competition increasingly shapes trade relations, developed economies have responded through a combination of multilateral reform proposals, plurilateral coordination, and unilateral trade measures.

A key platform for advancing these reforms has been the "Trilateral Initiative on Industrial Policy and Subsidies", launched in 2017 by the United States, the European

[12] Article 15.1, SCM and "United States — Countervailing Measures Concerning Certain Products from the European Communities", WTO (2005). <https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds212_e.htm>

[13] "Government policies to promote innovation in the digital age", World Trade Report 2020, World Trade Organisation (2020) [pg. 28].

[14] Article 25, SCM Agreement, 1995

[15] ibid

Union, and Japan. The initiative focuses on addressing "non-market-oriented policies and practices" associated with global overcapacity and has articulated a reform agenda centred on strengthening disciplines under the Agreement on Subsidies and Countervailing Measures (ASCM).

(a) ASCM Reform Proposals

The Agreement on Subsidies and Countervailing Measures (ASCM), negotiated during the Uruguay Round, establishes disciplines on the use of subsidies while recognising that governments may employ certain forms of support for legitimate policy objectives. The Agreement explicitly prohibits export subsidies and subsidies contingent upon the use of domestic over imported goods. Other subsidies are not automatically prohibited but may be subject to challenge where they generate adverse effects for other Members, including injury to a domestic industry, nullification or impairment of benefits under the WTO agreements, or serious prejudice in international markets. In such cases, Members may seek redress through WTO dispute settlement procedures or through the application of countervailing measures, provided the relevant evidentiary requirements are satisfied.

Developed economies, particularly those involved in the trilateral initiative led by the United States, the European Union, and Japan, argue that this framework is insufficient to address contemporary subsidy practices, especially large-scale state-backed industrial interventions and alleged excess capacity in strategic sectors. Reform proposals advanced in this context therefore seek to tighten subsidy disciplines in several ways.

First, proposals aim to expand the list of subsidies that would be automatically prohibited. These include unlimited state guarantees, financial support to ailing firms lacking credible restructuring plans, and financing directed toward sectors characterised as suffering from structural overcapacity. Second, the proposals seek to reverse the burden of proof for certain categories of actionable subsidies, such as excessively large grants or support provided to firms deemed uncompetitive, requiring the subsidising Member to demonstrate that such measures do not distort trade. Third, reform discussions emphasise stronger transparency and enforcement mechanisms, including stricter notification obligations and procedures allowing affected Members to counter-notify subsidies that have not been reported. In some proposals, unnotified subsidies could be treated as prohibited by default when successfully counter-notified.

Additional elements of the reform agenda focus on strengthening trade remedy practices and clarifying institutional definitions within the ASCM framework. These include permitting investigating authorities to reject domestic prices in favour of constructed or third-country benchmarks when calculating countervailing duties against alleged non-market economies, a practice intended to address situations where domestic prices are considered distorted by state intervention. Proposals also seek to broaden the interpretation of "public body" to encompass entities subject to informal or indirect state influence. Some discussions further emphasise stronger

disciplines on practices such as forced technology transfer.

Although these proposals aim to address perceived regulatory gaps in subsidy disciplines, their implications extend beyond the industrial policies of economies such as China and may affect developing countries more broadly. Notably, WTO law provides no universally accepted definition of "non-market economy," while the concept of "overcapacity" likewise lacks a precise multilateral definition. Similarly, terms such as "uncompetitive firm" and "excessively large grant," as well as distinctions among grants, equity infusions, and concessional loans, remain legally ambiguous within the current framework.

These definitional uncertainties are particularly significant for developing economies. An expanded interpretation of "public body," for instance, could encompass state-owned enterprises, public sector banks, and other development-oriented financial institutions that play a central role in financing infrastructure and strategic sectors. In countries such as India and other emerging economies, these institutions often provide long-term credit, guarantees, or targeted financial support to help domestic firms enter capital-intensive sectors such as steel, electronics, or renewable energy manufacturing. Under expanded prohibitions or presumptions of distortion, such policy tools could become more vulnerable to legal challenge even when they are used to facilitate industrial upgrading and structural transformation.

Taken together, the proposed reforms would significantly tighten the scope of permissible subsidies and expand the circumstances under which industrial policy measures can be challenged within the WTO framework. Without development-sensitive safeguards, reforms aimed at disciplining large-scale subsidisation may therefore also narrow the policy space available to economies that remain in the process of industrialisation.

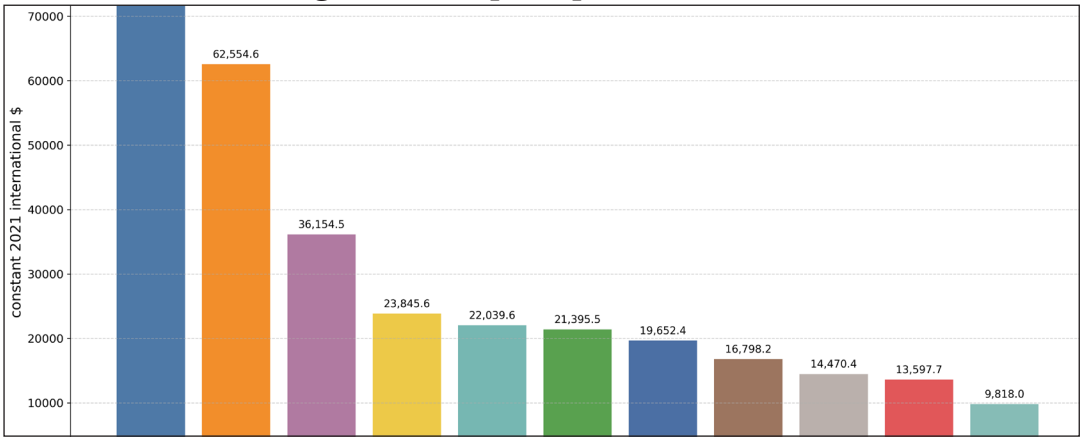
(b) The Overcapacity Narrative

Concerns about global "excess capacity" have become a central justification for strengthening subsidy disciplines. Initiatives such as the Global Forum on Steel Excess Capacity (GFSEC) and the US–EU–Japan Trilateral Initiative frame state-supported capacity expansion as a major distortion in global trade, particularly in capital-intensive sectors such as steel, aluminium, and emerging green technologies.

However, the concept of excess capacity remains undefined in WTO law. There is no agreed methodology to determine when production capacity becomes excessive or how to distinguish legitimate industrial expansion from distortionary overproduction. Developing countries have therefore questioned the broad application of the concept. For economies at an early stage of industrialisation, temporary overcapacity may reflect scale-building, anticipation of domestic demand, or structural transformation rather than systemic distortion.

Moreover, mechanisms such as the GFSEC operate as sector-specific plurilateral arrangements capable of shaping norms outside formal WTO processes. While presented as cooperative transparency initiatives, they may establish

Figure 3: GDP per capita, PPP in 2024



***Source*:** Author's Compilation based on WDI World Bank.

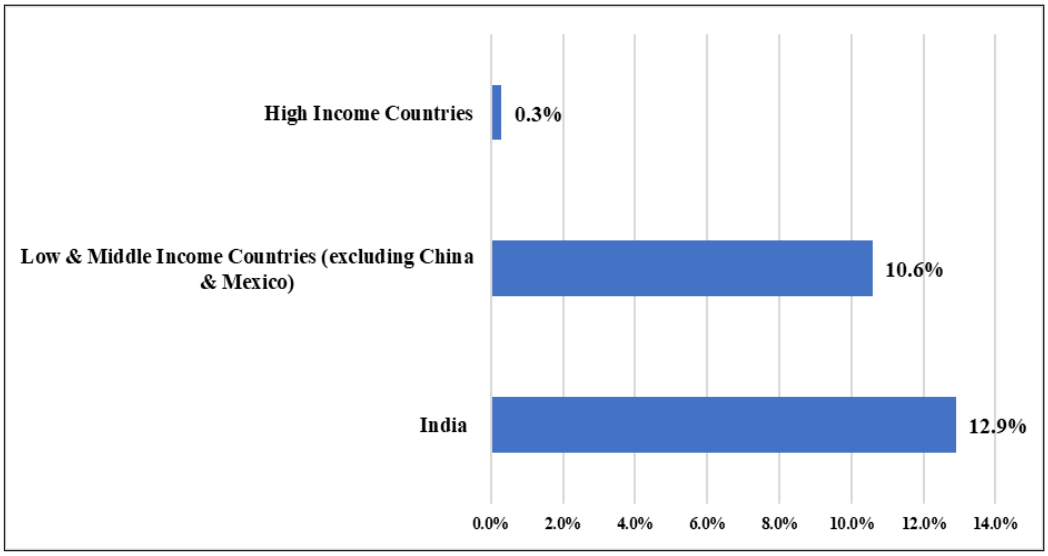
standards that subsequently influence multilateral rule-making.

(c) Plurilateralism and the Future of Multilateral Reform

A further dimension of the reform agenda concerns the process through which new rules are negotiated. Increasingly, major economies are pursuing reforms through plurilateral initiatives and coalition-based approaches rather than consensus-driven multilateral negotiations. Recent communications by the EU Communication on WTO Reform (WT/GC/W/986), 21st January, 2026 indicate openness to alternative pathways, including agreements among subsets of WTO members under Annex 4.

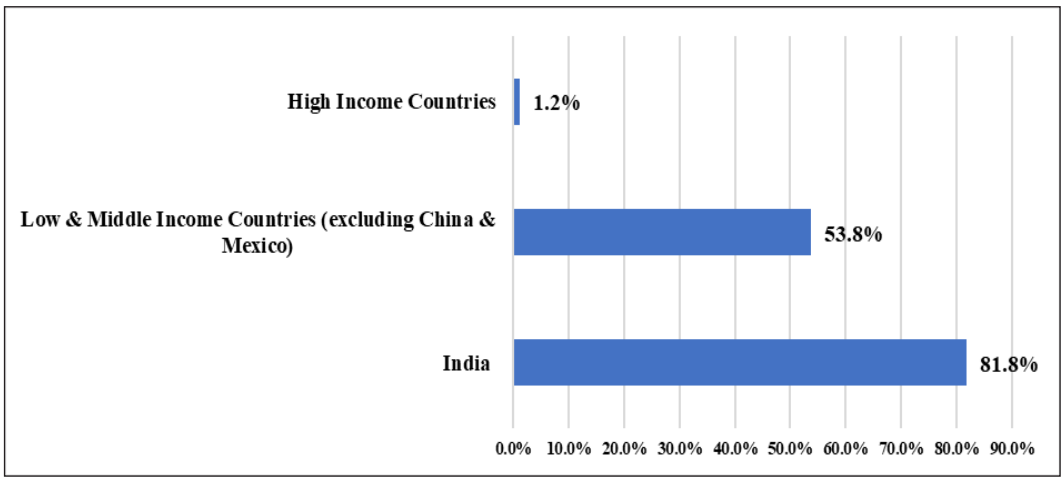
Such "closed-club" arrangements risk fragmenting the multilateral trading system. Rules negotiated among a limited group of economies may gradually evolve into de facto global standards, creating pressure on non-participants to adopt disciplines in whose design they had little role. This dynamic raises concerns for the multilateral architecture of the WTO, which has historically relied on the Most-Favoured-Nation (MFN) principle to ensure that trade concessions granted to

Figure 4: Proportion of people living on less than USD 2.15 a day (2021)



***Source*:** Author's Compilation based on WDI World Bank.

Figure 5: Proportion of people living on less than USD 6.85 a day (2021)



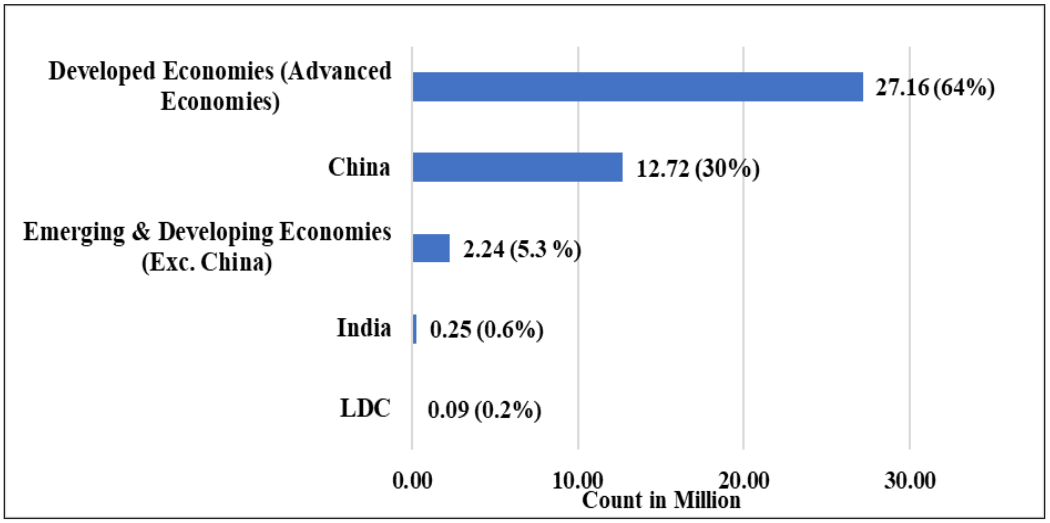
Source: Author's Compilation based on WDI World Bank.

one member are extended to all members on a non-discriminatory basis.

The expansion of plurilateral agreements, particularly those that confer benefits exclusively among participating members could dilute the practical significance of MFN by institutionalising differentiated rule-sets within the WTO framework. Over time, such arrangements risk transforming the system from a universal, rules-based regime into a layered structure of selective commitments and preferential disciplines.

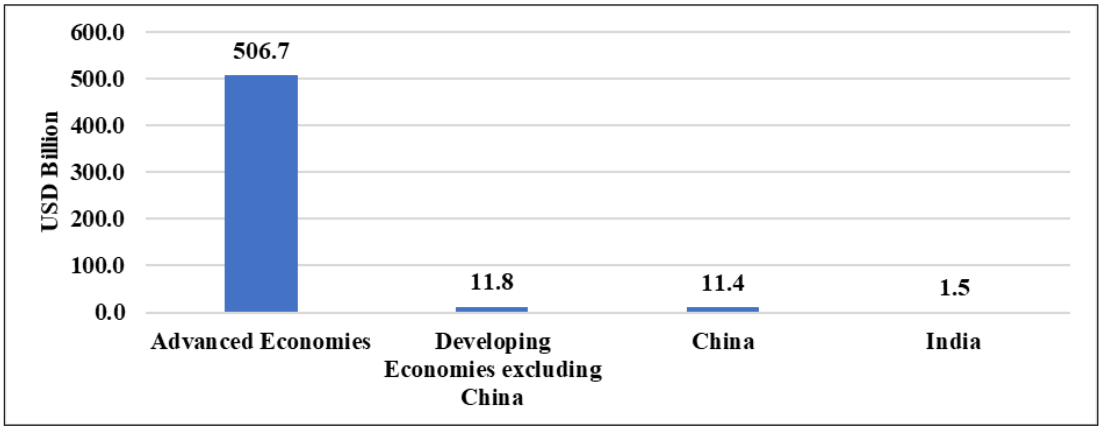
For India and other developing countries, the key concern lies not in reform itself but in reforms primarily designed to address China's scale and opacity. Disciplines calibrated to constrain a dominant industrial power could unintentionally bind emerging industrialisers operating with far smaller fiscal capacity and structural constraints. Without explicit safeguards reflecting development asymmetries, the reform trajectory risks institutionalising existing competitive imbalances rather than correcting them.

Figure 6: Patent Applications by Residents: Advanced vs Developing Economies (1980–2024)



Source: Author's Compilation based on WDI World Bank.

Figure 7: Intellectual Property Receipts (Average 2022-24)



Source: Author's Compilation based on WDI World Bank.

The Development Gap: Structural Justification for Policy Space

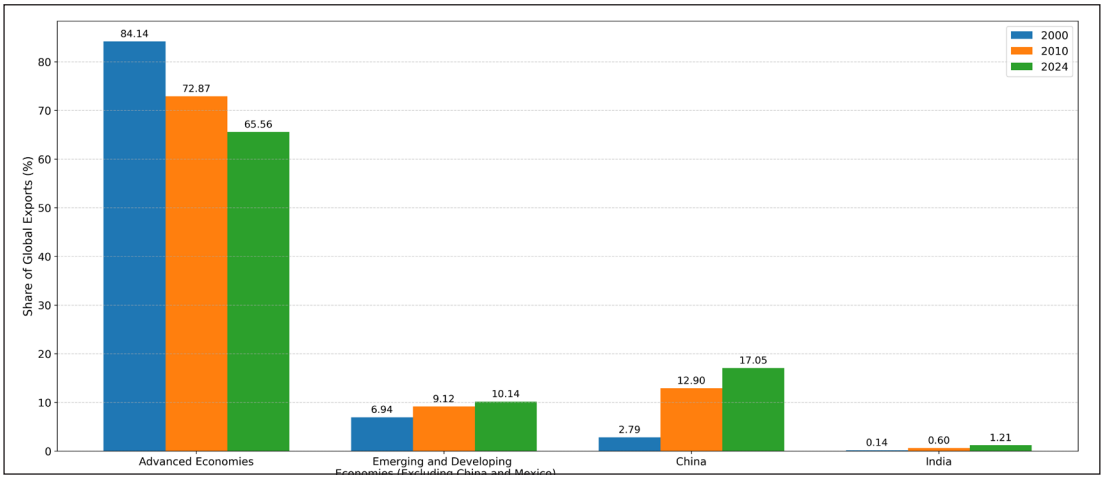
The contemporary debate on WTO reform unfolds in a global economy marked by persistent structural asymmetries. While trade disciplines apply formally and uniformly across members, economic capabilities, income levels, technological depth, and value-chain positioning differ significantly. Any recalibration of subsidy rules must therefore be evaluated against these underlying development divides. Without such contextualisation, formal equality risks reinforcing substantive inequality.

(a) Income Divergence and Developmental Vulnerability

GDP per capita (PPP, 2024) in high-income economies is approximately eight times that of low- and middle-income countries. While some convergence has occurred most notably in China, the broader developing world continues to exhibit significant productivity gaps and incomplete structural transformation.

In 2021, only 0.3 per cent of the population in high-income economies lived below the international poverty line of USD 2.15 per day. In India, 12.9 per cent remained below this threshold. At the higher benchmark of USD 6.85 per

Figure 8: Share (%) in Global Exports of Selected Manufacturing Products



Source: Author's Compilation based on WITS Database.

day, which better captures lower middle-income security, more than half of the population in low- and middle-income countries and over 80 per cent in India had not yet reached that level.

These figures highlight that middle-class consolidation remains structurally incomplete across much of the developing world. Industrialisation historically enabled durable income growth, urban employment generation, and domestic market deepening. However, in many developing economies, manufacturing has not reached sufficient scale to anchor sustained middle-income expansion. Urbanisation patterns further mirror these structural disparities. High-income countries exhibit urbanisation rates of approximately 82 per cent, compared to 48 per cent in low- and middle-income economies and 36 per cent in India[8], reflecting different stages of industrial deepening and structural transformation.

(b) Innovation Asymmetry and Intellectual Property Concentration

Technological capability represents a second axis of divergence. Between 1980 and 2024, advanced economies accounted for approximately 64 per cent of global resident patent applications. China accounted for roughly 30 per cent, reflecting its rapid expansion in innovation capacity over the past two decades. The remaining developing world, including India, contributes only a marginal share.

A similar concentration is visible in intellectual property (IP) receipts. Advanced economies dominate global income flows from patents, licensing, and technology-intensive services, with China emerging as an increasingly significant participant. Most developing economies, however, remain net importers of technology and recipients of limited innovation rents.

This distribution of technological power translates into asymmetric control over standards, research ecosystems, and post-production services, the highest value-added segments of global production.

(c) Global Value Chain Hierarchies

Global value chains (GVCs) institutionalise structural inequality by distributing production stages unevenly across countries. High-income economies retain disproportionate control over upstream research and development, design, branding, logistics, and post-production services segments where value capture and profit margins are highest. Manufacturing activities may be geographically dispersed, but the bulk of value addition continues to accrue to economies controlling technology, standards, and global distribution networks.

Trade data in technology-intensive sectors reinforce this hierarchy. As shown in Figure 8, advanced economies continue to account for a substantial share of global exports in pharmaceuticals (HS 30) and engineering and electronics (HS 84–90). Although their collective share declined by 18.58 percentage points between 2000 and 2024, the principal beneficiary was China, whose share increased by 14.26 percentage points. By contrast, other developing economies (excluding China and Mexico) gained only 3.20 percentage points, with India's share rising by just 1.07 percentage points.

This pattern suggests that global manu-facturing reallocation has been

concentrated rather than broadly diffused across the developing world. China has consolidated scale across multiple industrial segments, while most developing countries remain integrated at lower value-added stages, including assembly, basic manufacturing, or resource-linked production.

The structure of GVCs therefore reflects layered differentiation: advanced economies dominate high-value segments, China operates at large manufacturing and increasingly technological scale, and much of the developing world continues to face constraints in moving up the value chain. In this context, industrial policy for late industrialisers serves as a mechanism for upgrading within GVCs enabling domestic firms to transition from low-margin production to higher value-added activities

Table 1: Proposed Development-Sensitive Criteria for Industrial Policy Flexibilities

Criterion	Indicative Threshold (Generalized)	Underlying Rationale
Level of Development	Classified as a low-income or lower-middle-income country in nominal per capita terms according to an internationally recognized classification system (e.g., World Bank).	Indicates that the country remains in a phase of developmental transition and requires policy flexibility to advance structural transformation.
Overall Merchandise Export Share	Global merchandise export share disproportionate to GDP share (Not applicable to Small Economies)	Ensures that the country does not possess a disproportionate export presence relative to its economic size and is therefore unlikely to be a systemic source of merchandise trade imbalance.
Product-Level Export Concentration (HS6)	The country's share of global exports in the relevant product category (at the HS6 level) remains below X percent.	Demonstrates the absence of overwhelming dominance in the specific product market and reduces the likelihood of sector-specific imbalance or excess capacity.
Sectoral Manufacturing Share (ISIC)	The country's share of global manufacturing output in the corresponding industrial sector (as classified under ISIC) remains below X percent.	Indicates limited systemic influence within the broader manufacturing ecosystem associated with the product, thereby reducing the risk of structural distortion or persistent overcapacity.

***Source*:** Author's Compilation.

India's Position: Strategic Balancing

The empirical analysis presented demonstrates that India's per capita income levels remain significantly below those of high-income economies. Poverty thresholds indicate that middle-class consolidation remains incomplete, while patent intensity and intellectual property receipts are modest relative to advanced economies and China. In high-technology exports such as pharmaceuticals and engineering goods, India's global share has increased only marginally over the past two decades.

At the same time, India's aggregate economic size and growing geopolitical relevance often place it in the same analytical category as structurally dominant economies. In recent WTO reform discussions, proposals from the United States have suggested using criteria such as G20 membership as a basis for restricting access to Special and Differential Treatment (S&DT) for developing countries. Such approaches rely primarily on absolute economic size rather than indicators of sectoral dominance, export concentration, or technological capability. As a result, countries like India risk being grouped alongside economies whose manufacturing scale, fiscal capacity, and innovation ecosystems are far more advanced.

This creates a strategic dilemma. On one hand, India has an interest in a predictable and rules-based multilateral system that allows stronger transparency and accountability mechanisms, being affected by large-scale subsidisation and concentrated export dominance by other countries in certain sectors. On the other hand, India remains in a phase of structural transformation in which industrial policy instruments serve primarily as tools to pursue legitimate industrialization and structural transformation in line with submission by African Group to the WTO[9]. Premature tightening of subsidy disciplines or expansive reinterpretation of concepts such as "public body" and "overcapacity" could disproportionately constrain its development trajectory.

India's position is therefore shaped by the need to differentiate between systemic dominance and developmental catch-up. It supports reforms that enhance clarity, transparency, and enforceability within the WTO framework, but remains cautious of approaches that compress policy space through broad definitions or institutional shifts toward closed plurilateral arrangements. Such fragmentation risks reducing the voice of developing economies in future rule-making processes.

Policy Recommendations for WTO Reform

Reform of WTO subsidy disciplines is necessary to address contemporary trade tensions. However, reform efforts must therefore distinguish between systemic dominance and developmental catch-up. A calibrated approach can strengthen the multilateral system without compressing legitimate policy space.

1. Development-Sensitive Flexibility for Actionable Subsidies

A reform framework should recognise that not all subsidy use generates systemic distortion. For economies still undergoing structural transformation, certain subsidies

classified as "actionable" under the Agreement on Subsidies and Countervailing Measures (ASCM) function primarily as instruments of capability building rather than tools of market dominance.

This policy brief proposes a development-sensitive flexibility that would permit the use of actionable subsidies for clearly defined developmental purposes, subject to objective eligibility criteria. Under this approach, countries would qualify for enhanced flexibility only if they satisfy four cumulative criteria reflecting both development status and limited systemic market influence.

Fulfilment of all four indicators would demonstrate that the country lacks systemic dominance both economy-wide and within the relevant industrial sector. In such circumstances, subsidy use is more plausibly directed toward early-stage industrial expansion, attainment of minimum efficient scale, and structural upgrading rather than toward sustained global market control.

Countries meeting all four conditions should therefore be permitted to deploy subsidies currently classified as "actionable" for clearly specified developmental objectives for as long as eligibility thresholds continue to be met. This would include flexibility to implement measures that incentivise local content use for industrial deepening, subject to transparency requirements. However, this flexibility would not extend to other categories of subsidies already prohibited under the ASCM that are unrelated to developmental capacity building.

2. Flexibility in the Application of Material Retardation and Threat of Injury in Cases Involving Structurally Dominant Suppliers

The WTO Anti-Dumping Agreement and the Agreement on Subsidies and Countervailing Measures recognise three forms of injury: material injury, threat of material injury, and material retardation of the establishment of a domestic industry[10]. The provision on material retardation was originally intended to protect nascent industries that have not yet reached commercial scale[11].

Material injury is conceptually distinct from material retardation. While material injury concerns harm to an existing domestic industry, material retardation addresses the prevention or delay of industrial emergence[12]. Applying identical evidentiary standards to both situations risks depriving the material-retardation provision of independent meaning. In practice, however, its use has remained limited because investigative standards have increasingly converged with those applied to established industries. As a result, the provision is rarely invoked when industries are still at an early stage of development.

This constraint becomes particularly significant in sectors where global production and exports are concentrated in a small number of economies with large-scale manufacturing ecosystems and significant state involvement[13]. Pricing strategies, rapid capacity expansion, and subsidisation practices by such dominant suppliers can discourage new investment and prevent emerging industries in developing countries from reaching

minimum efficient scale. Because these industries are not yet fully established, demonstrating material injury under existing standards remains difficult.

To address this structural asymmetry, the policy brief proposes a recalibration of evidentiary standards in cases involving structurally dominant suppliers. Dominance may be defined through objective thresholds,for instance, where a Member accounts for at least 10 per cent of global exports of a product (HS6 level) and 5 per cent of global manufacturing output in the corresponding ISIC sector.

Where imports originate from such suppliers, investigating authorities could apply a rebuttable presumption of material retardation or threat thereof, with structural dominance constituting prima facie evidence of the capacity to impede industrial establishment. On this basis, provisional measures such as anti-dumping or countervailing duties could be imposed for a limited and reviewable period following a documented prima facie assessment, while allowing the respondent Member an opportunity to rebut the presumption during the course of a full investigation.

By linking the application of material retardation to objective indicators of structural dominance, this approach restores the practical relevance of the provision while maintaining rule-based safeguards. It allows developing countries to respond to entry barriers created by concentrated global production without weakening the overall discipline of WTO trade remedy rules.

3. Strengthening Transparency Through Counter-Notification of Unreported Subsidies by Structurally Dominant Economies

Transparency in subsidy practices is a foundational pillar of the WTO's Agreement on Subsidies and Countervailing Measures (ASCM)[14]. Article 25 requires Members to notify their subsidy programmes regularly so that trading partners can assess potential distortions and preserve fair competition[15]. In practice, however, compliance with these notification obligations has been uneven. Several Members have failed to notify new or expanded subsidy programmes, particularly in capital-intensive sectors characterised by concentrated production structures. The absence of meaningful consequences for persistent non-notification allows opacity to function as a strategic advantage, while affected Members must investigate subsidies without access to critical information.

This gap becomes especially consequential when non-notification occurs in sectors dominated by a small number of large manufacturing economies. Where structurally dominant producers do not disclose subsidy programmes, the resulting information asymmetry weakens the effectiveness of trade remedy instruments and undermines competitive neutrality in global markets.

To address this deficiency, the ASCM transparency framework should link notification compliance to indicators of structural dominance, including both export share and manufacturing capacity. Where a Member meeting these criteria

fails to notify a subsidy programme, a rebuttable presumption could arise that the unreported measure is specific and capable of causing serious prejudice. Affected Members could then adopt proportionate provisional measures until full disclosure is provided.

By introducing consequences for persistent non-notification by structurally dominant suppliers, such an approach would strengthen the credibility of the transparency regime and reduce incentives for strategic opacity in subsidy practices.

Conclusion

A credible reform of the multilateral trading system must therefore reconcile the need to discipline trade-distorting subsidies with the equally important objective of preserving policy space for development. Without such balance, WTO reform risks reinforcing existing structural inequalities rather than enabling a more inclusive and development-oriented global trading system.

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The trade imbalance narrative advanced by the EU and US ignores the inherent structural asymmetries of global industrialization. By enforcing rigid WTO disciplines on industrial policy, early industrializers are effectively denying developing nations like India the same policy toolkits they themselves leveraged for growth during the 20th century.

Dr. Pritam Banerjee*, Head & Professor, Centre for WTO Studies (CWS), IIFT*

The WTO disciplines at present provide us with considerable flexibility, the real question is how we design our industrial policy within that space.
Dr. Harsha Vardhana Singh*, Former Deputy Director General, WTO*

Before seeking external concessions, we must address domestic competitiveness issues such as high input costs, land constraints, capital costs, and regulatory burdens.
Professor Surender Kumar*, Professor, Delhi School of Economics*

Not every manufacturing sector can be declared sensitive. We must identify a limited number of sectors that we want to take to the global level and design targeted industrial policies to support them.
Dr. Rajan Sudesh Ratna*, Deputy Head, South and South-West Asia office of United Nations ESCAP*

If you ask any Indian what are the two manufacturing industries where India has made some success, these are automobile and pharmaceuticals. And in both these industries, industrial policy played a very important role. Legitimate development aspirational efforts that countries like India will make must be protected.

Dr. Nitya Nanda*, Professor, Council for Social Development*

Developing countries operate under weak technological capabilities, limited access to finance, and dependence on imported technology. Without flexibility in local content and performance requirements, moving up the value chain becomes extremely difficult. Our PLI scheme can be challenged in the WTO as the overall design of the scheme does not make a clear demarcation between domestic production support and export- linked subsidies.
Dr. Surendar Singh, ***Associate Professor, Jindal School of Liberal Arts and Humanities***

RIS

Research and Information System for Developing Countries

विकासशील देशों की अनुसंधान एवं सूचना प्रणाली

RIS specialises in issues related to international economic development, trade, investment and technology. It is envisioned as a forum for fostering effective policy dialogue and capacity-building among developing countries on global and regional economic issues. The focus of the work programme of RIS is to promote South-South Cooperation and collaborate with developing countries in multilateral negotiations in various forums. Through its following centres/forums, RIS promotes policy dialogue and coherence on regional and international economic issues.

The word "DAKSHIN" (दक्षिण) is of Sanskrit origin, meaning "South." The Hon'ble Prime Minister of India, Shri Narendra Modi, inaugurated DAKSHIN – Global South Centre of Excellence in November 2023. The initiative was inspired by the deliberations of Global South leaders during the Voice of the Global South Summits. DAKSHIN stands for Development and Knowledge Sharing Initiative. Hosted at the RIS, DAKSHIN has established linkages with leading think tanks and universities across the Global South and is building a dynamic network of scholars working on Global South issues.

AIC at RIS has been working to strengthen India's strategic partnership with ASEAN in its realisation of the ASEAN Community. AIC at RIS undertakes research, policy advocacy and regular networking activities with relevant organisations and think-tanks in India and ASEAN countries, with the aim of providing policy inputs, up-to-date information, data resources and sustained interaction, for strengthening ASEAN-India partnership.

CMEC has been established at RIS under the aegis of the Ministry of Ports, Shipping and Waterways (MoPS&W), Government of India. CMEC is a collaboration between RIS and Indian Ports Association (IPA). It has been mandated to act as an advisory/technological arm of MoPSW to provide the analytical support on policies and their implementation.

FITM is a joint initiative by the Ministry of Ayush and RIS. It has been established with the objective of undertaking policy research on economy, intellectual property rights (IPRs) trade, sustainability and international cooperation in traditional medicines. FITM provides analytical support to the Ministry of Ayush on policy and strategy responses on emerging national and global developments.

BEF aims to serve as a dedicated platform for fostering dialogue on promoting the concept in the Indian Ocean and other regions. The forum focuses on conducting studies on the potential, prospects and challenges of blue economy; providing regular inputs to practitioners in the government and the private sectors; and promoting advocacy for its smooth adoption in national economic policies.

FIDC, has been engaged in exploring nuances of India's development cooperation programme, keeping in view the wider perspective of South-South Cooperation in the backdrop of international development cooperation scenario. It is a tripartite initiative of the Development Partnership Administration (DPA) of the Ministry of External Affairs, Government of India, academia and civil society organisations.

FISD aims to harness the full potential and synergy between science and technology, diplomacy, foreign policy and development cooperation in order to meet India's development and security needs. It is also engaged in strengthening India's engagement with the international system and on key global issues involving science and technology.

As part of its work programme, RIS has been deeply involved in strengthening economic integration in the South Asia region. In this context, the role of the South Asia Centre for Policy Studies (SACEPS) is very important. SACEPS is a network organisation engaged in addressing regional issues of common concerns in South Asia.

Knowledge generated endogenously among the Southern partners can help in consolidation of stronger common issues at different global policy fora. The purpose of NeST is to provide a global platform for Southern Think-Tanks for collaboratively generating, systematising, consolidating and sharing knowledge on South South Cooperation approaches for international development.

DST-Satellite Centre for Policy Research on STI Diplomacy at RIS aims to advance policy research at the intersection of science, technology, innovation (STI) and diplomacy, in alignment with India's developmental priorities and foreign policy objectives.

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