

# GLOBAL PROTECTIONISM

ARE YOU LEAVING YOURSELF OPEN?

CONTENTS

01 / Introduction

02 / The new age of protectionism

04 / The tides of change

06 / Protectionism and the view of business

08 / Mapping protectionism within G20 countries

10 / Protectionism on a global scale

12 / BRICS, The EU and South America

14 / Expert view - tech

16 / Expert view - real estate

18 / Expert view - life sciences, the US, IP, energy

22 / Pieces of a complex puzzle

24 / Globalisation cycle

26 / Action on protectionism

28 / On the horizon

INTRODUCTION

Protectionism in the spotlight

**Gowling WLG, has, for the past few months, been looking into an issue which looks past the current headlines of UK political turbulence, Trump and Brexit and examines what these recent seismic changes mean for UK businesses trading internationally.**

History teaches us that the global economy ebbs and flows between connectivity and retreat (globalisation and deglobalisation). This cycle sees countries adopt either liberal or restrictive policies against one another.

This report includes our findings and what they mean for businesses in the UK. We've conducted in-depth research with hundreds of CEOs, CFOs, COOs and GCs about the current economic climate and the pivot towards a deglobalised, protectionist environment.

We've researched trade data from 2009 to the present day to understand the key players in global protectionism and how they affect other countries. Finally, we've spoken to experts in a variety of sectors to take the pulse on protectionism and whether they feel the threat is real or simply political rhetoric. Our research so far has drawn many conclusions and we're proud to share just some of them today. The most important is that protectionism is increasing; it is very complex, long term in its impact but not always negative for a business.

What this means for business

Currently Brexit is, understandably, the focus for the CEO and board. However, protectionism casts a long shadow over the UK leaving the EU too. Leave without a deal and we will find ourselves paying to trade with our closest neighbours. Beyond March 2019, once the UK is able and required to trade with any country on an individual basis, we will find ourselves having to negotiate with the world's protectionist heavyweights – the United States, China, Russia and India.

However, it is not just about sounding the alarm of risk – but ringing the bell of opportunity. Protectionism is multi-faceted and interconnected in ways that are not yet fully comprehended, meaning that there will be positive, and not just defensive, moves to be made.

Acting early, viewing countries by how protectionist they are or could be in the future, as well as looking forensically at a business's footprint in different markets, are just some of the measures that can be taken.

Protectionism is on the rise and those businesses with international relationships must ask themselves: are we leaving ourselves open to the risk or prepared for the opportunity?

Michael is Head of International Strategy on the Gowling WLG UK Board. He also jointly leads ThinkHouse, Gowling WLG's in-house lawyer community.

MICHAEL LUCKMAN

Head of International Strategy





# THE NEW AGE OF PROTECTIONISM

## How we got here

**From the late 1940s to the end of the 1960s, global trade grew with the post-war economic recovery. The Bretton Woods Treaty after the Second World War created a stabilising effect and was underpinned by the creation of the International Monetary Fund, the World Bank, and the General Agreement on Tariffs and Trade.**

Commercial aviation and reduced shipping costs, which came to peak inflection point in the 1970s, saw global trade rise again – and by 1980 global trade accounted for 30% of global GDP.

From the 1990s significant political, economic and technological changes accelerated globalisation in what some people describe as a period of hyperglobalisation. The collapse of the Soviet Union, the dawn of European monetary integration with the Maastricht Treaty, China joining the WTO, adoption of NAFTA by the US, Canada and Mexico, coupled with an explosion in communications technology all pushed the world to increased globalisation and connectivity.

The interconnectivity of the global money market, starting with the collapse of the US subprime mortgage market, accelerated the spread of the financial crash in 2008 across the world. Although not a global recession on the same scale as the Great Depression of the 1920s, the 2008 crash has had some long-lasting effects on many countries, in particular undermining confidence in free markets.

### Pieces of the same puzzle

Recent political tides of change such as the rise of UKIP in the UK, Donald Trump's shock election victory, the Brexit vote and the re-emergence of the far right in France, Germany and Austria, are not only warning shots to further economic and social integration, but they are also pieces of the same puzzle.

Only a handful of people are seeing how these pieces are starting to fit together. And even fewer are looking at what that means for the exchange of goods, services and ideas, once all the pieces have fallen into place. This new reality may well see profound changes to how we do business – where, when and with whom. And this future presents both significant risk and seductive opportunities depending on how you see it.

"This future presents both significant risk and seductive opportunities, depending on how you see it."



*“Globalisation has always been about more than just trade, with ramifications for culture, language and society, as well as flows of information. The rapid movement of ideas and values around the world makes the phenomenon of globalisation a multi-faceted one, with political, ideological, and cultural dimensions.”*

Trade measures considered to be liberalising rose by over 2,500

Trade measures considered to be harmful rose by over 6,000 between 2009 and 2015

# THE TIDES OF CHANGE

## A shift in attitude

**The 2008 financial crash and subsequent recession signalled a pivot by governments around the world towards adopting more protectionist trade measures, primarily to shelter their economies from foreign competition.**

Despite G20 leaders signing a pledge in November 2008 committing to refrain from adopting protectionist policies in order to speed up the recovery, protectionist measures have increased relative to liberal measures in the years since, as our data shows.

While decades of globalisation are not being fully undone, there is an increasing protectionist climate, a tide of change affecting any and every country looking to trade internationally.

Because globalisation follows a logic of competition and relative gains, it has produced both winners and losers. The losers, in this case, are those in advanced economies whose pay has been reduced or who have experienced job losses due to the relocation of the manufacturing industry to emerging markets. These results, coupled with Western economies' pursuit of self-protection due to a diminishing competitive edge (while emerging economies such as China are showing an increasing will and ability to participate in global governance in a decisive way) have precipitated a shift in attitudes towards globalisation.

## Globalisation as a mindset, not a trade policy

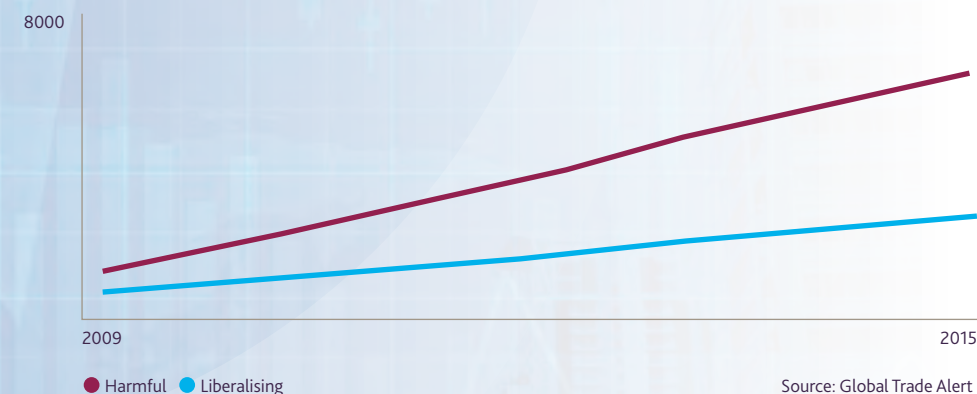
Globalisation has always been about more than just trade, with ramifications for culture, language and society, as well as flows of information (the digital economy). The rapid movement of ideas and values around the world makes the phenomenon of globalisation a multi-faceted one, with political, ideological, and cultural dimensions.

Although groups of people have always moved around, carrying elements of culture with them, modern globalisation has been defined by unprecedented digital connectivity. Globalisation is not linear or universal, and is often nuanced by local needs and requirements, but as national economies become more integrated within a globalised network, people are moving across borders in ever-increasing numbers.

Data is the new frontier of both globalisation and protectionism. In many ways, data protectionism is an old problem manifesting itself in a new frontier; but as the volume of information generated by our connected world increases, the scale of the issue grows. Both the movement of people and the digital flow of content, currency, ideas and services mean that it is harder to retreat from globalisation.

Although cross-border data flows and digital trade are growing at a faster rate than overall global trade, data-localisation requirements that seek to confine the storage of data within particular state borders to ensure privacy and security can act as a non-tariff barrier, limiting the growth of trade in an increasingly digitised world.

Cumulative number of new trade measures passed each year, 2009-2015



Source: Global Trade Alert

# PROTECTIONISM AND THE VIEW OF BUSINESS

## Survey findings

As part of our research, we asked a range of questions to 500 board-level directors, which included 150 General Counsel at UK businesses which trade internationally.

There were four broad topic areas – their background to them and that of their company, the current business climate and challenges, their thoughts on deglobalisation and subsequent protectionism, and their thoughts on the future trading environment.

Although GCs tended to respond more pessimistically than their C-Suite colleagues, broadly the two are aligned on all the topic areas covered in our research.

Those surveyed were generally pessimistic about the future global trading environment and economic picture. The majority of C-Suite (69%) and GCs (73%) believe that trading conditions are currently difficult for UK companies.

Tariffs and non-tariff trade barriers are considered by GCs to be more difficult to navigate (72%) than regulatory pressures, language barriers or skills shortages. An emphatic 85% of all those surveyed said countries are becoming more protectionist and 81% predicted an increase in protectionist measures such as tariff and non-tariff trade barriers.

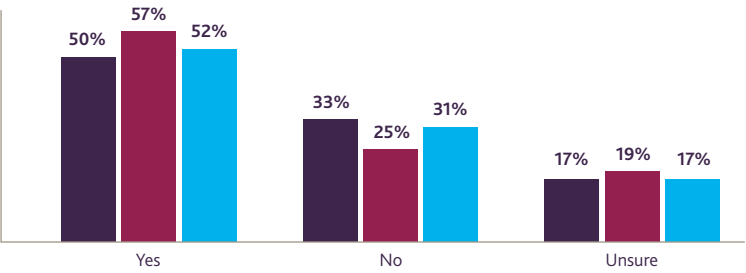
When asked to name countries they believed to be the most protectionist, the US, followed by Germany, France, the UK and Australia were most considered to be taking a significant protectionist stance. However, according to further research we've created, this view isn't correct. Russia, China, Brazil and India are among the countries which have the biggest impact when it comes to protectionism. (See pages 8 and 9 for more information.)

Where the impression of GCs, the C-Suite and our research aligns, is the United States. Far from being an emotional reaction by our respondents towards the US, our wider research into protectionism shows the US is a long-term and prolific proponent of protectionist policies – which without a doubt pre-dates President Trump's 'America First' rhetoric, both on the campaign trail and in office.

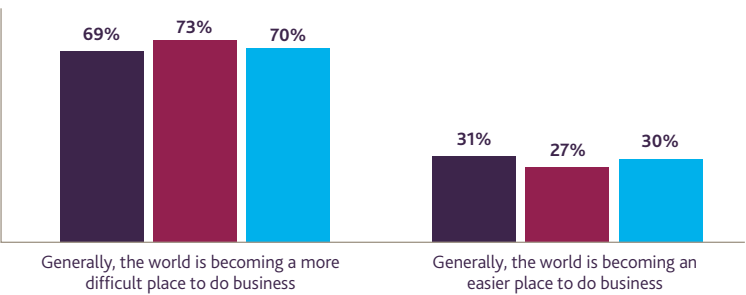
Not only are GCs broadly in sync with their C-Suite employers on key issues around trade, but they are also tuned in to the changing business environment and the increase in protectionist sentiment. How GCs and their company react, manage and ultimately navigate this change remains to be seen.

"Not only are GCs broadly in sync with their C-Suite employers... they are also tuned into the changing business environment and the increase in protectionist sentiment."

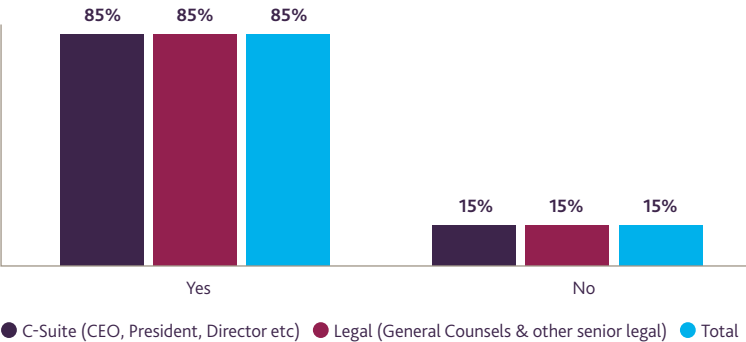
### Are we moving towards deglobalisation & a more hostile business environment?



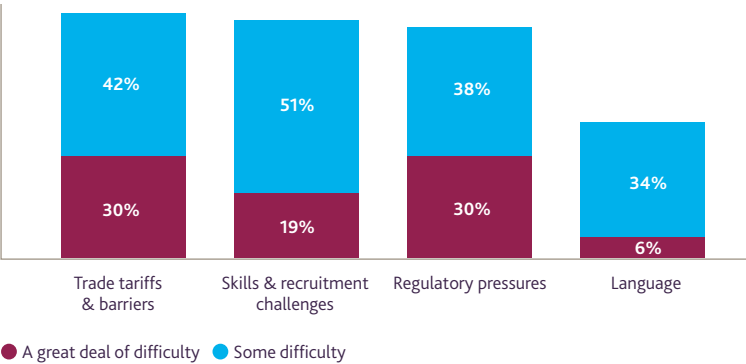
### Which of the following best describes your point of view?



### Are some countries taking a more protectionist stance?



### What do you find more difficult to navigate?



### International footprint

Majority trade with between

**6-20 countries**

12% trade with 100+ countries

### Markets

**47%** trade with EU

**18%** with US

### Financial

Majority **£5-20m** turnover

13% £100m+

### GCs have their say

**56%**

say protectionism is a strategic risk to their business

**79%**

say protectionist policies will have a negative impact on global trade in the next five years

**22%**

say protectionism is already changing the strategic direction of their business

**45%** likely to increase over the next five years

### Countries deemed to be more open





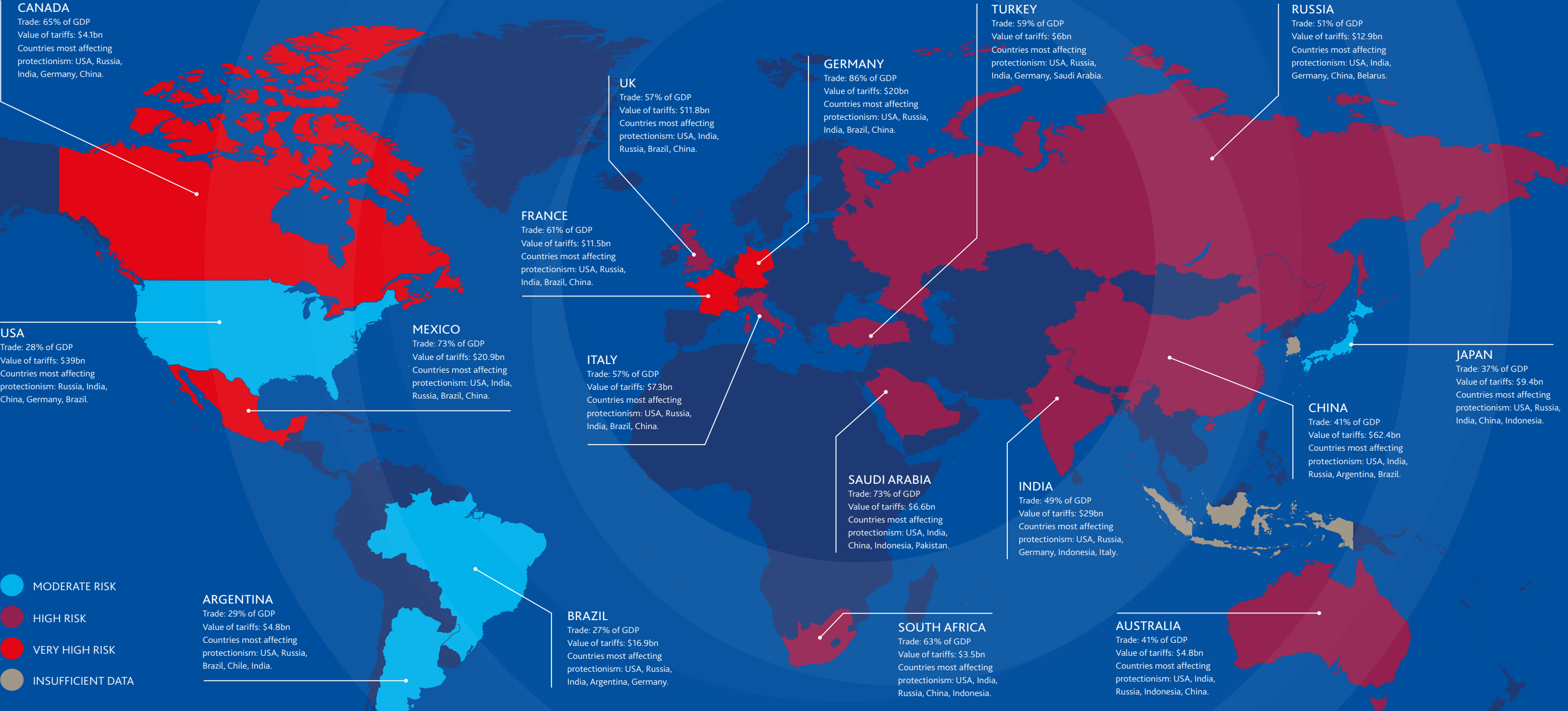
# MAPPING PROTECTIONISM WITHIN G20 COUNTRIES

The C-Suite and GCs are right to feel that there has been an increase in protectionism – and that the US is driving this more than any other country. We've studied trade policies implemented by more than 60 countries\* since 2009 in order to build a global picture of protectionism, country by country. Examining such a large volume of data has allowed us to build a global heat map of protectionism which shows the impact of protectionism on the G20 countries.\*\*

In order to understand how protectionism affects various countries, we looked at several key indicators, including their reliance on imports, the number of liberalising vs restrictive policies and finally the impact of its protectionist policies. For example, although the USA has been affected by more restrictive trade measures, such as trade tariffs and non-tariff barriers, than liberalising ones (978 vs 2814), it has a very low reliance on trade as a percentage of GDP (28%), which makes it only moderately susceptible to protectionism by other countries.

Neighbour Mexico, although slightly less affected by restrictive trade policies, has a far heavier reliance on global trade at 78% of GDP, which means it has a very high exposure to protectionism by other countries. By examining the relationship between a country's trade imports and its tariff rate, we've also been able to understand how much money becomes tied up in protectionist policies. However, the aim is not to create a detailed economic analysis for financial experts, but to generate a broad protectionist heat map that might raise interesting questions for experts to consider.

In summary, the United States is the country which has the most effect on others according to the data, closely followed by Russia and then China. And Russia statistically affects the US more than any other country when it comes to protectionist policies. Our heat map gives the UK a relatively high risk of being impacted from protectionism by other countries as it has a 57% dependency on trade as a percentage of GDP coupled with a high level of both liberalising and restrictive policies (1249 vs 2917).



\*Sources Heritage Index of Economic Freedom, Global Trade Alert, World Bank Databank. \*\*Data on South Korea and Indonesia not consistent enough for a robust sample size so have been removed. Our research examined 64 countries. For the full heat map please visit [gowlingwlg.com/protectionism](http://gowlingwlg.com/protectionism).

# GOING GLOBAL

China and the US set the agenda

The global picture is one of increasing protectionism and trade barriers. However, beneath the surface, there is a more complex dynamic at play – a struggle for control between stuttering advanced economies and emerging economies that have become the powerhouses of global growth.

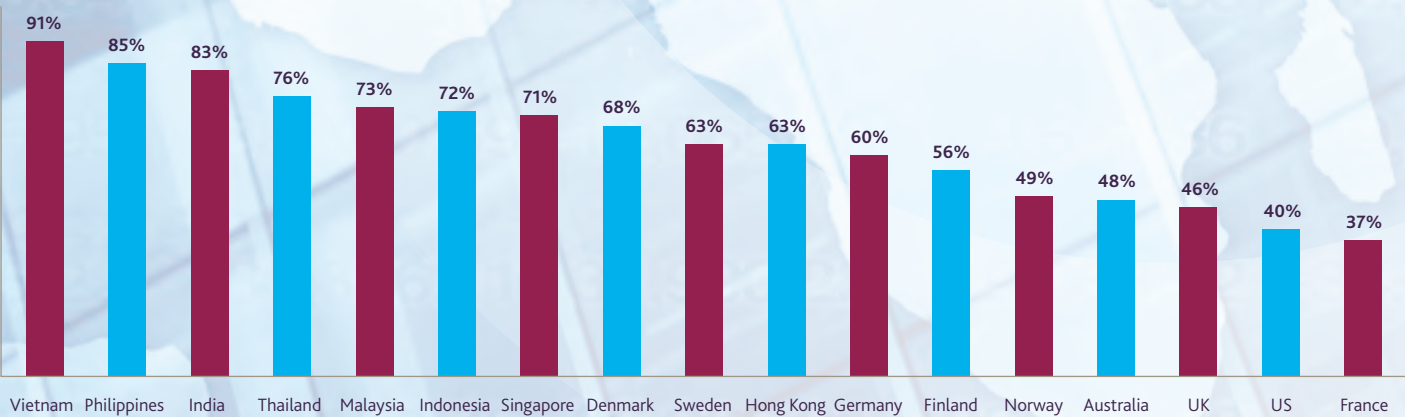
This dichotomy has been crystallised by the contrasting approaches of the United States and China, which have respectively extolled the problems and the virtues of globalisation in 2017. The 'old world' powers in Europe and North America have played a prominent role in creating the current climate of increased protectionism. Despite the pledge to avoid such measures after the financial crisis first gripped, they have largely, led by the US, increased protectionist policies.

### Polarised perceptions of globalisation

Stagnant growth in major economies has left many questioning increased connectivity and globalisation, leaving people in advanced economies more cynical – a sentiment that can be reflected in increasing far right political parties, the election of Trump and Brexit. Contrastingly, those in major emerging markets are overwhelmingly positive about globalisation.

This public positivity is not always reflected in the economic strategy of emerging nations' governments, several of which, such as Russia, India, Argentina and Brazil, are among the biggest proponents of trade-restrictive policies. Emerging nations are also among those with the highest tariffs, according to our data.

% agreeing 'globalisation is a force for good'



Source: YouGov, 2016

# EU SPOTLIGHT

Decades of protectionist behaviour

Although subject to recent internal and external challenges, the EU is the world's largest single market, with a population of 510 million people and a GDP of around €15 trillion. The establishment of the free movement of goods and people between member states is, as the current UK Brexit negotiations remind us, an ideological cornerstone of the European project.

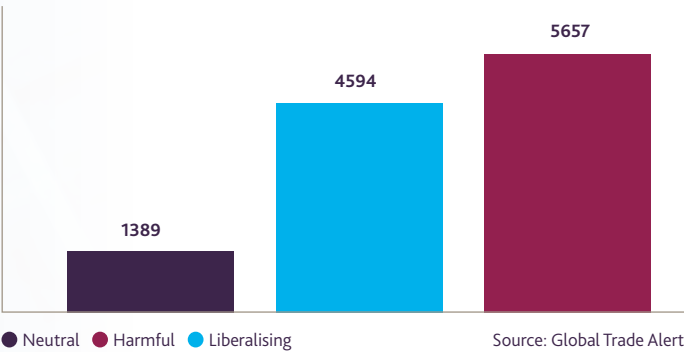
This has meant the removal of barriers to trade, supported by the Customs Union and the Single Market. The latter two apply a Common External Tariff (CET) to imports from third countries, designed to stimulate trade between member nations.

However, despite the free market that exists within the EU, a significant number of member states have been engaging in protectionist behaviour over the past decade with nations outside the EU. These include tighter capital controls for foreign banks operating within the EU, and a proposed EU directive that requires non-EU-based private-equity and hedge funds to establish a physical presence in the EU in order to trade.

A Global Trade Alert analysis of EU-imposed trade measures applied from 2009 to 2016 found that almost half of all trade-related measures taken by the EU were in some way harmful to global trade, with 5,657 directives and measures that can be seen as actively restrictive for trade.

Over the coming years, the EU aims to boost the growth of the digital economy across Europe by announcing the creation of a Digital Single Market. The attraction of this is clear: more than half of online services (54%) in the EU are conducted with US companies . At the same time, while the EU reduces cross-border barriers to digital trade, it has already taken measures that were seen by some as discriminating against non-European service providers, such as fining Google \$2.7 billion for undermining competition. The US company regarded this as an example of anti-American protectionism and an 'overreach' of anti-trust laws.

Trade policies by EU member states 2009-2016



Source: Global Trade Alert



# ARE BRICS BUILDING A GLOBALISATION REVIVAL?

## Falling tariffs in the emerging nations

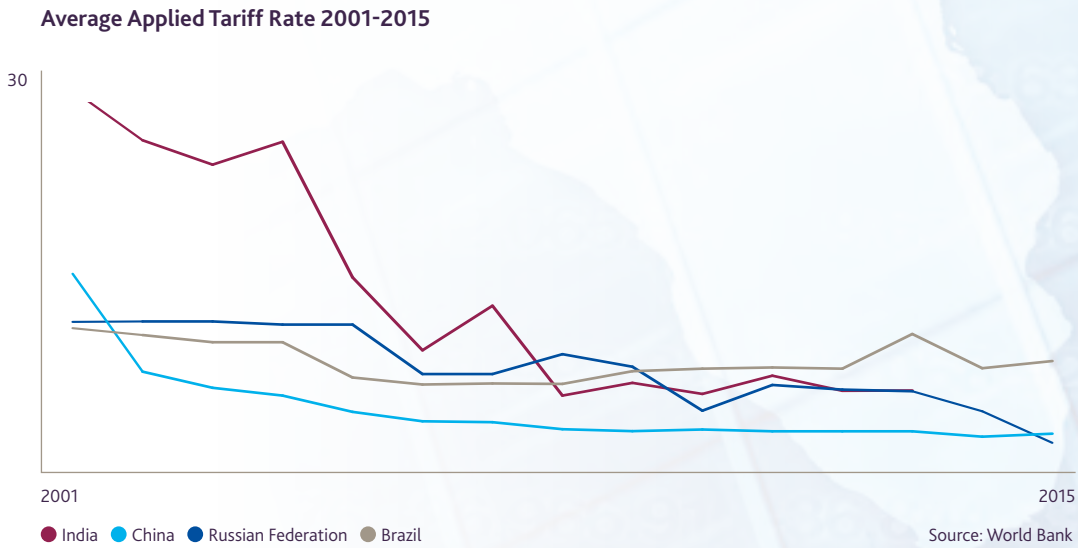
While on a global scale India and China may still be considered protectionist; both the New Delhi and Beijing governments are embracing open trade through bilateral cooperation and initiatives such as China's One Belt, One Road (OBOR) Initiative.



This has the potential to become one of the world's largest platforms for economic collaboration, covering about 65% of the world's population and one third of its GDP. Historical data reveals the immense scale of change here. The BRIC nations, those markets most synonymous with emerging market growth in recent decades, have all seen significant falls in their average applied tariff rates since the turn of the century.

Where there are examples of more open trade around the world, they are concentrated in emerging economies. Brazil, India and Russia have passed more trade-liberalising measures than any other country since 2009, with China and South Africa not far behind.

This resistance of protectionism is not surprising given the enormous benefits globalisation has brought to many emerging economies, lifting millions out of poverty and creating countless opportunities for employment. Support for globalisation is also partly the result of economic self-interest: emerging economies like the BRICs that have a high dependence on trade are also the ones most likely to be affected by trade-restrictive measures from elsewhere (the chief culprit being the US).



# THE 'DOUBLE DOWN'

## Post-financial hangover remains

The new age of protectionism has been spearheaded by the economic superpower more known for being the global cheerleader for free trade. Since 2009, the US has passed 1297 economic or trade measures deemed to be 'harmful' to global trade, compared to just 206 deemed to be liberalising.

The US is not alone in leading the protectionist charge. Of the 20 countries that have passed the highest number of trade-restricting policies since the financial crisis, all but five are advanced economies, typically Western European markets (with the addition of Japan and the US). The measures these markets took to shore up key industries, protect jobs and maintain a strategic international advantage in the wake of the crisis have continued; instead of short-lived responses, they have become mainstays of economic policy for the past decade. Globalised economics is still the norm in advanced markets, but its continued momentum may be moving towards emerging economies.

Number of 'harmful' measures passed since 2009



# SOUTH AMERICA

Argentina, Brazil, Chile, Colombia and Peru are all emerging economy neighbours with very different approaches and circumstances.

Brazil is one of only a handful of countries in the world to have implemented more liberalising policies than restrictive ones since 2009 (372 liberalising policies, which is more than the other four nations combined). Brazil is even using tariffs as a source of revenue. Despite having low restrictive measures in place its applied tariff rate to imports from other countries is high.

Neighbouring Argentina, by contrast, is one of the world's biggest contributors to protectionism, implementing 473 restrictive measures in this period.

This contrasting picture in South America demonstrates the complexities of protectionism – that emerging economies, even neighbouring countries pursue very different trade policies.

	Liberalising measures implemented since 2009	Restrictive measures implemented since 2009
Argentina	108	473
Brazil	372	349
Chile	60	74
Colombia	58	68
Peru	16	28





# DATA: THE NEW PROTECTIONISM FRONTIER

Spotlight on Technology, by Daniel Castro

**Data protectionism is a rising trend, with numerous examples around the world at the moment. These include South Korea requiring credit card numbers to be stored domestically, Finland requiring that all accounting information must be stored within the country. And some European countries (including France and Germany) have restrictive procurement policies for cloud services.**

The motives for this vary. In many cases, the explicit rationale is security. Some of this data can be politically or economically sensitive, so there is a need to ensure it doesn't fall into others' hands. In other cases, it is simply more practical – if authorities or regulators need to inspect some data, it makes sense to have it in the country.

The usual, stated reason is security... sometimes it's more privacy – usually privacy from foreign governments. The third is access for investigatory purposes. But it's all protectionist in nature.

Digital connectivity is perhaps paradoxically contributing to the rise of data protectionism, as it means restrictive policies are disseminated easily and can be copied quickly. The EU writes its policies in over 20 languages, which explains why they can be very quickly adapted for use in non-English speaking countries around the world.

The wider political context is very relevant to the growth of data protectionism, with economic uncertainty and new political figures reshaping international relations. The recent success of populist political figures is part of this too, and a reaction to the free trade orthodoxy of the previous decades. Although there's a lot of optimism about emerging markets championing free trade, countries like China remain a large, closed market where the priority is growing domestic industries.

This is a reaction to the liberalisation and the era of free trade in the 90s... in terms of why are we seeing this? Often it's a result of bad policies. Even if this is a short-term reaction it can be harmful, and eventually could limit access to best-in-class technologies, limiting growth. The current era is not going to give way any time soon, but in the meantime big, global questions are mounting that need concerted solutions – interoperable standards on privacy, copyright and certification.

Without a global free trade platform, there is no dialogue on which to build these agreements or standards. One example here is the use of third-party sites or aggregators which pull information from different sources around the world.

These issues are playing out in content and copyright too, around licensing... there's a lot of questions about third-party use of extracted information and there's no global consensus on what these types of policy should look like, but they significantly impact how we can build systems that create value out of all this information that's on the Internet.

Over the next few years there will be more bilateral or regional trade deals and fragmentation, amid escalating political tensions – the US's recent Section 301 investigation could open the floodgates.

*“This is a reaction to the liberalisation and the era of free trade in the 90s... why are we seeing this? Often it's a result of bad policies. Even if this is a short-term reaction it can be harmful, and eventually could limit access to best-in-class technologies, limiting growth.”*

“Over the next few years there will be more bilateral or regional trade deals and fragmentation, amid escalating political tensions – the US's recent Section 301 investigation could open the floodgates.”

Daniel Castro is Vice President at the Information Technology and Innovation Foundation (ITIF) and researches global technology and data trends including the extent to which political and economic factors can influence innovation.

**DANIEL CASTRO**

Vice President, ITIF





# POLITICAL RHETORIC BELIES THE REALITY

Spotlight on real estate, by Richard Barkham

**A huge growth in global capital flow over the last 20 years, particularly in the last 15 years, has drastically altered the landscape of the real estate market**

Office blocks are now part of a global real estate market, with properties once owned by 'local' institutions and used as pension fund investments, now as likely to be held within a complex network of global investors including many from emerging markets and Asia.

This trend is not limited to the ownership of property. Global occupiers from finance and business services, and increasingly technology, drive local occupancy levels and rents. We are now also seeing the rise of international operating companies that are taking long leases and then providing space managed to a high quality international standard to smaller companies of ten from the tech sector, on a short-term basis. This globalisation of property management is something new. This contributes to a complex patchwork of global and local processes within the same estates. For example, a Chinese investor may own a London property leased to an American company, which then rents space to both local and global businesses and individuals.

In recent years there has been enormous growth in incomes in emerging markets lifting more than 3 billion people out of poverty, largely as the result of the relocation of production. This shift in manufacturing to low cost locations has provided great benefits for western consumers in the form of cheaper goods and lower inflation.

Richard Barkham is an academic economist in real estate finance, with a PhD in entrepreneurship and regional development. He holds Visiting Professorships at Reading University and UCL, and has authored many papers including 'Real Estate and Globalisation' published in 2012 by Wiley Blackwell.

**RICHARD BARKHAM**

**Global Chief Economist of CBRE**



However, there are certain types of consumers – from the working and lower working classes – whose wage rates have stood still. This, alongside high levels of immigration, has probably triggered the rise of 'populist' politics as it is known. Immigrants create many economic benefits, but sometimes this is not widely appreciated.

Despite the political ramifications of populism – such as the election of Donald Trump, the UK's EU referendum and other political developments in Europe – the growth of protectionism has been much overstated. The political rhetoric around the last couple of campaigns has overshot the capacity of politicians to do much about it. Deglobalisation hasn't really started yet, at all, partly because globalisation brings so many benefits.

It is possible to see a little of the anti-globalisation theme coming in to real estate. Sadiq Khan and Jeremy Corbyn and others, for instance, have discussed making foreign ownership of residential property more difficult. It's happening elsewhere too, with Vancouver one example of a city already enacting policies designed to curb foreign ownership of residential property. It is very limited so far, and has not impacted commercial real estate, but luxury cities that have seen a strong growth in foreign buying may seek to erect some barriers to foreign ownership.

There is much to be optimistic about globalisation's present and future. In both the United States and Europe, the advantages of free trade means that it is very difficult to put up trade barriers without causing immediate economic stress. The election of Macron in France and the re-election of Merkel also signal the prospects of renewal of the EU trading block. There has, however, been a potentially problematic ideological shift with China and Asia-Pacific having replaced the United States as the champions of the globalising movement.

The way globalisation develops in a post great financial crisis context depends quite heavily on the way in which politicians accommodate the needs of those disaffected by globalisation since the 1980s. What we are experiencing now – and for the next three to four years – is simply a pause on globalisation, rather than a reversal. If politicians, including Trump and the current UK government, fail to improve the life chances of those who have not shared in globalisation's benefits, then anti-globalisation movements will become stronger. This means improving incomes, job prospects and housing options.

“What we are experiencing... is simply a pause on globalisation. If politicians fail to improve the life chances of those who have not shared in globalisation's benefits, then anti-globalisation movements will become stronger.”

*“Protectionism has been much overstated. Political rhetoric around the last couple of campaigns has overshot the capacity of politicians to do much about it. Deglobalisation hasn't really started... because globalisation brings so many benefits.”*



# SECTOR VOICES

Insight from leading thinkers

During our research into the new age of protectionism, we have spoken to other influential thinkers across a range of areas including life sciences, the US, energy and intellectual property.

This insight has revealed some key issues on the horizon for business to consider from compulsory drug licensing in emerging markets to an increasingly competitive European energy sector.

“There are several countries moving from a manual economy to a knowledge-based economy as their economies grow, and so they are trying to decrease their dependency on innovation and actually building it themselves.”

## LIFE SCIENCES: LICENSING IN THE SPOTLIGHT

Jo Pisani, Partner Pharmaceuticals & Life Sciences, Strategy Team at PWC

For the pharmaceutical and biomedical sector, the importance of deals is two-fold; in addition to the flow of goods, agreements also affect intellectual property protections, by ensuring that proprietary data of manufacturing companies remains just that – proprietary. This is being threatened by the emergence of powerful new markets, however.

A number of initiatives that allow domestic companies to produce cheap copies of medicines still under patent protection have been implemented in recent years – with the aim of improving access to affordable healthcare in emerging markets. But the impacts extend beyond that as certain eligible drug manufacturers in these markets can also export these drugs to other countries.

There are several countries moving from a manual-based economy to a knowledge-based economy as their economies grow, and so they are trying to decrease their dependency on importing drugs and innovation and actually building it themselves. Specifically with innovation, there is the issue of compulsory licensing whereby a government allows someone else to produce the patented product or process without the consent of the patent owner.

## AMERICA: US AT A CROSSROADS

Ashok Bardhan, economist and academic

The protectionist shift is being most keenly, and visibly, felt in the US, where the 2016 election of Donald Trump reflected a growing dissatisfaction of Western citizens with globalisation. The question now is how far down the protectionist road does the US go – and when, if ever, will it turn back?

If the segments of the population that feel disenfranchised due to globalisation start to see some of its benefits, a reversal of protectionism is possible, even likely. But for these segments to feel like they are no longer losing out will involve more creative solutions than just retraining these segments of workers for new jobs. The labour market in the US – as in many advanced economies – is at risk of profound disruptions due to the increasing accessibility of AI-powered software and automation. Although the tech sector is one of the crown jewels of the US economy, it is not immune from a backlash. This is already visible in the resentment at local level in parts of California from those who feel they've lost out as a result of tech companies driving up house prices.

Sometimes, the tech industry in the US does get a pass, but there's a bit of a backlash against them. In the San Francisco Bay Area, you've got stratospheric prices, and it's because many employees in the tech sector have bid up asking prices, as well as rents (the high-salary effect of the tech sector), and some have made all-cash purchases (the bonus and stocks wealth effect).

“The protectionist shift is being most keenly, and visibly, felt in the US, where the 2016 election of Donald Trump reflected a growing dissatisfaction of Western citizens with globalisation. The question now is how far down the protectionist road does the US go – and when, if ever, will it turn back?”



*“Intellectual Property rights act as both a facilitator and a drag on globalisation. For example, having a robust property rights ecosystem encourages transactions – but can also be a form of protectionism.”*

# SECTOR VOICES

Further insight from leading thinkers

“Direct government subsidies may be seen as being used to foster the growth of domestic energy companies and could lead to regional or global trade conflicts, especially with their use set to increase in the coming years.”

## INTELLECTUAL PROPERTY: FRAGMENTED STANDARDS

Graham Dutfield, Professor of International Governance, University of Leeds, UK

Intellectual Property rights act as both a facilitator and a drag on globalisation. For example, having a robust intellectual property rights ecosystem can encourage transactions including technology transfers, and regulate trade in an ordered kind of way. But it may also constitute a barrier to trade and technology, especially for developing countries.

At first, trade-related action in this area was targeted at stopping the international trade in pirated goods and counterfeits. Increasingly, efforts have been made to go further than this by harmonising rules so that most countries in the world are held to the high intellectual property standards of protection and enforcement present in Europe and the United States.

This harmonisation is increasingly under threat from countries wanting to establish their own standards. Countries seeking to catch up with the developed countries may see harmonised global norms as a disguised form of protectionism. Those who see harmonised IP norms this way tend to claim that piracy has always existed and that today’s developed countries are being hypocritical. It is also frequently argued that imitation allows emerging nations to ‘catch up’.

For the powerhouses of global growth – such as India or China – it is in their interests to break intellectual property rules, otherwise rigid norms on the lines of those applied in Europe or the United States will prevent them from making and selling products that they have, or aim to have, the capability to create by themselves.

## ENERGY: COMPETITION BITES

Marco Giuli, Policy Analyst in the Sustainable Prosperity Programme, European Policy Centre

In recent years there have been shifts in energy trading, especially in gas trading which has been undergoing significant change, driven by an evolution in the asset specificities of gas. As it is becoming cheaper to trade gas overseas and new found abundance in the US created a global gas glut, the market is becoming more flexible, globalised and contestable.

Protectionism is a feature of the energy market - as governments do their best to maximise access to affordable natural resources and domestic competitiveness, the issue here is more related to export tariffs or other export restrictions rather than import tariffs. Still, as current oversupply is pushing exporters to fight for market shares, these restrictions are under strong pressures.

The transition to a low carbon economy is the most pressing challenge for the investment environment over the next five years. Operators need to factor in a low to zero carbon long term outlook, which implies an electrification of the mix and the phase out of polluting technologies and brings significant disruption to traditional business models. This requires massive investments subject to many risk of political, regulatory, market, and financial nature. At the same time, digitalisation is also emerging as a challenge for the energy.



# PIECES OF A COMPLEX PUZZLE

View on the impact of protectionism

**Protectionism is complex, hard to measure and either viewed positively or negatively depending on the country or sector in which a business operates, not to mention the markets into which it trades.**

The views of our sector experts in the previous pages illustrate this. One of the measurable outputs – tariff rates and restrictive trade policies – tells a story that is often subjective. For example, an industry that sees many trade barriers or tariffs levied against it by a foreign country might be being given tax breaks in another. Choosing markets in which to trade is multi-faceted.

What is clear is that in the UK GCs are fully aware that there is a growing threat to their businesses from protectionism. While more than 80% of those surveyed felt protectionism was on the rise, only 47% of GCs believe their sector is prepared to navigate protectionist policies, one in five believing they are unprepared. After decades of globalisation, it is difficult to visualise what a deglobalised, protectionist market looks like, and what a business can do to prepare for it.

A deep suspicion of the motives around protectionist policies was revealed in the answers from both GCs and the C-Suite. When it comes to why governments create protectionist policies, more than half (55%) of GCs think governments put protectionist policies in place for political reasons, rather than hard-nosed economic benefit.

“Almost two thirds of those surveyed felt that the UK was the biggest opportunity for growth over the coming years.”

To ease trade, 59% of GCs want governments to drop tariff rates compared to 47% of C-Suite. However the C-Suite were more concerned about regulation with 50% wanting to see regulatory rules softened in order to open up trade compared to 37% of GCs. Only 27% of respondents favoured lobbying as a means of changing, which points to a clear indication that both GC and C-Suite respondents feel they have little political influence or are unwilling to get involved with politics.

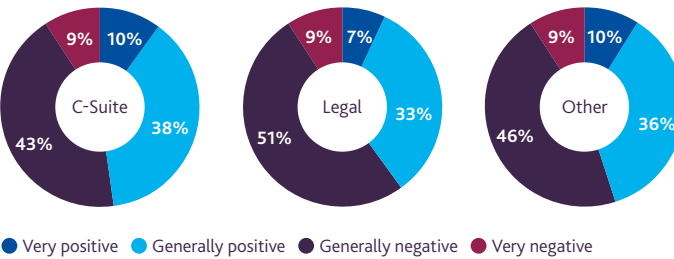
### Looking to the future

Political turbulence (52%) came as the top inhibitor of growth for our respondents, closely followed by currency volatility (38%) and restrictive trade policies (37%).

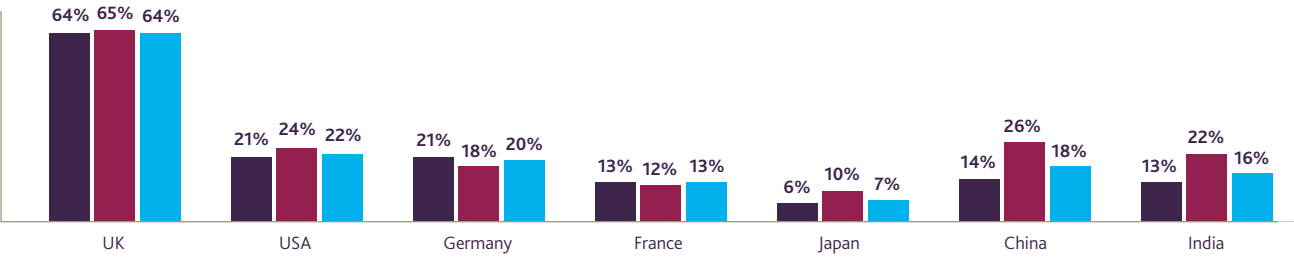
In what could be viewed as a positive signal by big businesses about a post-Brexit Britain, almost two thirds of those surveyed felt that the UK was the biggest opportunity for growth over the coming years, which is running counter to some recent economic growth projections.

The US (24%) and Germany (21%) were the next closest future growth markets. China was considered to be the country most likely to drive increased globalisation (34%) and the US seen as the biggest inhibitor of globalisation (36%), reflecting the shift in interest in global influences and power between these two countries. The results demonstrate the layers of complexity with protectionism. Countries that are considered to be the biggest proponents of protectionism are also seen nonetheless as the biggest opportunities for growth by GCs and the C-Suite.

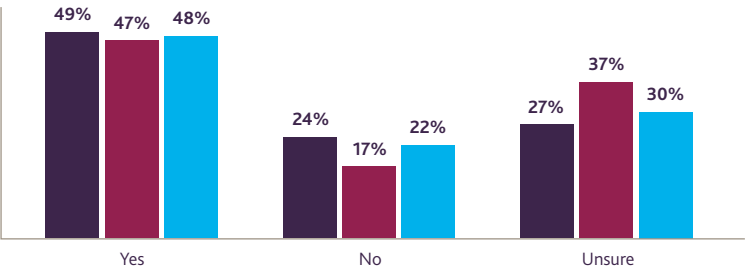
### Generally, do you view protectionism as positive or negative within your sector?



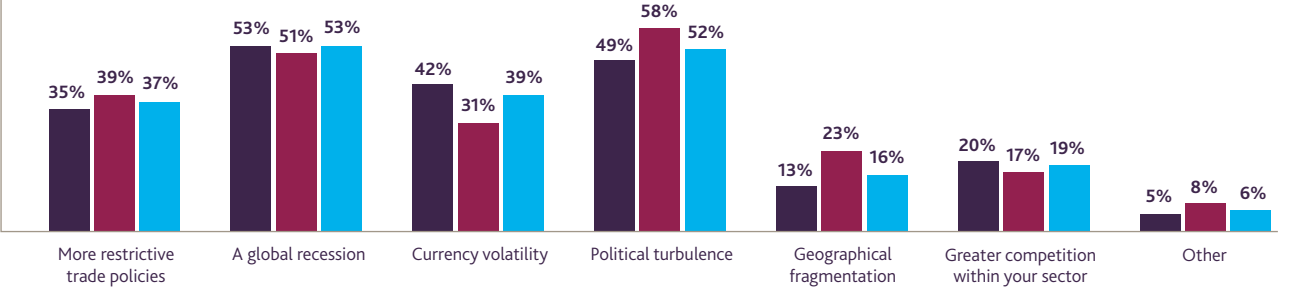
### What markets do you think present the biggest potential for growth for your business?



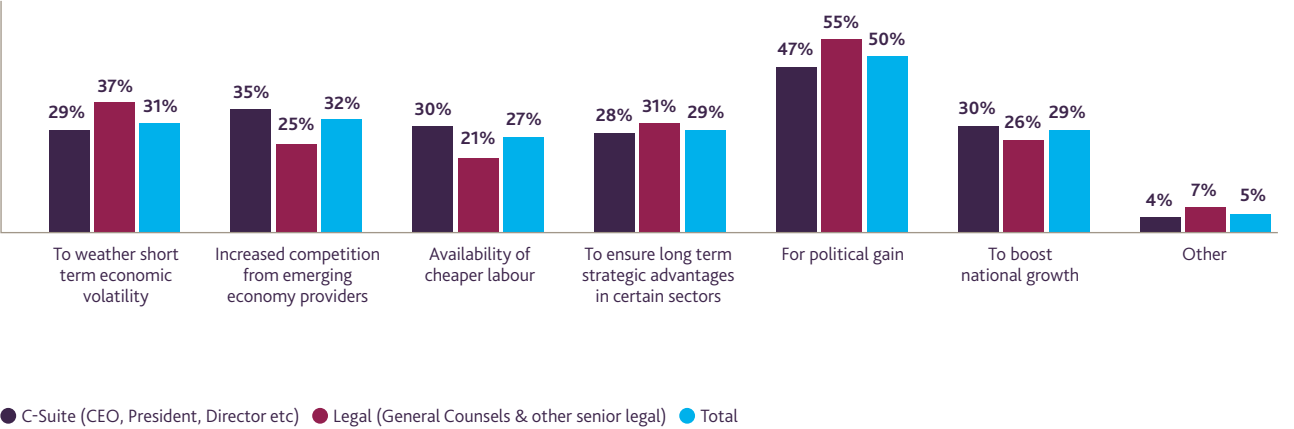
### Is your sector aware and prepared to mitigate any risks associated with protectionist policies?



### What factors do you think will inhibit growth in the future?



### Which of the following are reasons why you think governments and policy makers adopt more protectionist policies?



# WHICH WAY NEXT FOR GLOBALISATION?

## Redressing economic imbalance is vital

**The prevailing climate of economic uncertainty leaves the world at a crossroads. As we approach the future, can we expect increased protectionism or a rebalancing towards globalisation economics? Or continued polarisation between emerging economies still reaping the benefits while populations in advanced economies remain cynical?**

### Protectionism and the recession

Economic trends are often cyclical, and one reading of the current climate is that it is simply part of that cycle: eventually the pendulum will swing back towards globalisation, open trade and growth – but there are some barriers to overcome first of all.

With the post-recession economic recovery in advanced markets remaining subdued, expectations are lower and weaker for the current economic cycle, according to an Institute of Fiscal Studies white paper. Post-recession phenomena such as stagnant wage growth and weak economic recovery have been some of the key drivers of populism in the EU and US, with populist policies focusing on a break with the incumbent political establishment. Such policies are likely to include measures such as tax cuts or other measures that constrict international trade flows, contributing to the exacerbation of currency volatility worldwide.

Proponents of protectionist policies are usually more likely to find a greater audience during times of economic contraction, and the blow that was dealt to the global economy after by the economic downturn resulted in some governments pursuing varying methods to protect their domestic and internal markets. These developments may help explain why less than one in four businesses asked were optimistic about the future economic climate.

Furthermore, seven in 10 businesses said the world is becoming a more difficult place to do business, and 85% agreed that some countries were taking a more protectionist stance.

### Businesses support globalisation – but don't think the cycle is over yet

However, the majority (56%) believe globalisation is a force for good and 54% that businesses are not currently aware of the risks of protectionism – but only 36% were confident enough to predict that the current climate of protectionism will be short lived. They also agreed that the world faces some challenging times. Consistently, a large majority of both C-Suite and GCs agree that a new global recession, increased trade barriers and political uncertainty affecting business confidence are likely features of the next few years.

Businesses are already encountering difficulties, with trade tariffs ahead of all other causes followed closely by regulation and skills and recruitment-related challenges. Given the recent ambiguities around transitional deals and trade agreements, this is understandable, as the flow of trade between the UK and the EU is in some industries (such as the automotive sector) subject to multiple tariffs levied at different times in the process. Recruitment may also prove to be challenging in the absence of credible post-Brexit immigration policy scenarios.

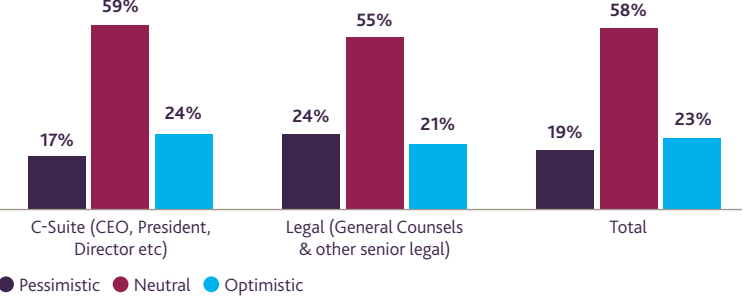
### Coming full circle

For globalisation to truly flourish again – and an era of protectionist trade wars to be avoided – the world must reconcile some challenges, while evolving to take advantage of new opportunities globalisation will provide. The reaction against globalisation has been voiced at the ballot box. Redressing the balance is key for political leaders.

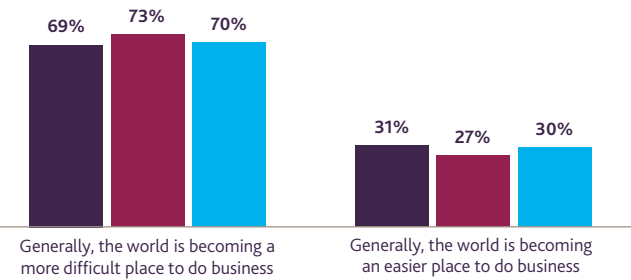
We are on the brink of a new era of data-driven, digital globalisation, where the trades are not in tangible goods and services but intangible flows of information. The barriers to entry will be reduced as global prosperity rises, creating a larger global market than ever before – and markets with more mature service economies. The scale of the opportunities here are matched by the size of the challenges; this unprecedented flow of information creates new frontiers in data protectionism and challenges the role of intellectual property rights.

Our panel of GCs and C-Suite are well aware of the challenges here – while 49% agree that tech advances mean that trade tariffs are less meaningful than before, 60% said that a lack of international standards on data security will be harmful to growth.

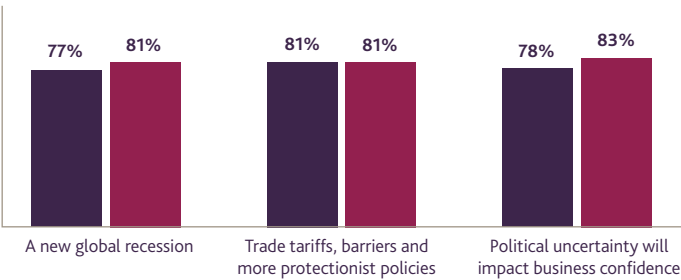
### Overall, how optimistic or pessimistic are you about the future global economic climate?



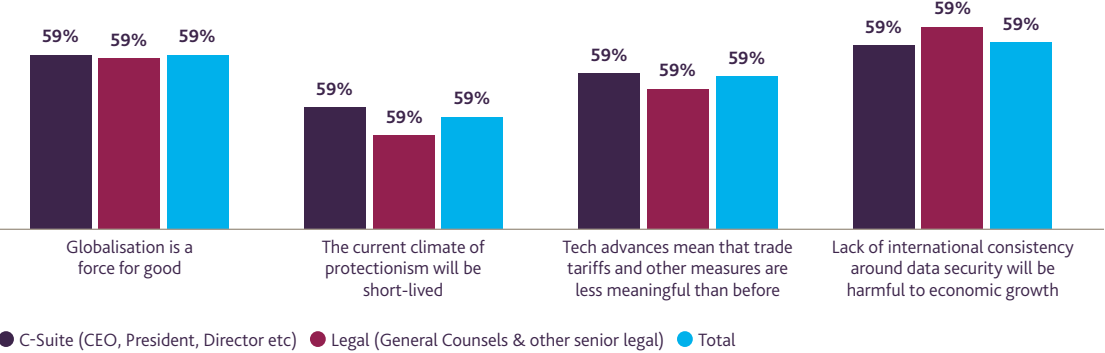
### Which of the following best describes your point of view?



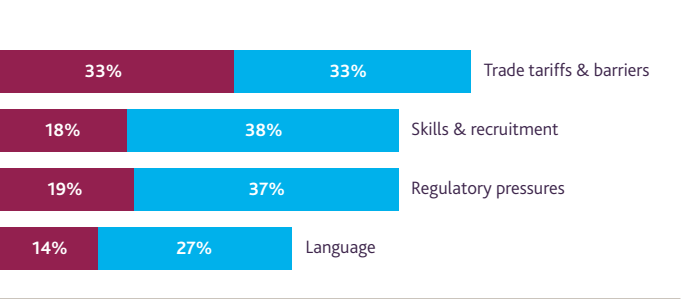
### Which of the following is quite likely / very likely?



### To what extent do you agree with the following statements?

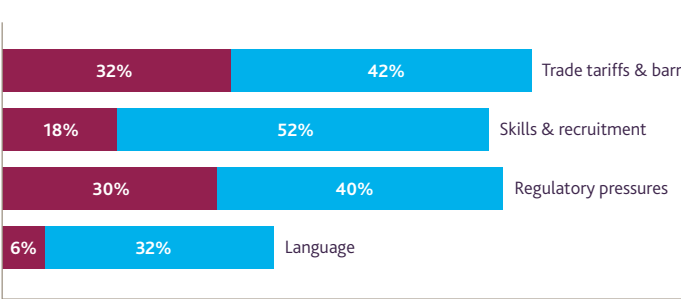


### (C-Suite) How much difficulty is caused by trying to navigate...



● A great deal of difficulty ● Some difficulty

### (Legal) How much difficulty is caused by trying to navigate...





# ACTION ON PROTECTIONISM

## Steps for businesses to take now

**Although an emerging issue which may ultimately benefit your business, it is important to take measures to ensure that protectionism and its implications are baked into your strategy.**

**Our research has shown that protectionism is on the rise and many businesses are aware of its re-emergence – that much is clear.**

**Protectionism's perceived positive or negative impact is determined by the sector and country in which the business operates as well as the markets into which it sells. In order to build that picture, there are some steps to be taken now:**

### 1 / Understand countries' approach to protectionism

Analysis which examines countries with a high risk of protectionism for your industry will help to shape future decision making. Would moving a production plant from one country to another help avoid certain barriers and tariffs, saving the business money and time? Looking at countries with lower levels of protectionism or investing in businesses operating in countries with high protectionism in order to take advantage will become an integral part of any business's future investment plans.

### 2 / Conduct a supply chain audit

Audit your supply chain (upwards and downwards) to be sure that you understand the commercial effects of increased protectionism on it. Areas such as currency manipulation, increase in tariff rates, IP, regulatory compliance and change of government all play a part. Are there long-term arrangements to which you are tied and might want to exit? Can you secure flexibility to manage the risk of change?

### 3 / Have your voice heard

Protectionism is driven at a diplomatic and political level – in order to begin to have influence, trade industry groups need to have voices heard at the right level. Trade associations have a crucial role to play in promoting best practice to ensure the ongoing competitiveness of their members and their industry as a whole. As a result they need to be at the forefront of policy making and lobbying, and constantly assess the impact of policy on member companies.

### 4 / Stay agile

Consider avoiding long-term commitments and enter short-to medium-term arrangements that will allow for flexible reassessment and negotiation depending on the country's protectionist policies. With necessary long-term deals, e.g. vital capital or infrastructure investment, consider milestones as break / review points or events for both sides. Be prepared to challenge existing practice and consider new options.



# ON THE HORIZON

Further insight into protectionism

**Our research and commitment to supporting and guiding businesses through protectionism will carry on well into 2018.**

We've spoken to experts from across key sectors such as property, life sciences, tech, manufacturing, energy and those able to talk about the role of the US in global protectionism. Over the next few months we'll be releasing more information. If you'd like to talk to anyone from Gowling WLG in the meantime, please contact:

**David Lowe**  
**Partner, Head of International Trade**  
+44 (0)20 3636 7852  
david.lowe@gowlingwlg.com



**Michael Luckman**  
**Partner, Head of International Strategy**  
+44 (0)121 393 0416  
michael.luckman@gowlingwlg.com



Energy



Intellectual Property



Life Sciences



Real Estate



Tech



US



GOWLING WLG (UK) LLP  
T +44 (0)370 903 1000  
[gowlingwlg.com](http://gowlingwlg.com)



**GOWLING WLG**

Gowling WLG (UK) LLP is a member of Gowling WLG, an international law firm which consists of independent and autonomous entities providing services around the world. Our structure is explained in more detail at [www.gowlingwlg.com/legal](http://www.gowlingwlg.com/legal)