

The multilateral trading system: WTO, WTO Plus, WTO non-compliant, “reformed” WTO

Chee Yoke Ling and Sanya Reid Smith

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Key tools for national development

- Tariffs as tools for domestic industrial policy and revenue
- Taxes for domestic value capture → export taxes, digital services taxes ...
- Government procurement and selected subsidies for national development → preferential treatment for domestic firms and entities including SOEs
- Performance requirements to direct FDI for national development → local content, joint ventures, strengthening SMEs, managerial training, etc
- Capital flows regulation / management
- Prudent borrowing to finance development: what, when, from where, how much, and on what terms

Multilateral trading system with WTO at the centre since 1995

- Rules-based but forged in power asymmetries, entrenched and worsened by North-South bilateral FTAs, plurilateral FTAs, regional FTAs with MNCs as designers
- Member led, decision by consensus, open, inclusive, transparent (domestic regulations & measures; notifications to WTO); development underpinnings recognizing different levels of development (Doha Development Agenda 2001)
- Special and differential treatment a foundational principle operationalized in the negotiated agreements and decisions
- Least Developed Countries have more policy space
- Dispute Settlement system with cross-retaliation authority – unprecedented State-to-State enforcement machinery. Since 2019, the US has blocked new appointments, leaving the Appellate Body without a quorum. System paralysed.

Policy space erosion – key highlights (1)

- Trade in goods rules (tariffs, sanitary/phytosanitary standards; technical barriers to trade); services; intellectual property; agriculture; subsidies & countervailing measures;
- Partial liberalization: investment measures (restricted performance requirements)
- Plurilaterals mandated by Members e.g. government procurement
- Plurilaterals **not mandated** by consensus of Members, with origins in WEF / Davos ministerial statements (Joint Statement Initiatives): e-commerce, investment facilitation for development; disciplines on services domestic regulations (i.e. deregulation)
- WTO's temporary moratorium on customs duties for e-transmissions since 1998, renewed every 2 years at WTO Ministerial Conference → expires March 2026 with increased pressure for a permanent moratorium

Policy space erosion – key highlights (2)

- Investor-to-State Dispute Settlement (ISDS) proliferated in Bilateral Investment Treaties (BITS), spread to trade agreements (NAFTA, TPP/CPTPP, bilateral FTAs with the US, Canada, Australia etc)
- **Growing opposition to ISDS** – Governments increasingly realise the ways ISDS restricts their regulatory and policy space.
 - Some countries have withdrawn from their BITS (India, Indonesia, Pakistan, South Africa)
 - The EU and UK have withdrawn from the Energy Charter Treaty because its ISDS restricts their ability to take climate change measures.
 - Australia and New Zealand oppose ISDS
 - The US government under the Biden and Trump Administrations have opposed ISDS.
- But some countries are still pushing ISDS in their FTA/BIT negotiations e.g. Canada is expected to push ISDS in the ASEAN FTA negotiations and there may be discussions to add it to the Regional Comprehensive Economic Partnership (RCEP)

TRIPS Agreement locks in technology asymmetry

- By industry, for industry (pharmaceutical, biotechnology, agribusiness sectors led by Pfizer) → concerted efforts started in the 1970s for strong global protection of Intellectual property and investment
- US, EU and Japan the vehicles for bringing “trade-related aspects” of intellectual property to the MTS
- Today’s net IP exporters are the US, Japan, Germany, the Netherlands, the UK
- China has emerged as a major player but is a top importer so it’s a significant net importer (esp high tech)
- India a consistent net importer (esp services)

During his tenure as Chairman and CEO of Pfizer Inc., Mr. Pratt helped to lead the US private sector's campaign to have intellectual property included in the Uruguay Round (1986-93) of the GATT (General Agreement on Tariffs and Trade) negotiations; and to have it integrated into US trade law and other international agreements such as NAFTA. In an excerpt from a recent speech given to the US Council for International Business, Mr. Pratt offers a private sector perspective on what was achieved through close government-industry co-operation.

Intellectual property rights are extremely important to the competitiveness of the US and other post-industrial economies. The completion of the most recent round of GATT negotiations is significant for many reasons, not least because "TRIPS" (Trade Related Intellectual Property Rights) — such as patents, copyrights, trademarks, trade secrets — have been accepted as an area to which internationally-recognized rules and disciplines apply. Protection and enforcement of these rights are critical to many global industries, including research-based pharmaceuticals, whose livelihood and ability to contribute to the world depend upon innovation.

The effort to secure intellectual property rights demonstrated the importance of industry-government co-operation and of consensus building among the business communities of the developed world. It was a long and complex process.

By the early 1970s, it became clear that tougher global competition lay ahead for US business. Industry needed to be more vocal in letting government know when international regulations were unfairly tilted against us, particularly in the areas of investment and intellectual property protection. The necessary progress on these issues could not come without strong support from the US government.

The industry became more active in the policy arena and by the next decade, our efforts began to bear fruit. Both the White House and the Congress enacted policies and legislation which enhanced the visibility of intellectual property and bolstered our negotiating positions both in bilateral and multilateral fora. Having been successful in getting

"TRIPS" on the GATT agenda, government asked the US private sector to provide specific proposals for an agreement, and to form an international private sector consensus to achieve it.

In conjunction with more than a dozen companies from all the relevant sectors of US business, Pfizer and IBM co-founded the Intellectual Property Committee or IPC. The US Trade Representative was impressed and suggested that we increase our effectiveness internationally by joining forces with UNICE.

Meanwhile, businesses based upon copying and "counterfeiting" intellectual property are thriving in some countries, notably India, Brazil, Argentina, Egypt and Turkey. Their influence has sometimes made it difficult for those countries to reform their laws. In the publishing, fashion, film-making and music sectors, this has led to substantial lost revenue. In the pharmaceutical industry, this sometimes leads to human, as well as economic costs.

When governments protect the rights of individuals and companies to enjoy the fruits of products of the mind, they've done a lot more than just protecting profits or satisfying some narrow self-interest.

In country after country, the governments which have taken steps to improve intellectual property protection have also enacted broader "pro-growth" economic policies such as market liberalization. Many have also moved toward greater freedom and democracy.

This correlation is no accident. As US political philosopher Michael Novak recently said, "what is distinctive about the capitalist economy is the original discovery that the primary cause of economic development is mind. The cause of wealth is invention, discovery, enterprise."

Edmund F. Pratt, Jr. is Chairman Emeritus of Pfizer Inc., having served as Chairman from 1972-82, and as CEO from 1972-81. He has attended numerous GATT negotiations, along with the capacity of an official adviser to the US Trade Representative.

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Securing TRIPS “...demonstrates the importance of industry-government cooperation and consensus building among the business communities of the developed world” (Edmund T. Pratt, former CEO, Pfizer)

in getting “TRIPS” on the GATT agenda, government asked the U.S. private sector to provide specific proposals for an agreement and to form an international private sector consensus to achieve it.

In conjunction with more than a dozen companies from all the relevant sectors of U.S. business, Pfizer and IBM co-founded the Intellectual Property Committee ... The U.S. Trade Representative was impressed and suggested that we increase our effectiveness internationally by joining forces with UNICE, the principal pan-European business group, and its counterpart in Japan, Keidanren. Working together, we were able to draft intellectual property standards that would be supported by dispute resolution and enforcement mechanisms. Our combined strength enabled us to establish a global private sector-government network which lay the groundwork for what became “TRIPS.”

Standards and enforcement procedures incorporated in the GATT agreement on TRIPS have been extended and strengthened in other international agreements, such as NAFTA (North American Free Trade Agreement).

Yet, there is more to be done. The GATT standards, while good, are still inadequate. The need for new investment rules, which we had attempted to introduce into the Uruguay Round, were not fully integrated into the final agreement. The need for effective enforcement is essential. Treaties, agreements and laws made without the ability to enforce them are worse than none at all.

Table 1: Global IP Receipts and Payments, Balance, in USD Billion, 2023

Economy	Exports (USD Billion)	Imports (USD Billion)	Ranking Exports	Ranking Imports
United States	134.44	47.54	1	3
Japan	51.47	28.65	2	6
Germany	47.72	22.93	3	7
Netherlands (Kingdom of the)	42.20	41.81	4	4
United Kingdom	31.69	21.05	5	8
Switzerland	29.67	30.44	6	5
France	16.67	15.51	7	11
Ireland	15.39	152.56	8	1
Singapore	13.83	18.18	9	9
China	12.17	52.73	10	2

International trade in ideas, know-how and intellectual property surpassed USD1 trillion in 2023

More than double since 2010 and growing at an average compound annual rate of approximately 5.5 percent between 2010 and 2022

Table 1: Global IP Receipts and Payments, Balance, in USD Billion, 2023

Economy	Receipts (USD)	Payments (USD)	Ranking Exports	Ranking Imports
Brazil	0.92	6.31	31	17
Russian Federation	0.63	3.43	32	25
Cyprus	0.57	0.33	33	56
Türkiye	0.47	3.59	34	24
Norway	0.44	0.65	35	47
Kuwait	0.41	0.51	36	49
Saudi Arabia	0.38	1.51	37	37
Bulgaria	0.34	0.32	38	57
Thailand	0.33	6.03	39	18
Malaysia	0.28	2.73	40	27
Argentina	0.25	1.92	41	33
Indonesia	0.21	2.50	42	29

Figure 2a: Global leaders in IP exports by Europe, Northern America, and Southeast Asia, East Asia and Oceania in 2023, in USD Billion

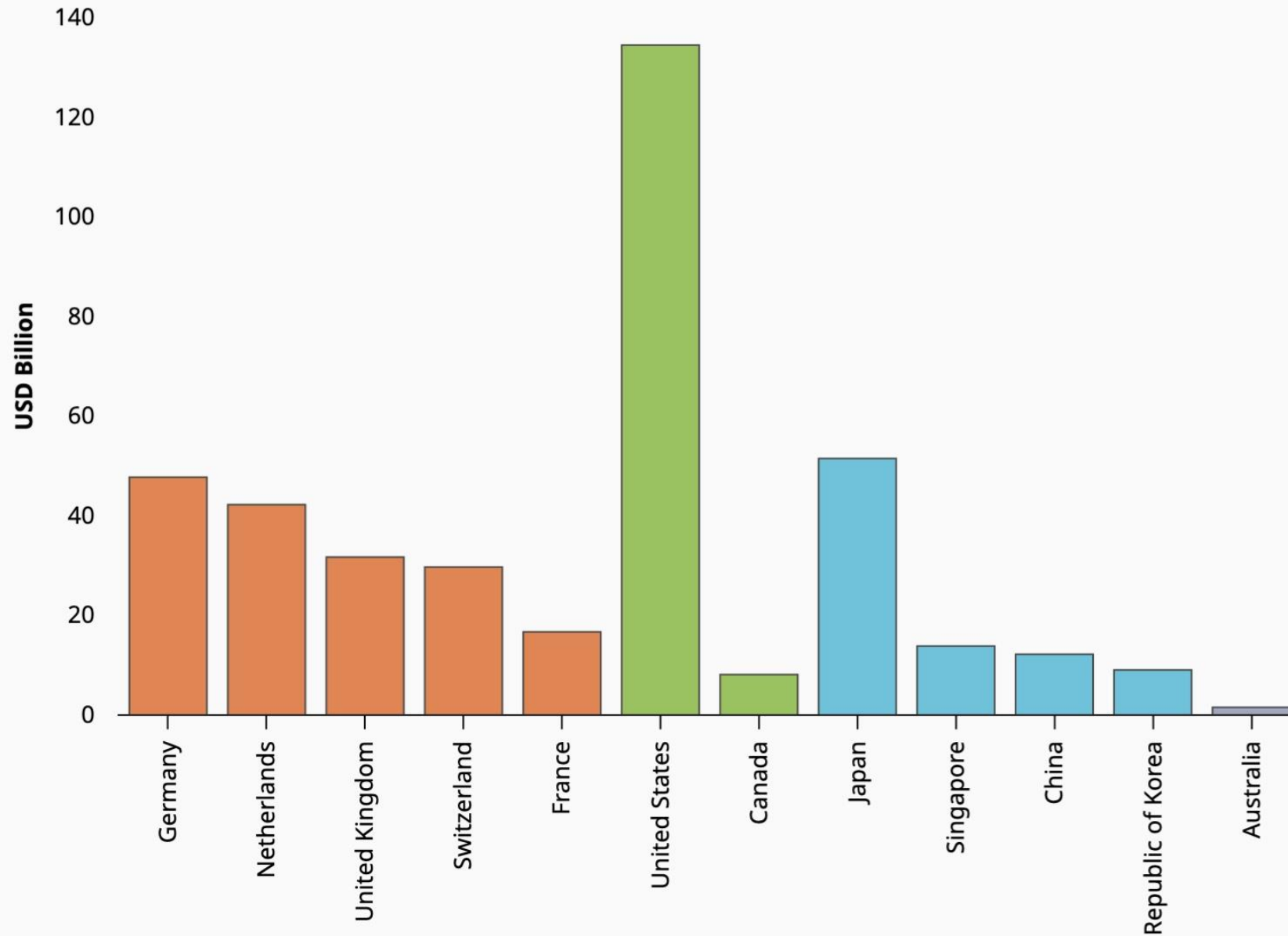
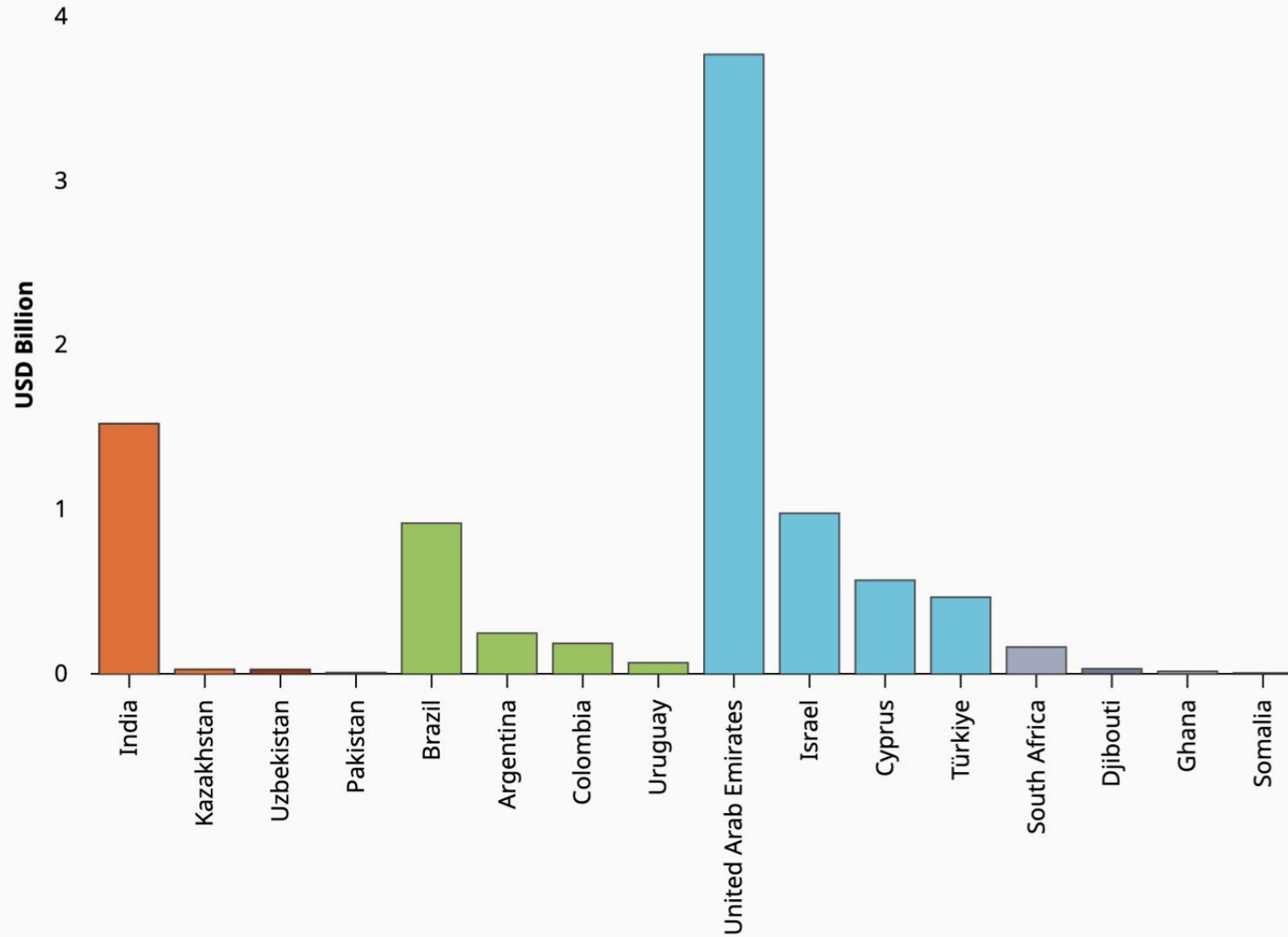


Figure 2b: Global leaders in IP exports by Central and Southern Asia, Latin America and the Caribbean, Northern Africa and Western Asia, and Sub-Saharan Africa in 2023, in USD Billion



Why is UAE a big IP trading country?

In 2023: USD3.77 trillion exports (#18); USD 3.24 trillion imports (#26)

- **International Compliance Good for IP trading:** Member of the Madrid Protocol and WTO, offering a secure, internationally recognized environment for registering IP, attracting global businesses to manage and trade their intellectual assets there.
- **Strategic Economic Focus:** Actively transitioning from an oil-based to a knowledge-based economy, Ministry of Economy facilitating rapid registration and enforcement of IP rights to protect, investments in technology and innovation. But is UAE home-growing innovation?
- **High-Volume Registration and Trading:** A surge in registrations – 39% rise in trademarks and 19.5% increase in patent applications in 2023-2024
- **Strict Enforcement Mechanisms:** The UAE has strengthened its enforcement against counterfeit goods and infringement, making it a reliable jurisdiction for protecting intellectual property.
- Aggressively signing Comprehensive Economic Partnership Agreements with developing countries: India, Israel, Indonesia, Malaysia, Turkey, Cambodia. Negotiating with EU, Mercosur

WTO members' notified measures on climate action

EDB climate change related measures by objectives (2009-2022)



Source: WTO's Environmental Database. To access it, please click [here](#).

WTO members' submissions on climate change

Submitted by	Document number	Committee or group
Japan	INF/TE/SSD/W/10	TESSD – Proposal on Contributions to Achieving Global Carbon Neutrality at the WTO
European Union	INF/TE/SSD/W/7	TESSD – Communication on topics of interest
Iceland	INF/TE/SSD/W/5	TESSD – Communication on priorities for discussion
Switzerland	INF/TE/SSD/W/4	TESSD – Communication on possible issues/priorities
New Zealand	INF/TE/SSD/W/1	TESSD – Proposal for a fossil fuel subsidies reform discussion

Some comparisons of Trump tariff deals

Country	US tariffs announced on 2/4/2025 (%)	US tariffs (%) after 31/7/2025 EO	Share of its exports to USA (%)	Has Trump tariff deal?
Argentina	10	10	9	Y: ART
<i>Bangladesh</i>	37	20	15	N
Cambodia	49	19	44	Y: ART
Ecuador	10	15	24	Y: JS
El Salvador	10	10	36	Y: ART
EU	20	15	21	Y: JS
Guatemala	10	10	32	Y: ART
Indonesia	32	19	10	Y: JS
Korea (South)	25	15	18	Y: JS
Japan	24	15	20	Y: JS
Malaysia	24	19	11	Y: ART
<i>Pakistan</i>	29	19	20	N
<i>Philippines</i>	17	19	16	N
<i>Sri Lanka</i>	44	20	23	N
Switzerland	31	39 before (dropping to 15 after agreeing a JS)	15	Y: JS
Taiwan	32	(dropping to 15 after JS) 20	15	Y: JS
Thailand	36	19	17	Y: JS
UK	10	10	14	Y: JS

US – India
reciprocal trade
deal announced
on 5 Jan 2026

In return for 18% reciprocal tariffs (from 50%) and removal of 25% penalty for purchasing Russian oil ...

India to reduce tariffs & NTB against the US to zero

Purchase over USD500 billion over 5 years' worth of US energy, technology, agricultural, coal and other products

India to stop buying Russian crude oil; to buy more energy from the US and potentially from Venezuela

US Agreements on Reciprocal Trade (ARTs)

Provisions re: critical minerals include:

- National treatment re US investment to *‘explore, mine, extract, refine, process, transport, distribute, and export critical minerals and energy resources’* (Cambodia, El Salvador, Argentina)
 - Malaysia (Annex III, Article 6.2:
 - ‘1. Malaysia shall refrain from banning critical mineral exports to the United States and shall eliminate any rare earth element export quotas to the United States.*
 - 2. Malaysia shall commit to the expedient development of its rare earth and critical minerals sector in partnership with U.S. companies to ensure secure and diversified supply chains. Malaysia shall provide greater certainty for companies involved in critical mineral extraction, including granting extended operating licenses with a focus on enhancing their technical capabilities, creating certainty for businesses to increase production capacity, and supporting operational growth.*
 - 3. Malaysia agrees to encourage a supply of rare earth magnets on terms favorable to the United States, subject to mutually agreed upon arrangements. Malaysia shall not impose restrictions on the sale of rare earth magnets to U.S. companies.’*
- Malaysia intends to purchase US ‘Critical Materials Consumables and Components’

US ARTs

- No environment exceptions
- Security exception is just to raise tariffs
- Enforcement: if the US considers the other country is not complying with the ART it can raise tariffs. No certainty on tariff levels achieved in ARTs
- Countries such as Indonesia have used a ban on nickel exports to encourage value added processing
- Malaysia's Minister of Natural Resources and Environmental Sustainability said in Parliament on [5 February](#) that the government will continue to prohibit export of raw rare earth elements in line with current policy to prevent exploitation of strategic resources without value addition

DRC-US Strategic Partnership Agreement (Dec 2025/Feb 2026)

A "shopping list" of mining sites, including unlicensed exploration areas. It primarily focuses on cobalt, copper, zinc, and gold.

Aims to reduce dependency on Chinese-controlled supply chain and part of larger US-led supply chain

Includes:

- US has right of first offer for the Strategic Asset Reserve project set up
- DRC commits to amend its law to include 'A renewable fiscal stabilization clause for an initial period of ten (10) years'
- 5-year survival clause

It can be enforced via the [existing](#) DRC-US [BIT](#) which includes a broad definition of investment, an [umbrella](#) clause, fair and equitable treatment, expropriation etc enforceable via ISDS. Also applies to investment contracts and investment authorisations – with automatic consent and a 10-year survival clause. US investors use ISDS the most ([238 known cases](#)) in the world and all known ISDS cases [against the DRC](#) have been brought by US investors

A US government-backed consortium's plan to buy 40% of Glencore's copper-cobalt operations in Democratic Republic of Congo could create a vehicle for further mining acquisitions across Africa.

The transaction represents a turnaround for Glencore in its relationship with the US government. In 2022, the miner settled corruption charges involving bribery payments to Congolese officials. Complications remain around Israeli billionaire Dan Gertler, who is under US sanctions and receives royalties from both mines.

[Bloomberg News](#) (5 February 2026)

“Today (4 February 2026) the United States, together with our partners and allies, has set out to reshape the global market for critical minerals and rare earths. Secretary of State Marco Rubio, joined by Vice President JD Vance, Treasury Secretary Scott Bessent, Interior Secretary Doug Burgum, Energy Secretary Chris Wright, and U.S. Trade Representative Ambassador Jamieson Greer, hosted representatives of 54 countries and the European Commission, including 43 foreign and other ministers, at the [2026 Critical Minerals Ministerial](#)

Delegations from the following countries attended: Angola, Argentina, Armenia, Australia, Bahrain, Belgium, Bolivia, Brazil, Canada, Cook Islands, the Czech Republic, the Democratic Republic of the Congo, the Dominican Republic, Ecuador, Estonia, the European Commission, Finland, France, Germany, Greece, Guinea, India, Israel, Italy, Japan, Jordan, Kazakhstan, Kenya, Lithuania, Malaysia, Mexico, Mongolia, Morocco, New Zealand, Norway, Oman, Pakistan, Paraguay, Peru, Philippines, Poland, Qatar, the Republic of Korea, Romania, Saudi Arabia, Sierra Leone, Singapore, Sweden, Thailand, the Netherlands, Ukraine, the United Arab Emirates, the United Kingdom, Uzbekistan, and Zambia.”

Source: [US Department of State](#). List of countries that signed critical minerals deals with the US provided

US proposal for WTO reform - highlights

- Most Favoured Nation (MFN) is out of date
- Special & Differential Treatment to be diluted and narrowed
- Level playing field means shifting the WTO system to align with US interests → China main target, but also developing countries with bigger economies (India, Brazil, South Africa, Indonesia etc).
- Blames overcapacity and overproduction in developing countries for US trade in goods deficit
- Weaponisation of tariffs to correct the unlevel playing field of goods trade: first salvo during Trump 1 on aluminium and steel, current reciprocal tariffs by Trump 2
- Essential security determination for trade measures to be completely self judging, not role for WTO judicial review

On US proposal for WTO reform

“Through its proposal on WTO reform, the US seeks to move to a more power-based trading system with new asymmetric agreements through emphasis on WTO being a platform mainly for plurilateral agreements, abandoning the MFN principle and securing the right to take unilateral action outside the WTO against countries that might pose competitive threat to it, ostensibly for addressing trade deficits, overproduction and overcapacity, economic security concerns and making supply chains resilient.

Implementation of the proposal is likely to block development pathways for developing countries through dilution and elimination of special and differential treatment provisions and actions outside the WTO ostensibly for addressing trade deficits, overproduction and overcapacity, economic security concerns and making supply chains resilient.”

Abhijit Das

Some concluding thoughts and possible steps

- Trade and investment regimes are not appropriate for developing principles, norms and standards re: the ecological and social underpinnings of energy transition (or environment/sustainability generally)
- The trade principles of “non-discrimination” (National Treatment and Most Favoured Nation) are in constant tension with industrial policies that require subsidies, local content requirements, preferential treatment for domestic firms and local communities → NATIONAL POLICY SPACE
- Exceptions to trade rules: where does justifiable “barriers” to trade end, and parochial protectionism begins?
 - GATT Article XX ‘s general exceptions have always been difficult to use, with a [very low](#) success rate
 - GATT Article XXI’s “essential security interests” exception → recently tested and under siege by the US
- The MTS was never about fair competition → when the South learns the rules and succeed, the goal post shifts. WTO reform will be a flashpoint at MC14
- Current “Trump deals” flout WTO principles, rules and agreed commitments → MC14 risks launching a roadmap for US to be the only Most Favoured Nation, power (bully) led plurilateral agreements ...

- Engagement with developing countries / LDC WTO Members for outcomes of MC14 (26 – 29 March, Yaounde, Cameroun) that leave space to continue the good fight over the future of the MTS to defend policy space for sustainable development through just and equitable transitions within UN norms and frameworks (climate, biodiversity, social rights, etc)
- Continue analysis, advocacy, campaigning at country /regional/global levels on deals with the US
 - Broaden and intensify intersections of CSO coalitions and academia for research and analysis
 - Explore and engage in constitutional and other national avenues especially parliamentary scrutiny and oversight, perhaps judicial review. E.g. Congolese lawyers/ human rights defenders have filed a constitutional challenge against the US-DRC Strategic Partnership Agreement
 - Engage with UN human rights procedures to hold Northern governments to account (extraterritorial obligations)
 - How to address the clear geoeconomic supply chain from mining to industrialization to waste disposal that the US is building to counter China and break away its economic partners and allies?
- Watch out for the rush of trade & investment negotiations with the EU, Japan, Canada, Australia, EFTA perceived by governments to be a counter to the US, as safeguard and market diversification