



PIIE PETERSON INSTITUTE FOR
INTERNATIONAL ECONOMICS

Trump's NAFTA Renegotiation and Trade Law Enforcement

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History Lesson: Back to the 1980s

Antidumping (AD) & Countervailing Duties (CVDs) were major sticking points in original Canada-U.S. FTA and NAFTA negotiations.

Why?

- U.S. AD/CVD hit Canadian exports of sugar, chloride, raspberries, codfish, ...
- Canadian exports “caught up” in multi-country cases where **main target was someone else** like Japan, S. Korea, Taiwan, Europe, etc.
- **Softwood lumber** (U.S. CVD investigations: 1982, 1986, 1991)

Negotiating results: Special dispute settlement process for intra-NAFTA AD/CVD actions

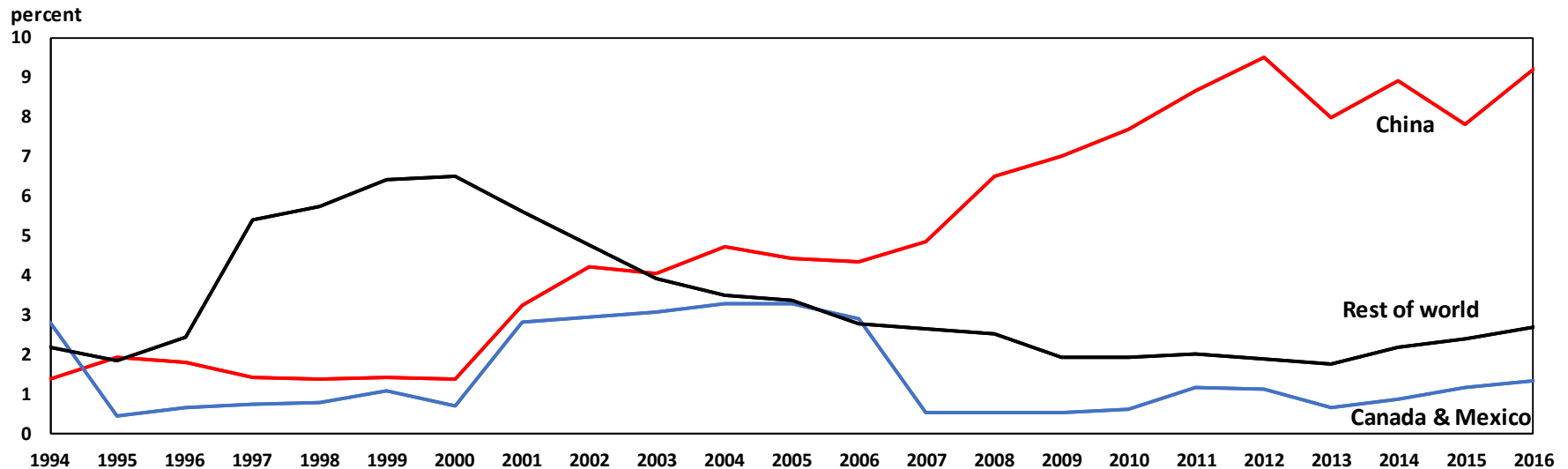
- CUSFTA Chapter 19; NAFTA Chapter 19

What has been the impact?

U.S. application of trade laws during NAFTA, 1994-2016



Share of U.S. imports covered by barriers imposed under trade laws 1994-2016, by source



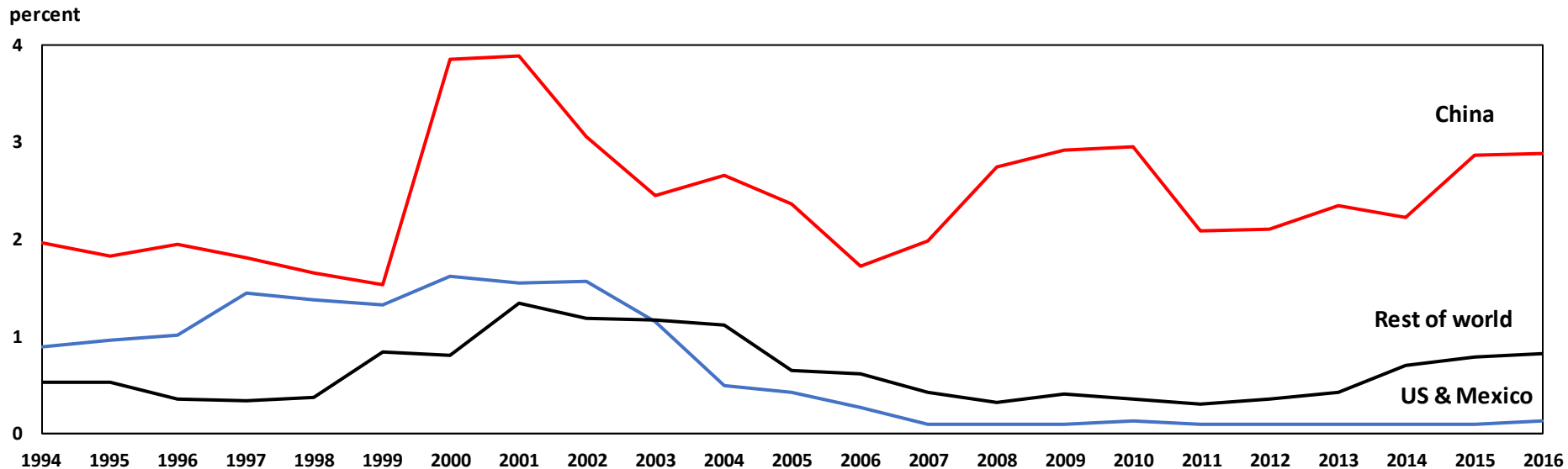
Interpretation, as of 2016:

- **9.2% of U.S. imports from China covered by U.S. AD/CVD, up from 1.4% in 2000**
- **2.7% of U.S. imports from ROW covered by U.S. AD/CVD, down from 6.5% in 2000**
- **1.3% of U.S. imports from NAFTA covered by U.S. AD/CVD**
 - Overall, very little on NAFTA imports; 2001-2006 uptick due to softwood lumber

Canada's application of trade laws during NAFTA, 1994-2016



Share of Canadian imports covered by barriers imposed under trade laws 1994-2016, by source



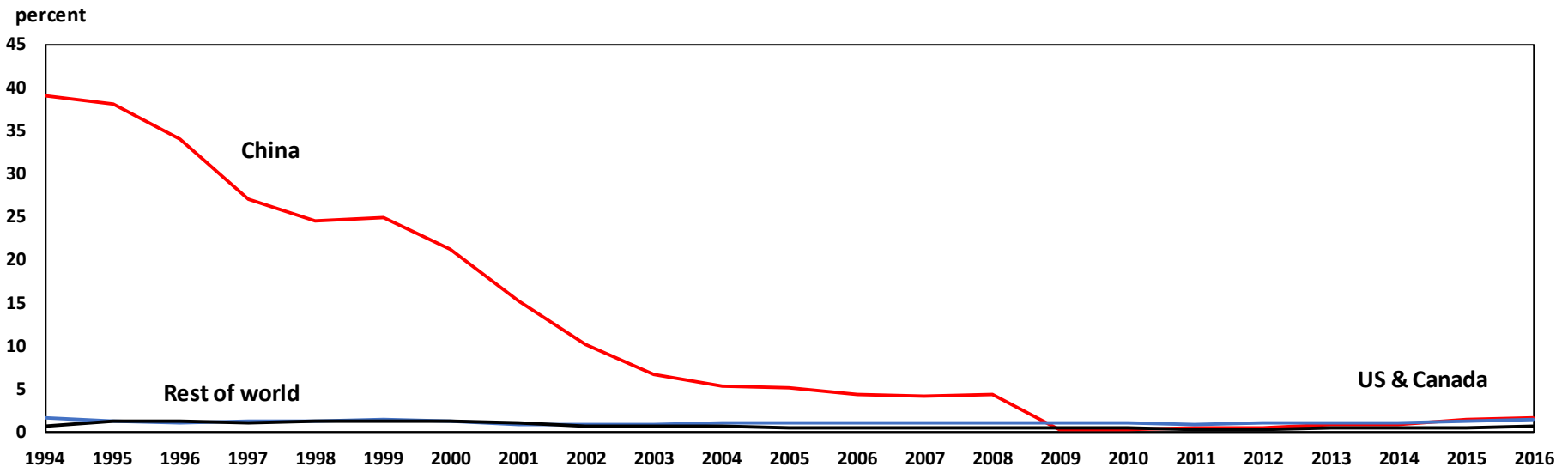
Interpretation, as of 2016:

- **2.9%** of Canada's imports from China covered by Canada's AD/CVD
- **0.8%** of Canada's imports from ROW covered by Canada's AD/CVD
- **0.1%** of Canadian imports from NAFTA covered by Canada's AD/CVD

Mexico's application of trade laws during NAFTA, 1994-2016



Share of Mexico's imports covered by barriers imposed under trade laws 1994-2016, by source



Note: Mexico imposed AD on 40% of imports from China (20% of product lines) in 1992/93, did not remove until 2008

Interpretation, as of 2016:

- **1.7% of Mexico's imports from China covered by Mexico's AD/CVD**
- **0.6% of Mexico's imports from ROW covered by Mexico's AD/CVD**
- **1.3% of Mexico's imports from NAFTA covered by Mexico's AD/CVD**

More on Trade Law Use during NAFTA period



Beyond AD/CVD

- **Global safeguards exempted imports from NAFTA partners (e.g., Bush steel safeguard of 2002-3)**
 - Note: not all countries in the world exclude imports from FTA partners in their safeguard applications (i.e., this is not a WTO rule)

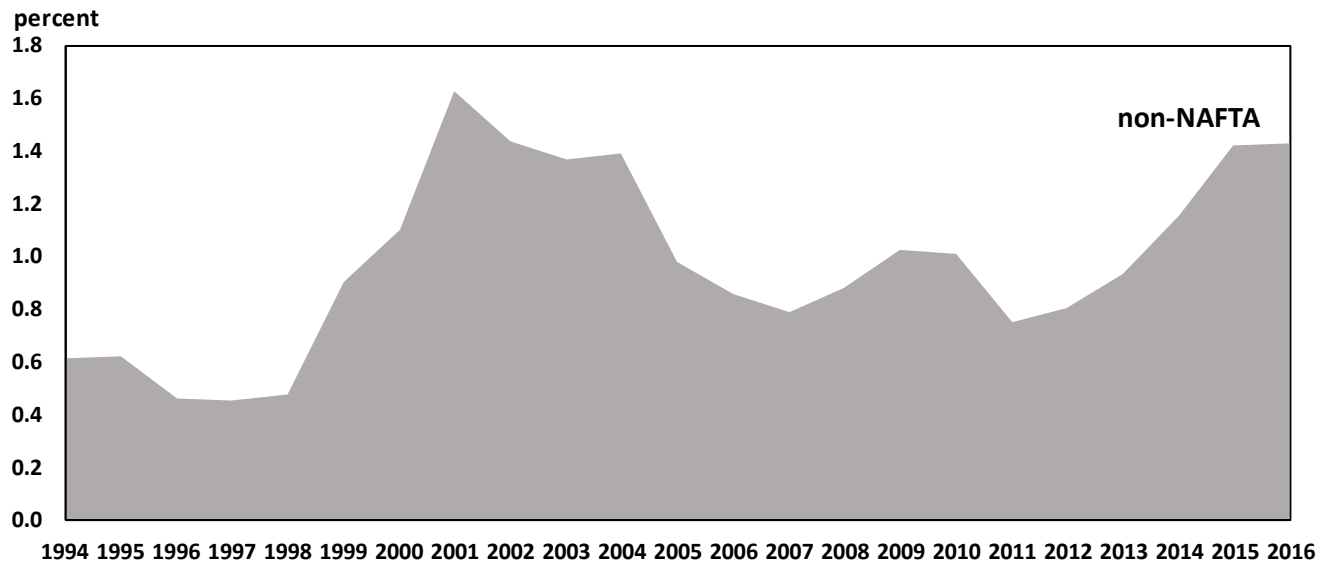
AD/CVD application toward imports from third countries

- **Question: *Are the 3 countries' application of trade laws toward non-NAFTA imports increasingly "overlapping?"***

Canada's application of trade laws increasingly covers the same trade (products, foreign sources) as U.S. trade laws



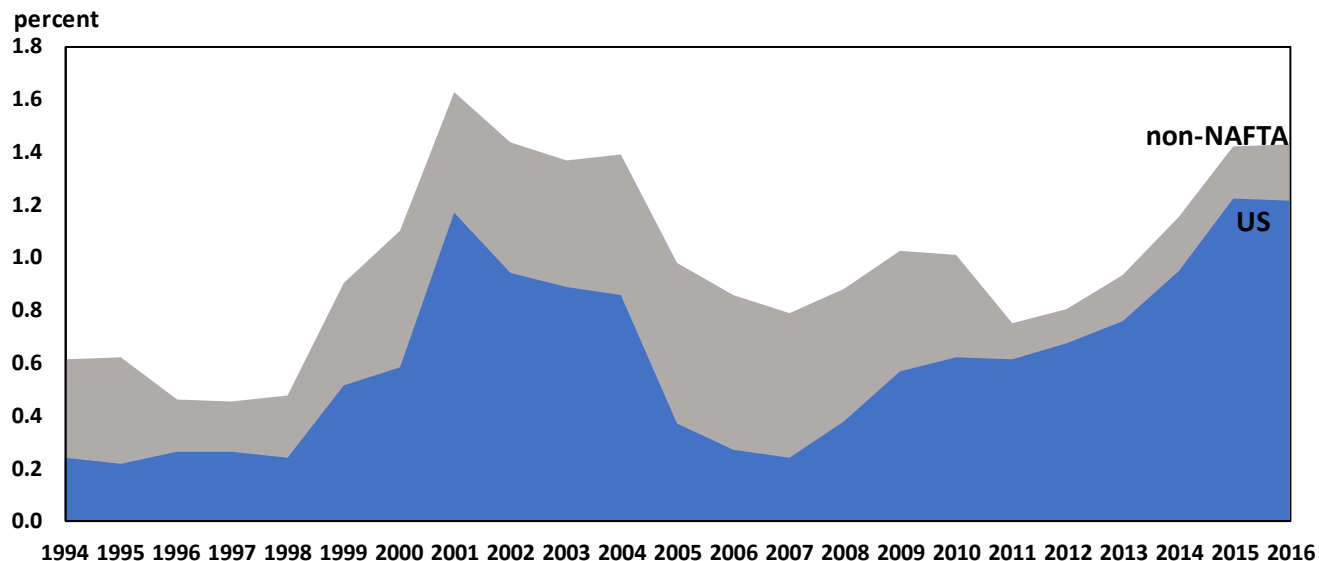
Share of Canadian non-NAFTA imports covered by barriers imposed under trade laws 1994-2016



Canada's application of trade laws increasingly covers the same trade (products, foreign sources) as U.S. trade laws



Share of Canadian non-NAFTA imports covered by barriers imposed under trade laws 1994-2016



- 1994: **only 40%** of Canada's non-NAFTA imports covered by its trade laws were simultaneously covered in the United States by U.S. trade laws
- **2016: This had increased to 85%**
- **Interpretation: Is NAFTA becoming a *de facto* customs union?**

Why would NAFTA lead to overlapping trade law enforcement against third country imports?



Examples: U.S. antidumping immediately followed by Canadian antidumping

- On China: Mattress innersprings in 2008; Oil country tubular goods in 2009; Steel grating in 2009
- 2013-2016: Overlapping steel product (pipe, tube, flat, rebar) cases

What are the economics behind this?

1. NAFTA led to cross-border supply chain (political-economic) integration

- Common domestic ownership in U.S. and Canada of import-competing firms
- Common domestic labor union representation

2. Low U.S., Canada, & Mexico MFN tariffs mean exposure to common external shocks

- Common foreign firms (trade shock) supplying both markets

Contemporary example: “North American” steel industry

- Common domestic: ArcelorMittal, Evraz, Tenaris, SSAB; United Steelworkers
- Common foreign shock: Chinese production/global exports

Summary: The **NAFTA Experience** with Trade Laws, 1994-2016



Under NAFTA...

- U.S., Canada and Mexico rarely imposed AD/CVD/SG against each other
- They increasingly apply it in an overlapping manner toward non-NAFTA imports

So, what is the problem?

- **Why is this resurfacing as a policy issue in the NAFTA renegotiations?**

Back to the 1980s...

“Protection will lead to great prosperity and strength.”

- Donald J. Trump, *The Inaugural Address*, January 20, 2017



Trump's First '100 days' of Trade Enforcement

1. U.S. Antidumping and countervailing duty

- **Softwood lumber** & regional jets (**Bombardier***) from Canada
- **Sugar** from Mexico
 - Trump politically escalating (internationally) technocratic decisions that typically fly under the radar

2. U.S. National Security: Section 232 of the Trade Expansion Act of 1962

- **Steel and aluminum imports threaten U.S. national security** (will Canada/Mexico be exempted?)
 - Furthermore: U.S. government “self-initiation” of investigations

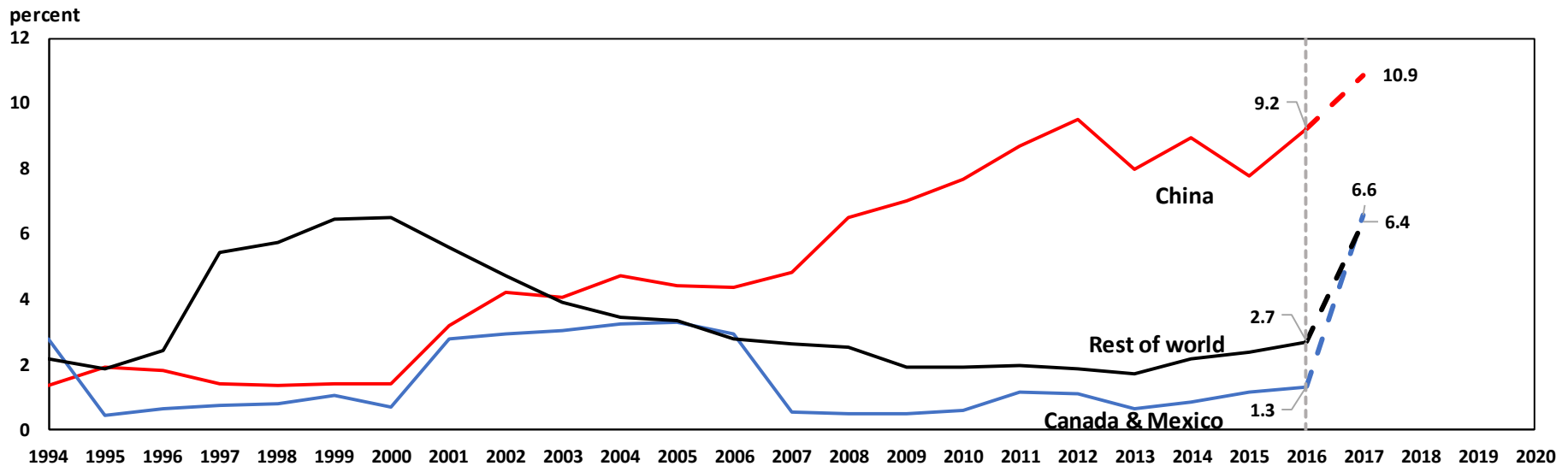
3. U.S. Global safeguards – Section 201

- **Solar** cell industry, **Washing machines**
 - Last case initiated under this law was 2001 (Bush, steel products)

Trump's '100 days' of Trade Enforcement



Share of U.S. imports covered by barriers imposed under trade laws, including projection for Trump's first "100 days"



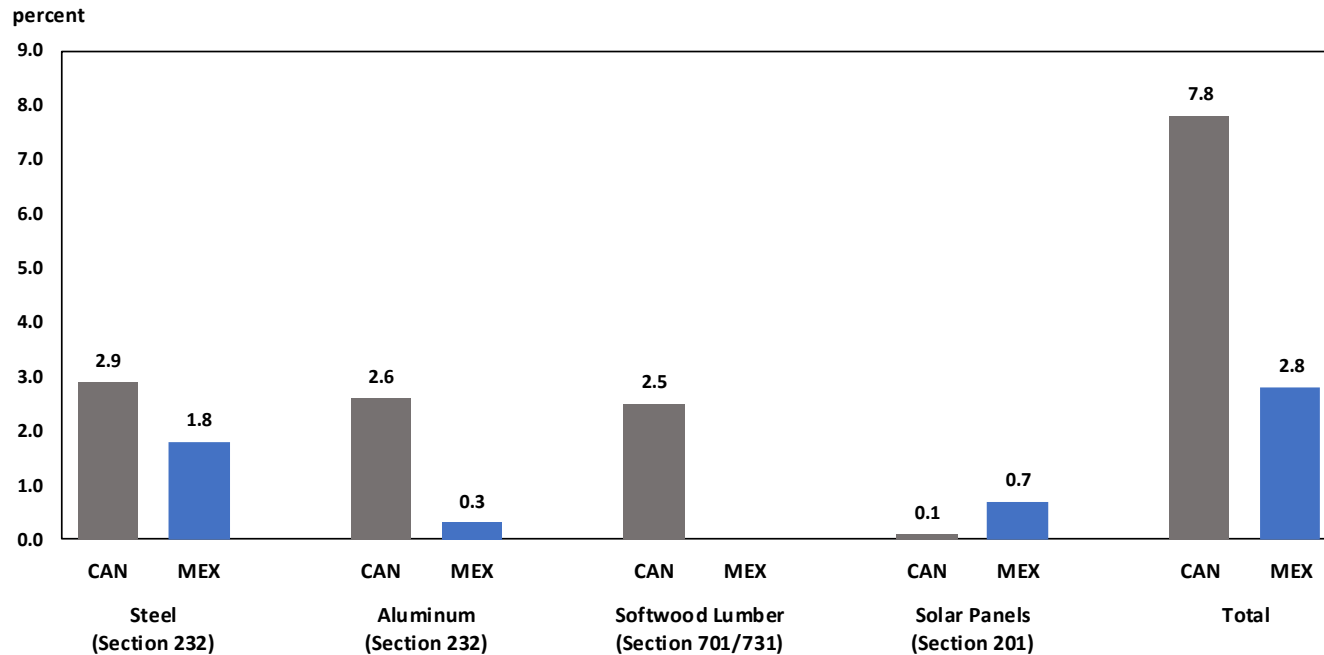
Interpretation

- **China: 9.2% of U.S. imports in 2016, up to 10.9%**
- **ROW: 2.7% of U.S. imports in 2016, up to 6.4%**
- **Canada & Mexico: 1.3% of U.S. imports in 2016, up sharply to 6.6%**

Trump's '100 days' of Trade Enforcement



Share of additional U.S. bilateral imports from each NAFTA partner covered by Trump's 2017 potential trade law use



- **Total*: Canada's** covered bilateral exports to U.S.: From 1.0% in 2016 to **8.8% in 2017**
(*not including the Bombardier/regional jets AD/CVD investigation)
- **Total: Mexico's** covered bilateral exports to U.S.: From 1.6% in 2016 to **4.5% in 2017**



Onto NAFTA Renegotiation

Chapter 19 – dispute settlement for AD/CVD – over 1994-2016

- Helped discourage AD/CVD use against intra-NAFTA trade
- Economics: However, does heightened ability to challenge AD/CVD – but only on NAFTA partners – shift collective demand for protection **onto imports from non-NAFTA partners?**
- Furthermore, did not effectively deal with softwood lumber (the big case)

Note: WTO Dispute Settlement Understanding, 1995-2016

- Canada, U.S., Mexico have also used the DSU to pursue their (NAFTA) trade grievances (e.g., softwood lumber)

Conclusion



- **Trump's** early and aggressive enforcement of an expanding set of U.S. trade laws thus far has **trading partners concerned**
 - Claim that imports threaten **national security** is “**nuclear option**” to international trade law
 - The **self-initiation** of cases tells American industries that the Trump administration is “**open for [protectionism] business**”
 - **Macroeconomic conditions** ahead: **more to come?**
- **Canada & Mexico** in NAFTA **renegotiations**
 - Minimum ask: likely to push for something like NAFTA Chapter 19
 - May also seek to **expand its coverage** to other U.S. trade laws (Section 201, Section 232)
- **Economic concerns:**
 - Incentives to increase collective, NAFTA-wide import restrictions **on third countries**
 - Cross-border integration and concentration into a few firms could reinvigorate **market segmentation fears** (this was a concern of zealous US & EU antidumping use in the 1980s)