

Geopolitics & Industrial Policy
in International Trade (I):
Trade in Geopolitics

ASEAN Trade Law Academy
(April 2023)

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Trade Wars

What Went Wrong?

The U.S. Allegations

China's “Unfair” Trade Practices

State-Owned Enterprises (SOEs)

Industrial Subsidies

IP Theft / Forced Tech. Transfer

China's Refutations

Its WTO Scorecard

SOEs as "Market" Players

No Government Intervention

Déjà Vu?

Collective Memory

Two Memory Boxes





**The capitalists themselves
because they are so green
will sell us the rope with
which to hang them.**

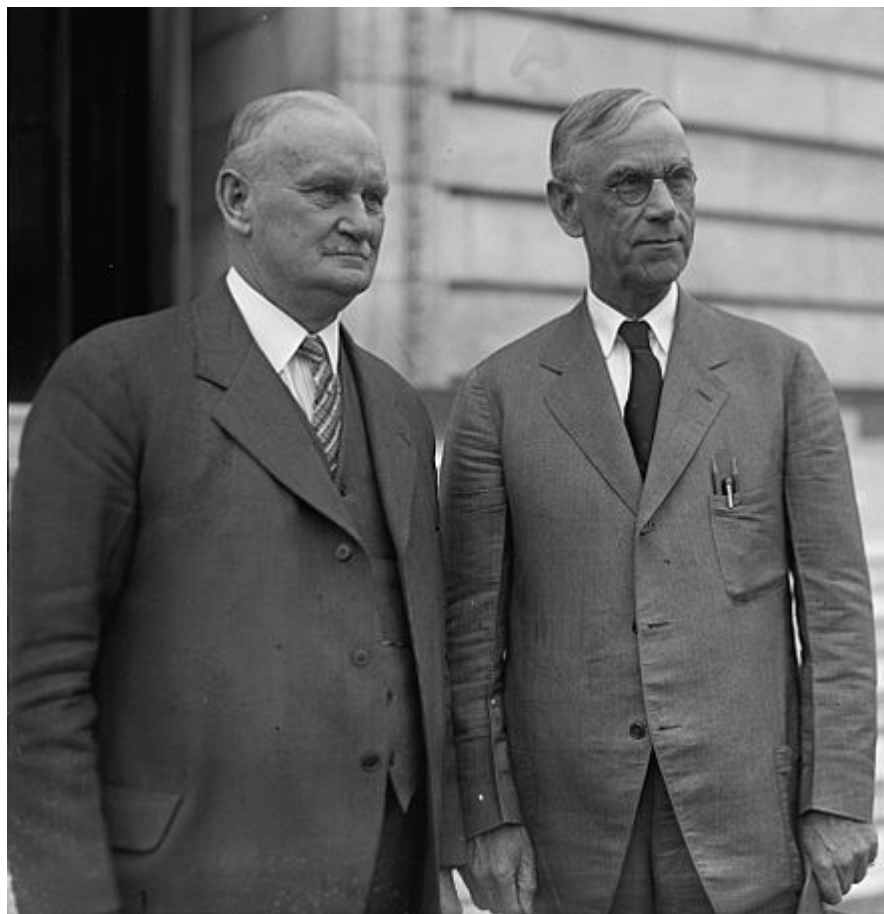
V. Lenin



“Trade Wars Are
Good and **Easy to Win!**”

Taming Unilateralism

The Origin of the GATT/WTO System





Sungjoon Cho, *Trade Wars Call for a **Cool-Headed Arbiter***, Fin. Times (Apr. 30, 2019)

“It was none but a “trade” dispute that precipitated the Star Wars a long time ago in a galaxy far, far away. The Galactic Republic and the Trade Federation quarrelled over taxing trade routes, which led to a blockade of shipping to a small planet of Naboo. The two parties failed to settle the dispute by pacific means, which invited light-sabre-wielding warriors.”

DSU Article 23

(Strengthening of the **Multilateral** System)

1. When Members **seek the redress of a violation** of obligations or other nullification or impairment of benefits under the covered agreements or an impediment to the attainment of any objective of the covered agreements, they shall have recourse to, and **abide by**, the rules and procedures of **this Understanding**.

The WTO's “Constitutional” Crisis

The Appellate Body Crisis

“Nihilation” (v. Violation)

“[P]olitical intimidation ... sought to use to pressure WTO jurists to abandon their legal task of upholding the **rule of law** and instead make political decisions approving flawed positions favoured by the United States.”

(James Bacchus, Former Chairman of the Appellate Body)

The Recent **Geopolitical** Factor

The “Belt and Road” Initiative
(formerly “One Belt, One Road”)

“Made-in-China 2025”

“The China Dream”

“Dual Circulation”

The Culture of “Containment”

Before It Is Too Late?
(Cf. “Thucydides Trap”)

A Blast from the Past

“Unless **Japan** is contained, therefore, several things that matter to America will be jeopardized: America's own authority to carry out its foreign policy and advance its ideals, American citizens' future prospects within the world's most powerful business firms, and also the very system of free trade that America has helped sustain since the Second World War.” (Fallows, 1989)

Decoupling (Obama-Trump-Biden)

“Pivot to Asia” (TPP)

ZTE/Huawei Ban

Export Ban on Chips

CHIPS and Science Act of 2022

Inflation Reduction Act (IRA) of 2022

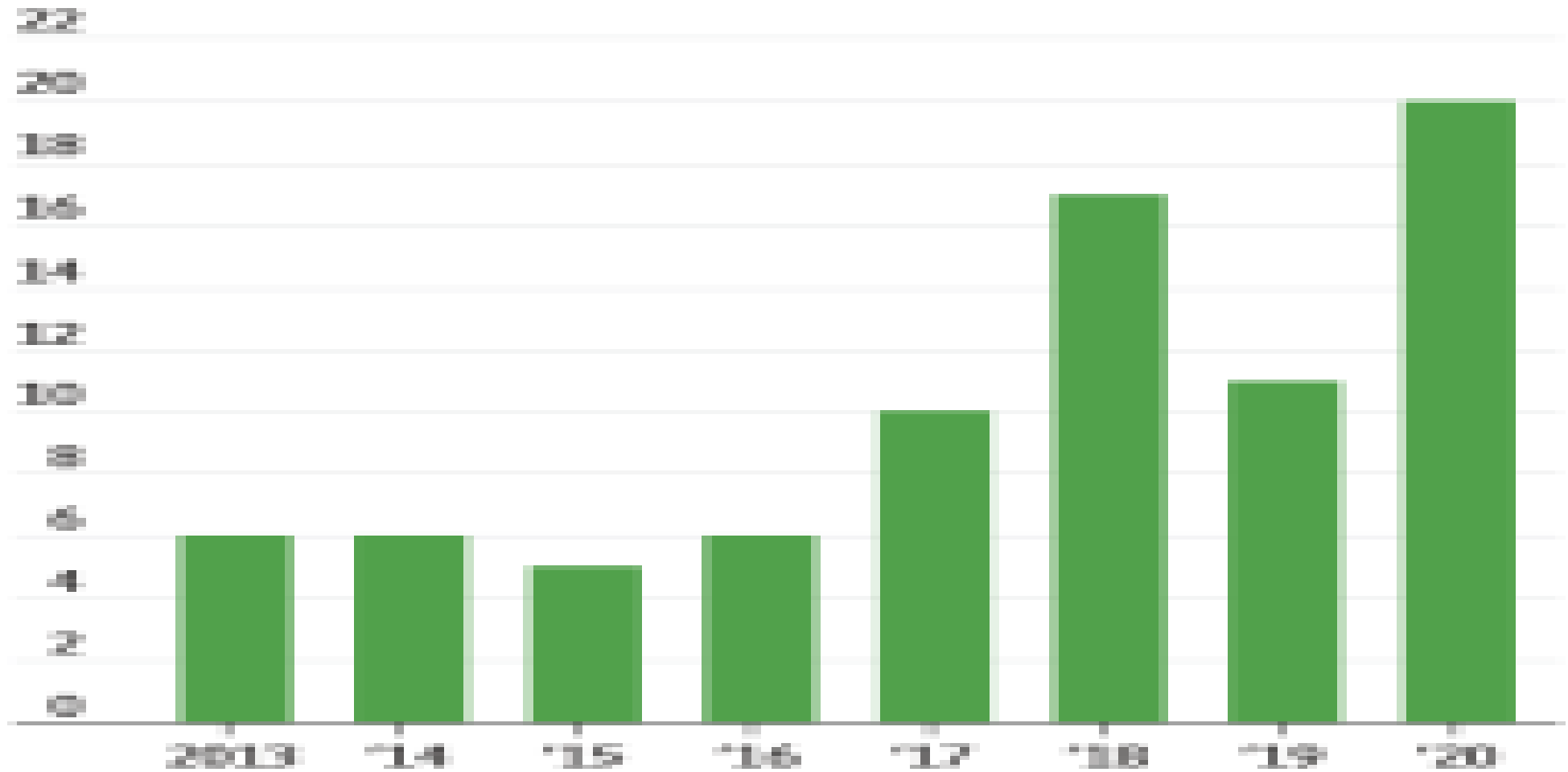
Indo-Pacific Economic Framework (IPEF)

De-Coupled?

Why Do So Few Firms Want to **Exit** China?

Chip Deals

Number of Chinese chip deals involving U.S. private investors

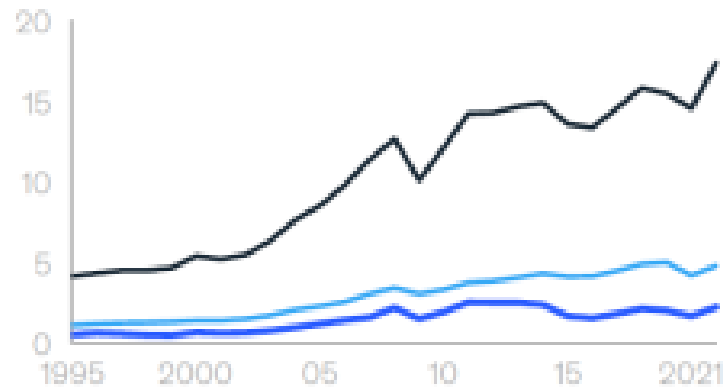


Source: Rhodium Group

Global Flows (McKinsey Global Institute)

Trade, exports, \$ trillion

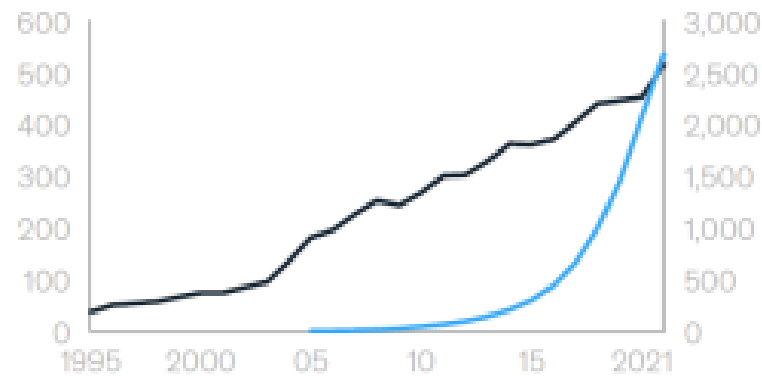
— Manufactured goods — Services — Resources



Intangibles

— IP exports (\$ million)

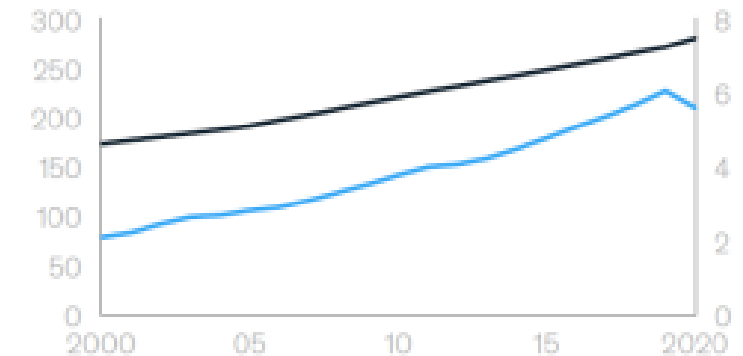
— Data (terabits per second)²



People, million

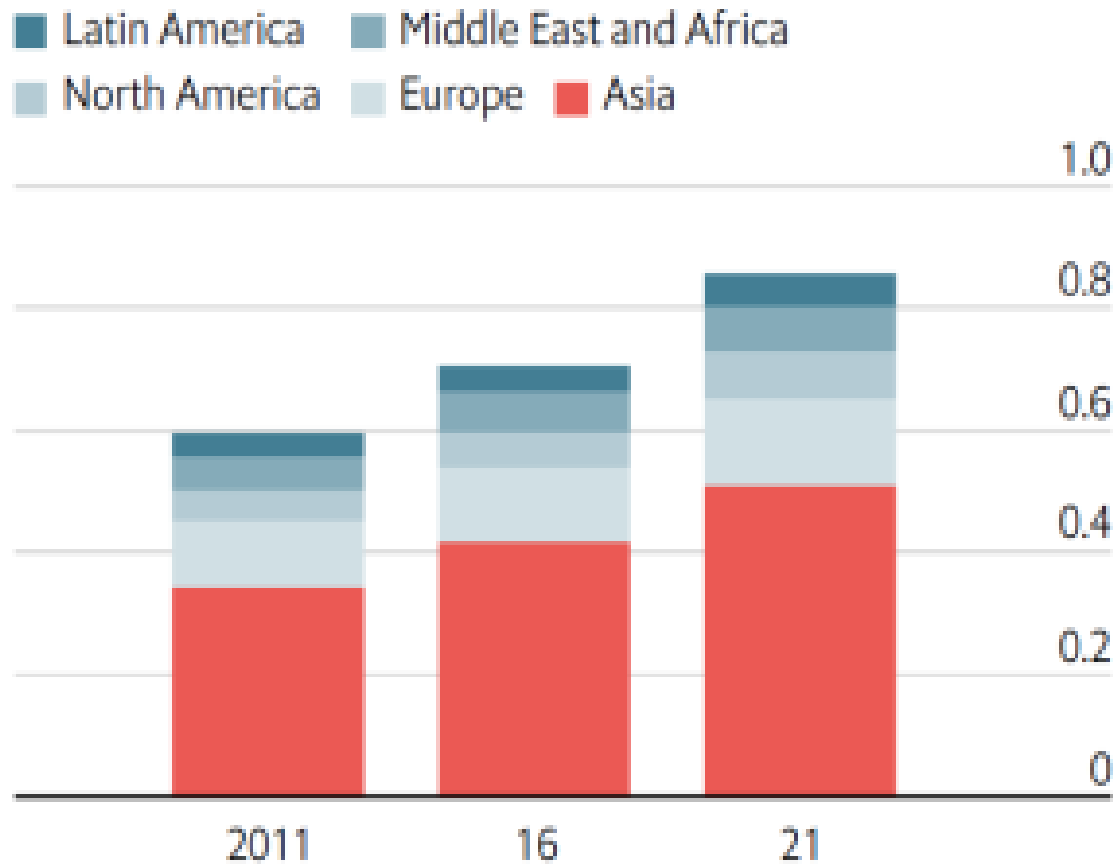
— International migrants

— International students



The trade winds blow east

Worldwide port container throughput, TEUs*, bn



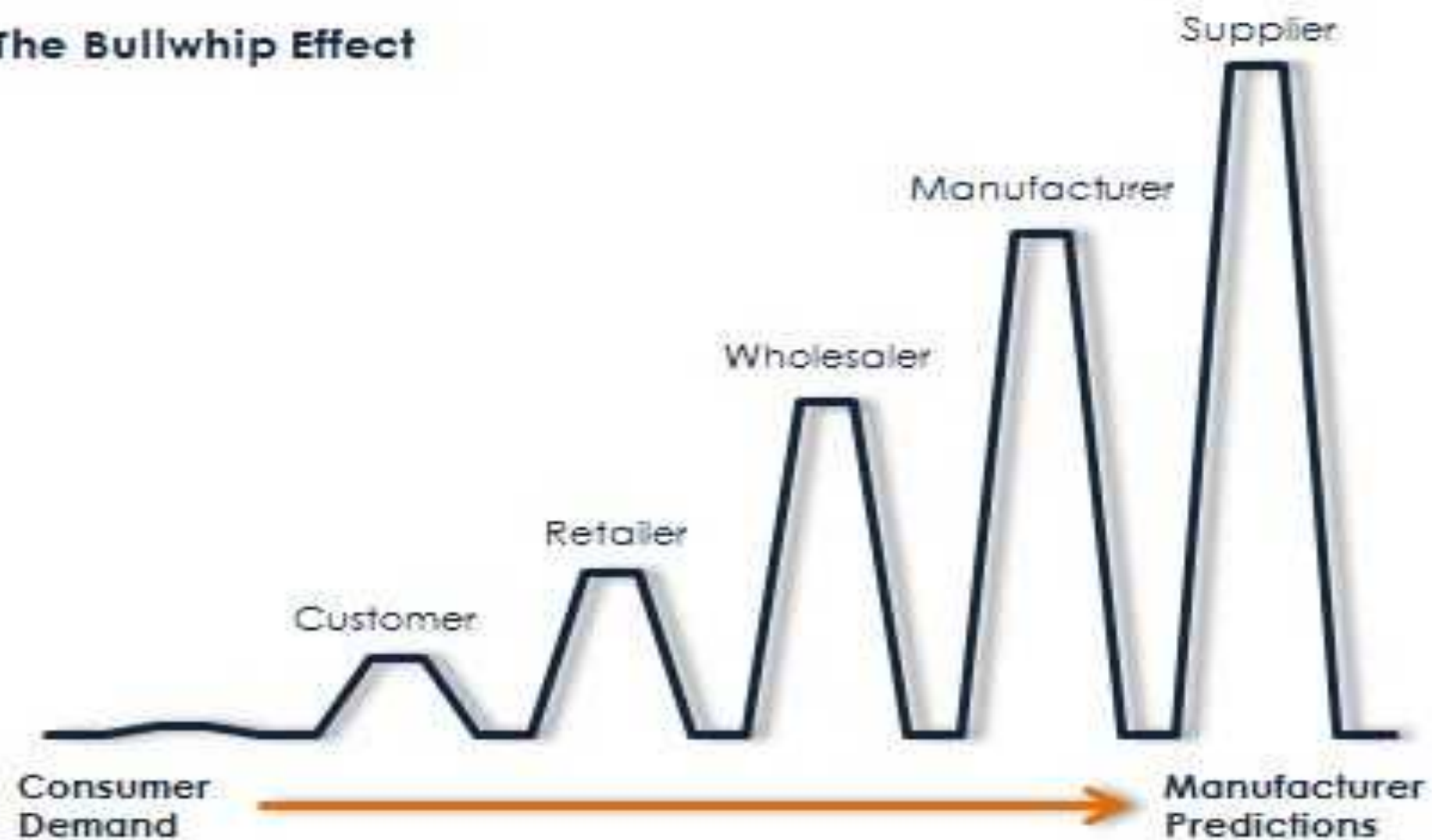
*Twenty-foot equivalent units

Source: Drewry Maritime Research

Collateral Damages

“Additional U.S. tariffs imposed under section 232 on imports of steel and aluminum products and undersection 301 on certain imports from China reduced U.S. imports of these products and increased U.S. production and prices of these products, **affecting** the many industries that produce or sell these products or use them as inputs.” (USITC, March 15, 2023)

The Bullwhip Effect



“Slight variations in demand at the customer or retailer level reverberate up the chain causing greater discrepancies.” (*BlueCart*)

Development (Emerging Markets)

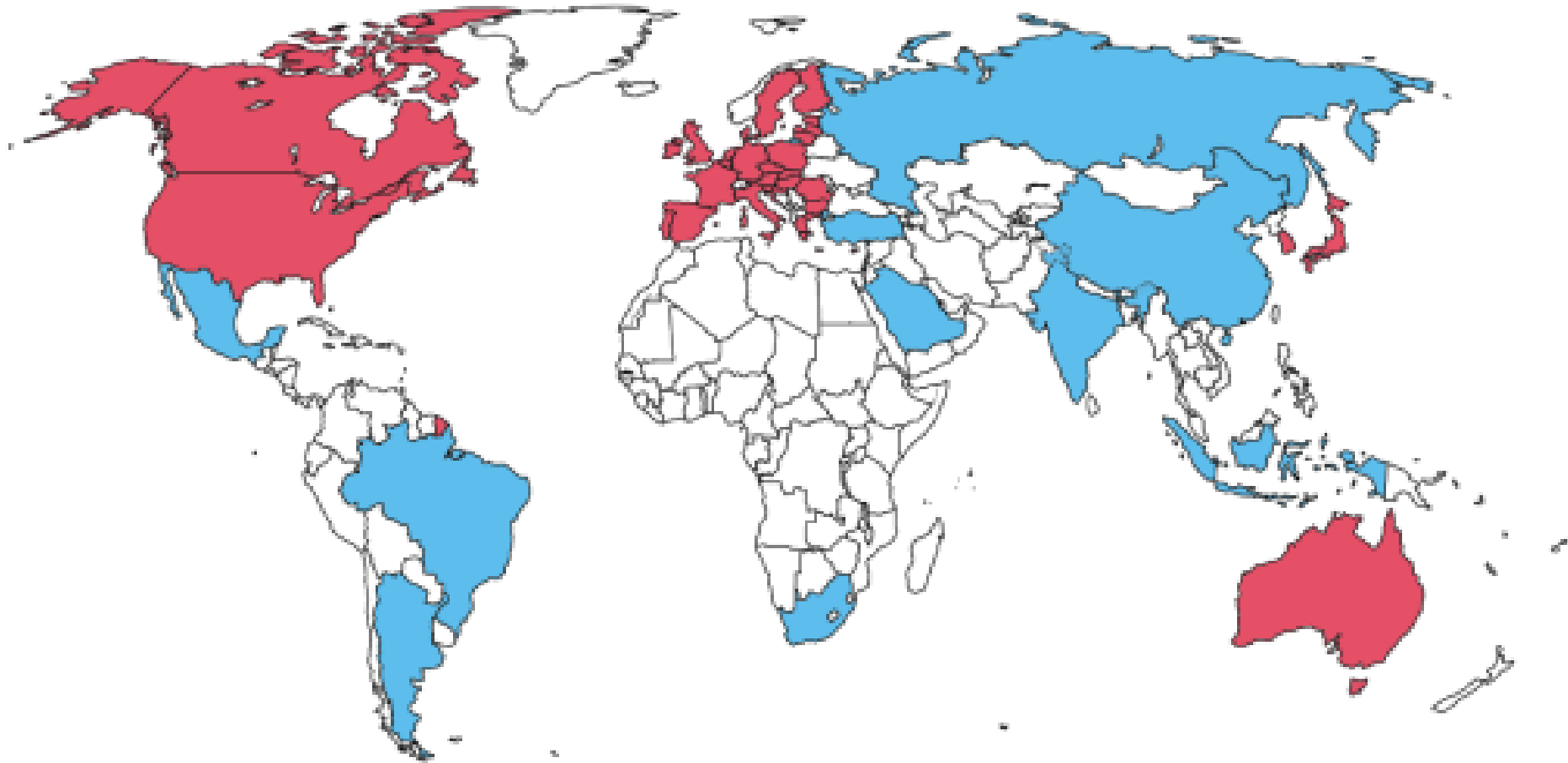
Russia – Ukraine War

Economic **Sanctions**

Only half the bloc has imposed penalties on Russia for invading Ukraine

Has sanctioned

Hasn't sanctioned

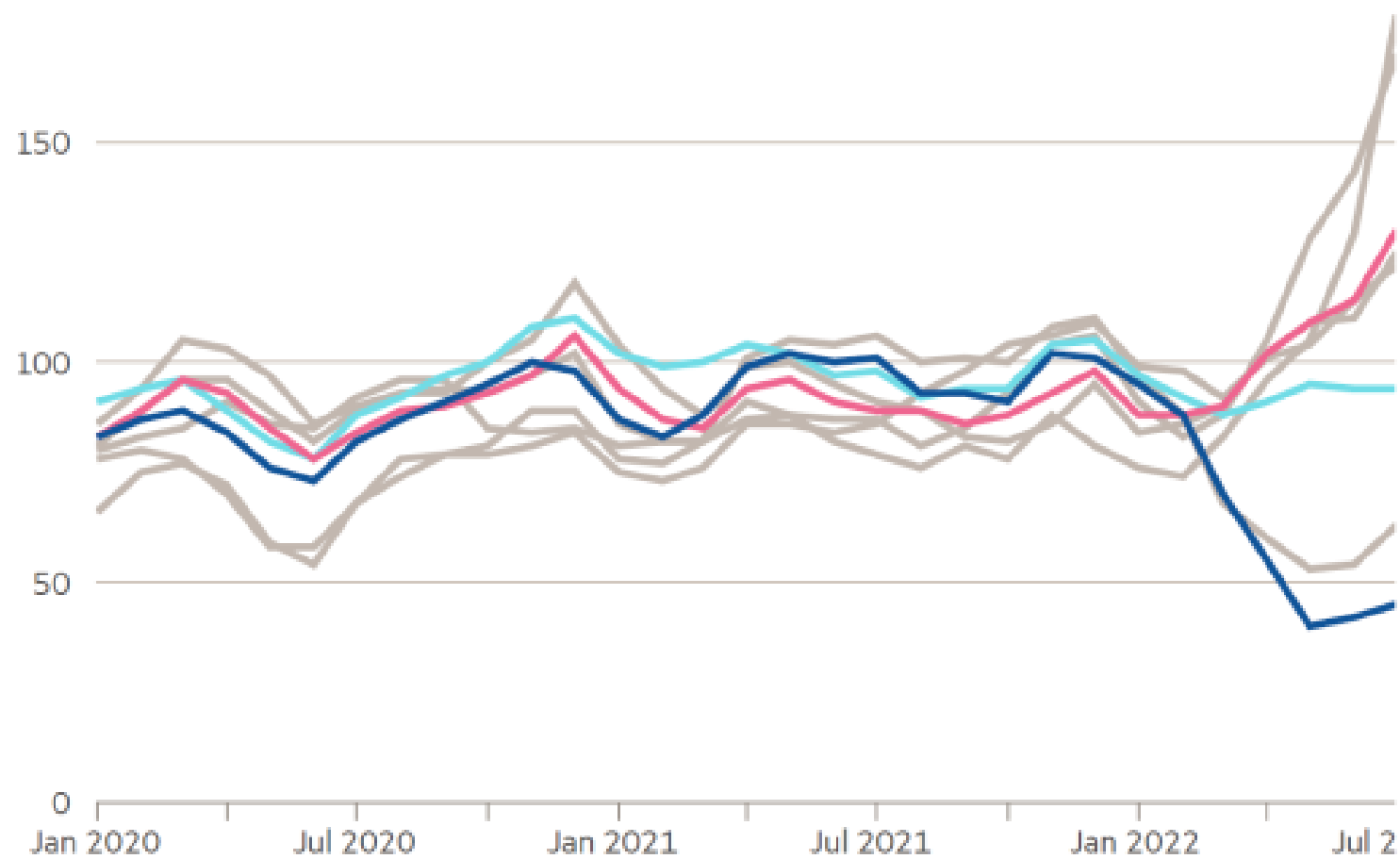


Source: Bloomberg

Note: Mapped data for G-20 members, including the 27 nations of the EU.

Imports from the EU and UK have leapt in Central Asian countries as trade with Russia has declined

3-month rolling average (Rebased 100 = 2017-19 average)



Source: European Bank for Reconstruction and Development

FINANCIAL TIMES

The **National Security** Exception (Art. XXI)

Nothing in this Agreement shall be construed
(...)

(*b*) to prevent any contracting party from taking any action **which it considers necessary** for the protection of its **essential security interests** (...)

(iii) taken in time of **war** or **other emergency** in international relations

Russian – Transit (2019)

7.138. The obligation of **good faith** (...) applies not only to the Member's definition of the essential security interests said to arise from the particular emergency in international relations, but also, and most importantly, to their connection with the measures at issue. Thus, as concerns the application of Article XXI(b)(iii), this obligation is crystallized in demanding that the measures at issue meet a **minimum requirement of plausibility** in relation to the proffered essential security interests, i.e. that they are not implausible as measures protective of these interests.