



**Competition Policy for Emerging Economies: When and how?**

# **Chinese competition: do we need a new competition policy regime?**

**Peter A.G. van Bergeijk, ISS (EUR) and CERES**

**Pierrette Gaasbeek, NMa**

May 20, 2011

See <http://ssrn.com/abstract=1766482>

# Oops

## **Key Questions Addressed in this Conference**

What is the right stage in the development of a country for competition policy to add to national prosperity? Should it be part of early aid packages and requirements? What adaptations to competition laws of other jurisdictions do new regimes need? How are legal transplants implemented and how do they function in divergent legal and political systems? Which tools from the rich pallet of competition law enforcement instruments that are applied, for example in the US and the European Commission, are best suited for a young agency? And which are better saved for later stages in its development?

How to kick-start implementation of the law? How to position and staff the institutions? How to nurture proper incentives through selection, training and career prospects? How to organize advocacy? What cases to take-on initially – foreign export cartels, local collusion, domestic mergers? What challenges can agencies expect in the first years? What are the typical procedural and constitutional battles? How to pick the right seminal cases to win those battles and power and reputation? How to avoid corruption by vested interest?

What may be expected from international cooperation in enforcement? What can be the role of the international business community? How will multinational corporations assess new competition regimes? Will their existence affect investment decisions, and if so how? Are foreign multinational potential entrants allies of the domestic agency, or threats to their effectiveness? What quality of agency do companies prefer?

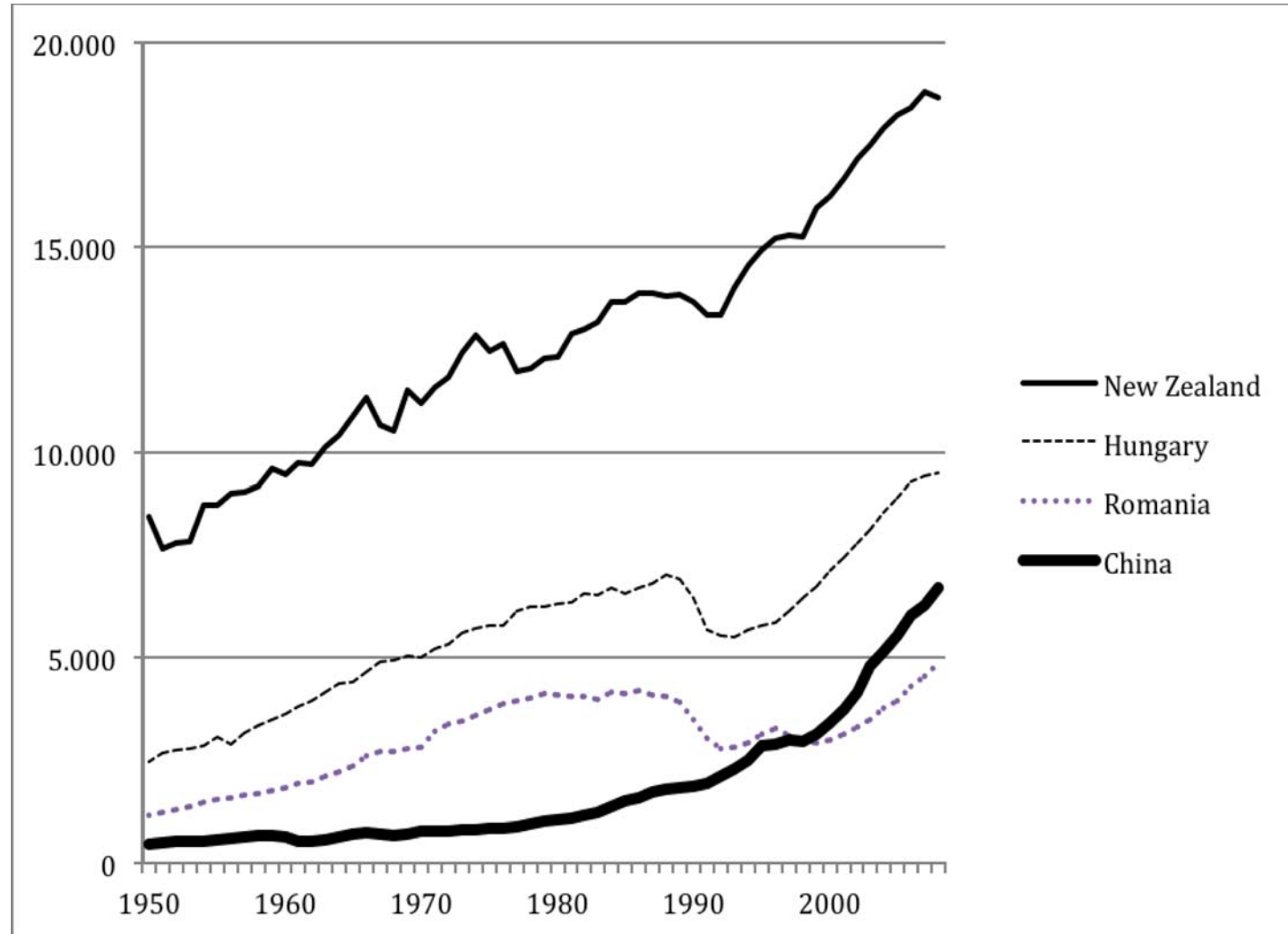
# The paper in a nutshell

- **Exploratory** essay in **macro**economic history
- **Gradual** (China) versus **Big Bang** (Eastern Europe, New Zealand, others) approach.
- Lessons from Europe, **lessons** from China
- Changing **future global conditions** (and nature) of international governance and public goods such as a competition regime.



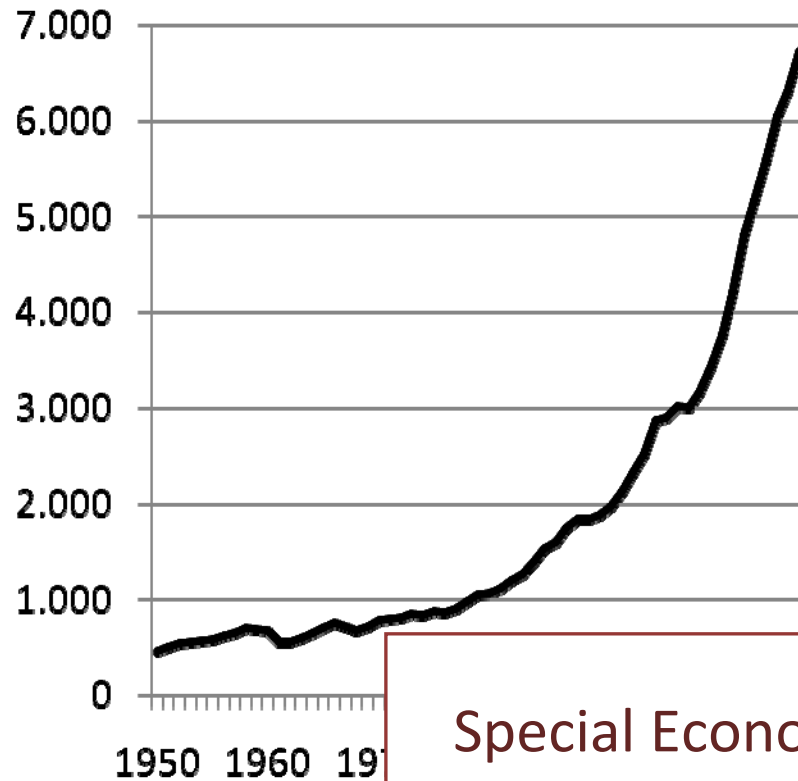
# HISTORY

# GDP pc in constant \$.

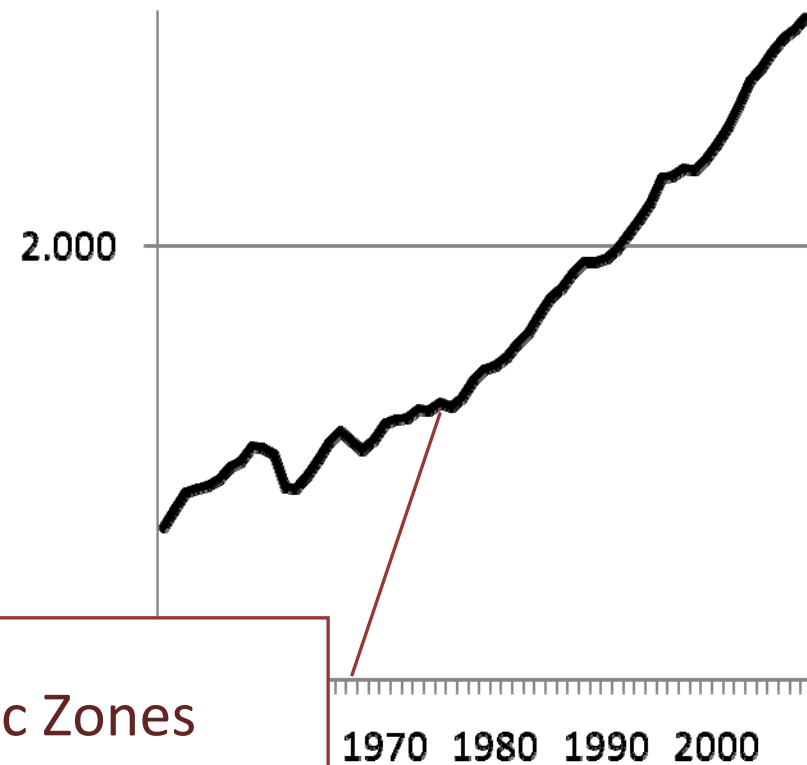


# China GDP per capita, constant 1990 international dollars

Linear scale



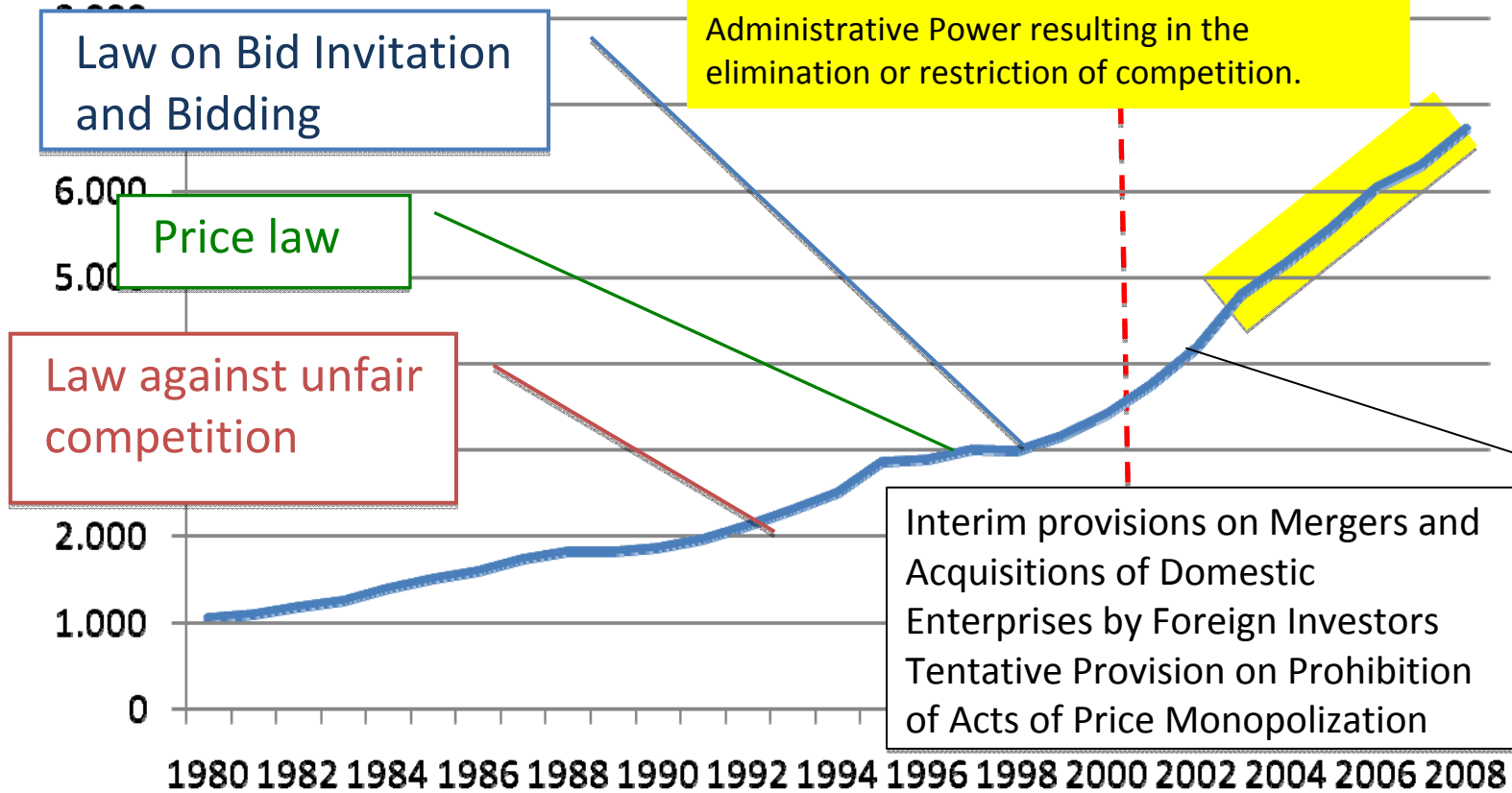
Logaritmische scale



Special Economic Zones

# China's competition

- 2004 The Foreign Trade Law
- 2006 Provision on Mergers and Acquisitions of Domestic Enterprises by Foreign Investors
- 2007 Anti Monopoly Law
- 2011 Rules on Prevention and Restriction of Price-related Monopoly Conduct (NDRC Rules)
- SAIC Monopoly Agreements Rules
- SAIC Dominant Position Rules
- Rules on the Prohibition of Abuse of Administrative Power resulting in the elimination or restriction of competition.



# Chinese noodles

‘a fragmented legal framework against restrictive behaviour in the Chinese market’ Xiaofei (2008, p. 497)

Laws actually varied greatly from region to region and depended on local traditions, but also on the preferences of local government and supervisors.



# EUROPE AND CHINA

## **DECLARATION ON THE START OF A DIALOGUE ON COMPETITION BY THE EU AND CHINA**

---

*On 24 November 2003 both sides reached agreement on the creation of a EU-China Competition Policy Dialogue*

The Dialogue comes within the framework of the Joint Statement adopted at the EU-China Summit of 5 September 2001, in which competition policy was earmarked as one of the areas where the EU-China dialogue should be intensified.

The increasingly significant role of multilateral forums where competition matters are discussed such as the International Competition Network (ICN) should be taken into account in the dialogue between the EU and China on competition policy.

The primary objective of the Competition Policy Dialogue is to establish a permanent mechanism of consultation and transparency between China and the EU in this area, and to enhance the EU's technical and capacity-building assistance to China in the area of competition policy.

Both parties understand that competition policy is an important factor in ensuring consumer welfare and it should provide for a level playing field and legal certainty to the business community in the market. The dialogue will promote mutual considerations.

The Dialogue shall also contribute to the establishment of smooth and sustainable trade relations between China and the EU.

The precise structure, content and other details will be finalised by both parties in the coming weeks.

Mario Monti, Commissioner  
European Commission

Lu Fuyuan, Minister  
(p.o. Yu Guangzhou, Vice Minister)  
Ministry of Commerce

## Chinese Noodles



## European Spaghetti



# European Spaghetti (early 1990s)

## Competition Policy Regimes in Europe (1994)

	Competition agency	Independent	Principle	Enforcement
Belgium	Dienst van de Mededinging	No	Prohibition	Administrative
Denmark	Konkurrenceradet	Yes	Abuse	Administrative
France	Conseil de la Concurrence	Yes	Prohibition	Administrative
Germany	Bundeskartellamt	Yes	Mixed	Administrative
Greece	Επιτροπή Ανταγωνισμού	No	Prohibition	Administrative
Ireland	Competition Authority	Yes	Prohibition	Criminal law
Italy	Autorità garanta della concorrenza	Yes	Prohibition	Administrative
Netherlands	Directie marktwerking	No	Abuse	Criminal law
Portugal	Autoridade da Concorrenca	Yes	Prohibition	Administrative
Spain	Servicio de Defensa de la Competencia	Yes	Prohibition	Administrative
Sweden	Konkurrentverket	Yes	Prohibition	Administrative
UK	Office of Fair Trade	No	Abuse	Administrative

Source: Van Bergeijk and Haffner 1996, Table 2.2, p. 27

## Lessons from Europe

## Lessons from China

Gradualism

Experimentation

External commitment

Scope for local supervision and specialization.

But effectiveness requires integration, coordination and harmonization

# FUTURE

# Shifting shares in world trade

## 1995

	Per cent
Europe	40
US	16
Japan	7
China	2
Rest of Asia	14
Rest of world	21

Herfindahl = 1909  
C3 = 63

63

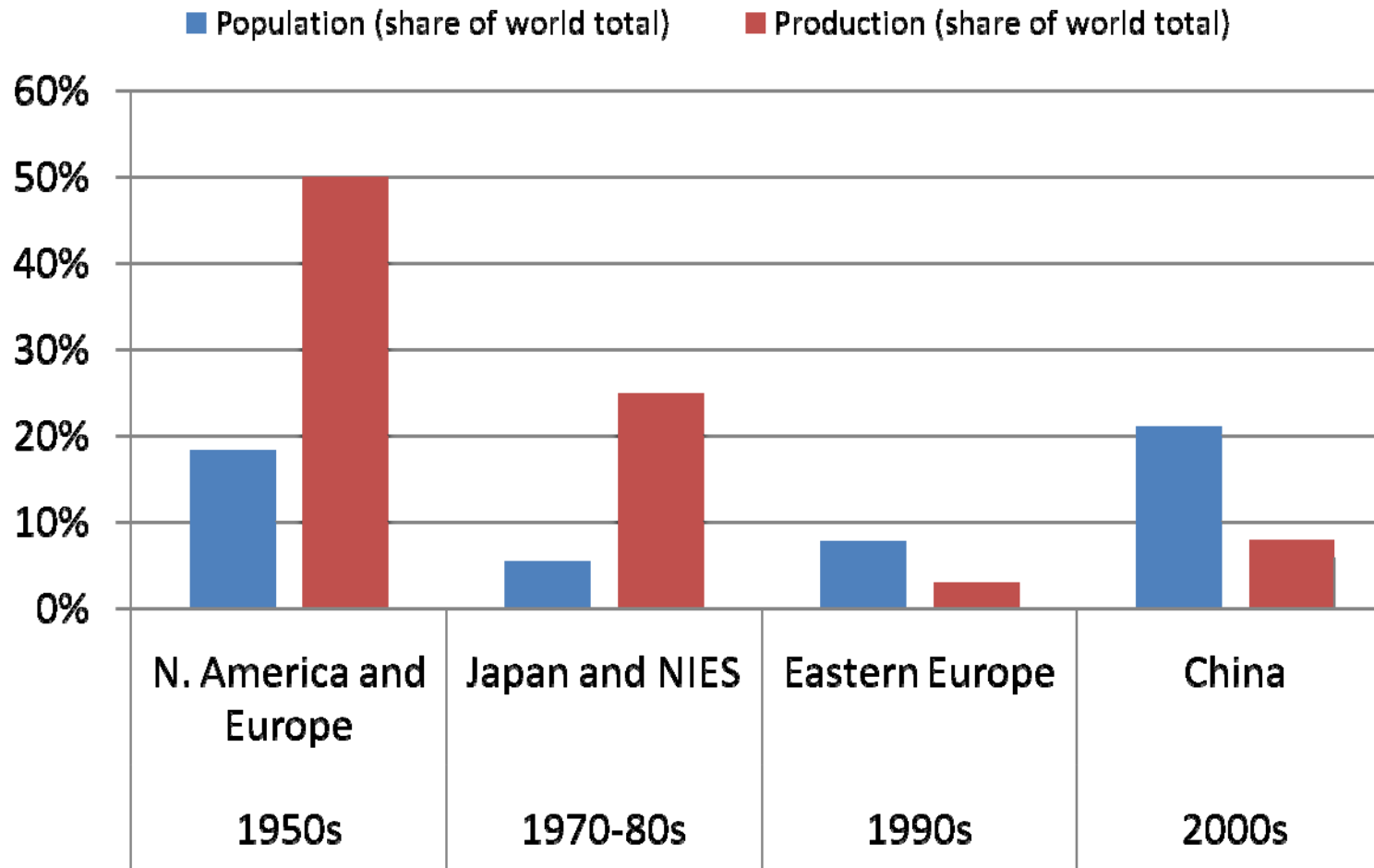
## Forecast 2025

	Per cent
Europe	23
China	17
US	11
Japan	4
Rest of Asia	15
Rest of world	30

Herfindahl = 955  
C3 = 51

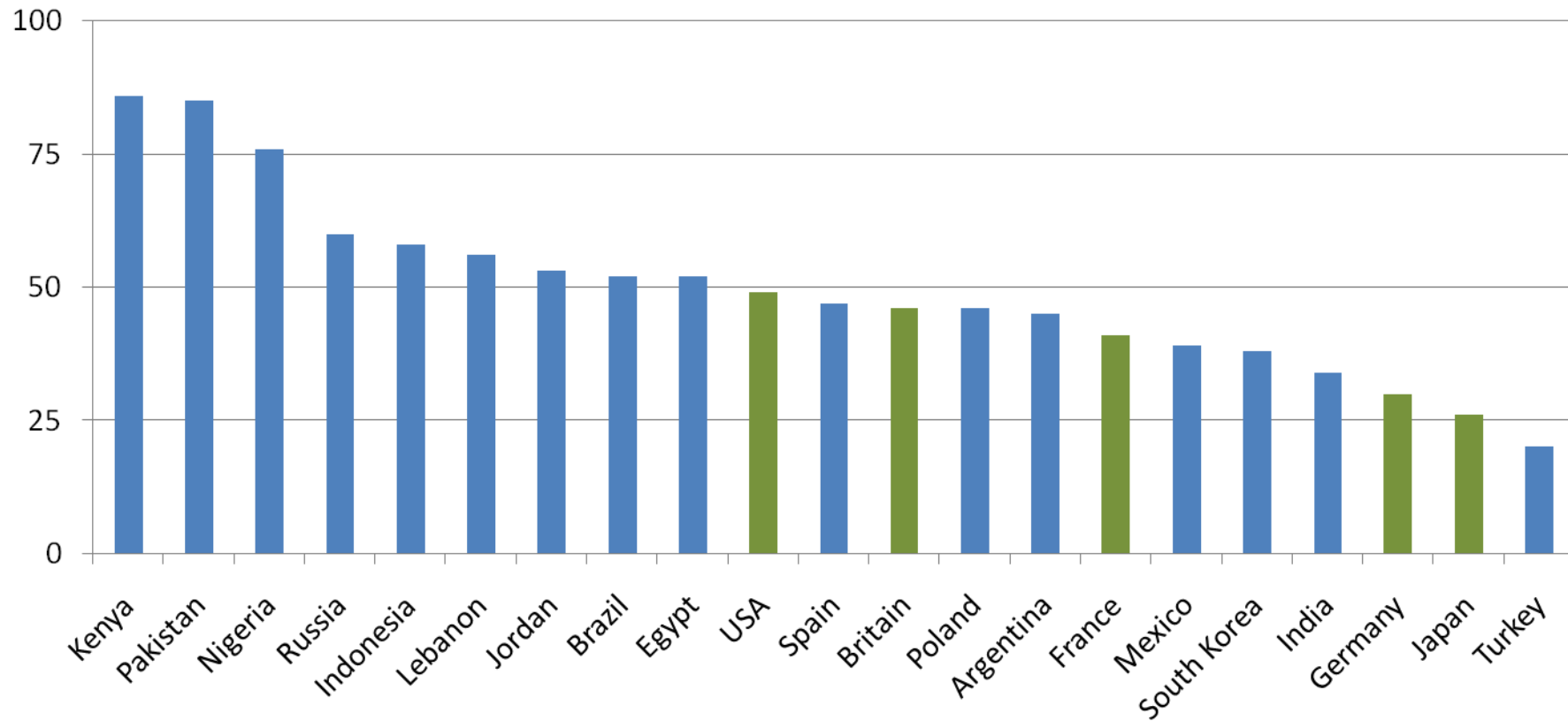
38

# New entrants into the world economic system (States)





# Do you have a favourable view of China? (2010)



Source: Pew Global Attitudes data set