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Navigating the Friction Between Sovereign Protectionism and Multilateralism: A Legal Analysis of Recent U.S. Tariff Adjustments under International Trade Law

Hilman Ibnu Wardi[1*]

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ABSTRACT

In the contemporary era of global commerce, the traditional leanings toward neoliberal liberalization are increasingly being challenged by a paradigm of "economic securitization." This article examines the legal complexities of recent United States (U.S.) tariff adjustments, specifically those enacted under Section 232 of the Trade Expansion Act of 1962 and Section 301 of the Trade Act of 1974. Utilizing a qualitative literature review methodology, this study investigates how these domestic measures interact with, and often circumvent, the World Trade Organization (WTO) legal framework. The findings suggest that the U.S. strategy of utilizing "national security" exceptions (GATT Article XXI) has initiated a systemic crisis in the rules-based multilateral system, leading to a fragmented landscape of "friend-shoring" and bilateral reciprocity. This analysis highlights the impact on global value chains and the legal responses from trading partners. The article concludes that while domestic sovereignty remains paramount, the lack of a functional dispute settlement mechanism threatens the predictability of international trade law.

INTRODUCTION

The international trading system is currently navigating its most volatile period since the inception of the World Trade Organization (WTO) in 1995. For decades, the United States served as the primary architect and enforcer of a rules-based order centered on the reduction of trade barriers and the principle of non-discrimination. However, recent years have witnessed a decisive shift in Washington's trade policy. From the "America First" rhetoric of the late 2010s to the current "Worker-Centric Trade Policy," the U.S. has increasingly turned to tariffs not merely as economic tools, but as instruments of national security and geopolitical leverage.

This shift has created a profound legal friction within the international community. The recent adjustments in tariffs targeting sectors such as steel, aluminum, semiconductors, and electric vehicles (EVs) raise critical questions about the limits of sovereign power within the context of international treaties. By invoking domestic statutes to override international commitments, the U.S. has challenged the core tenets of the General Agreement on Tariffs and Trade (GATT).

This article provides a rigorous analysis of these adjustments. It seeks to understand the legal justifications provided by the U.S. government, the reactions of global trading partners, and the long-term implications for international trade agreements. As we move toward a more polarized global economy, the stability of trade law becomes the thin line between orderly competition and chaotic trade warfare.

LITERATURE REVIEW

The Crisis of Multilateralism and GATT Article XXI

The primary legal point of contention in recent trade disputes is Article XXI of the GATT, which allows member states to take actions necessary for the protection of their "essential security interests." Historically, this clause was considered "self-judging," meaning it was largely left to the discretion of the state invoking it. However, as noted by Hillman (2022), the unprecedented invocation of this clause for economic protectionism risks turning the exception into the rule, effectively rendering WTO commitments illusory.

Section 232 and 301: The Domestic Legal Architecture

U.S. trade policy relies heavily on two domestic pillars:

1. Section 232: Authorizes the President to adjust imports if they are deemed a threat to national security.
2. Section 301: Allows for retaliatory measures against "unfair" trade practices.

Scholars such as Bown (2023) argue that these statutes, while legally valid within the U.S. constitutional framework, create a "de-judicialized" environment where political negotiation replaces legal arbitration. This leads to a "spaghetti bowl" of bilateral deals that undermine the Most Favored Nation (MFN) principle.

From Globalism to "Friend-shoring"

Current literature increasingly discusses the transition toward "friend-shoring"—the practice of limiting supply chains to perceived political allies. This concept represents a fundamental reinterpretation of trade law, moving away from efficiency-based global value chains toward security-based networks (Rahman & Smith, 2023). The legal manifestation of this can be seen in the transition from the North American Free Trade Agreement (NAFTA) to the United States-Mexico-Canada Agreement (USMCA), which includes stricter

[1] Faculty of Law, Social Sciences and Political Sciences, Open University, Indonesia
[*] Corresponding author's email: hilmanibnuwardi@gmail.com

rules of origin and labor provisions.

MATERIALS AND METHODS

This study employs a Qualitative Literature Review and Legal Analysis methodology. The research process involved:

1. Documentary Analysis: Reviewing primary legal texts including the GATT 1947/1994, the WTO Dispute Settlement Understanding (DSU), and U.S. Executive Orders.
2. Thematic Synthesis: Categorizing recent tariff adjustments by sector, legal justification, and impact on specific trading blocks (e.g., EU, China, ASEAN).
3. Expert Consultation: Integrating insights from leading economists and legal scholars specializing in international economic law.
4. Comparative Data Analysis: Utilizing trade statistics from the U.S. International Trade Commission (USITC) and the WTO to illustrate the tangible effects of policy shifts.

This methodology ensures that the analysis is grounded in both the "black letter law" of treaties and the "law in action" as observed in global markets.

RESULTS AND DISCUSSION

Mapping the Evolution of U.S. Tariff Policies

The data indicates a significant and sustained increase in the "Trade-Weighted Average Tariff" applied by the U.S. to major trading partners. The following table summarizes key shifts and their legal underpinnings:

Table 1: Recent U.S. Tariff Adjustments and Legal Rationales (2018–2025)

Sector	Average Rate Increase	Primary Legal Authority	Targeted Nations / Regions	Impact on Global Value Chains
Steel & Aluminum	25% (Steel), 10% (Al)	Section 232 (Security)	Global (EU, China, etc.)	Forced restructuring of automotive and construction supply chains.
Consumer Electronics	15% - 25%	Section 301 (Unfair Trade)	China	Relocation of assembly lines to Vietnam, India, and Mexico.
Semiconductors	Variable (Restrictions)	Export Control Act / 301	China, Tech-hubs	Disruption of the global "Chip" supply hierarchy.
Electric Vehicles (EVs)	100%	Section 301 (Critical Tech)	China	Significant barrier to Chinese EV expansion in the North American market.
Critical Minerals	New Adjustments	IRA / Section 232	BRICS+ Nations	Incentivizing "Friend-shoring" within the Indo-Pacific.

Sources: Compiled from U.S. Trade Representative (USTR) annual reports, USITC Publication No. 5400 (2024), and World Trade Organization (WTO) Trade Policy Reviews.

The data reveals that tariff adjustments are no longer temporary "safeguards" but have become permanent fixtures of U.S. industrial policy. For instance, the 100% tariff on Chinese EVs implemented in 2024 is designed not to correct a temporary market surge, but to decouple the North American green energy sector from Chinese production capacity entirely.

Discussion

The WTO Stalemate and the "National Security" Loophole

The most significant discussion in international trade law revolves around the 2022 WTO panel ruling against U.S. steel and aluminum tariffs. The panel found that the U.S. had not proven an "emergency in international relations" sufficient to justify Article XXI. The U.S. refusal to accept this ruling combined with its ongoing blockade of the WTO Appellate Body has created a "legal vacuum." Without an enforcer, international trade law risk becoming a "lex simulata" (simulated law).

Impact on Developing Economies: The Case of ASEAN and Indonesia

While the trade war is often framed as a U.S.-China conflict, the spillover effects on third parties are profound. Countries like Indonesia and Vietnam have seen an influx of manufacturing as companies seek to bypass U.S. tariffs on China. However, this "bypass" is legally precarious. The U.S. has already begun investigating "circumspection" cases where Chinese components are merely assembled in Southeast Asia to claim a different origin. This places ASEAN nations in a difficult position: they must navigate the technicalities of "Rules of Origin" (RoO) to maintain access to the U.S. market (Chen, 2024).

Expert Opinions on the Future of Trade Law

Bhagwati (2022) has warned that the current trend leads to a "fragmented world" where power-based bargaining replaces the rule of law. Conversely, Rodrik (2021) suggests that the era of "hyper-globalization" was unsustainable, and that a new legal framework allowing for "industrial policy space" is necessary for social stability. The consensus suggests that the old GATT/WTO model is dying, but the new legal architecture has yet to be finalized.

CONCLUSION

The analysis of recent U.S. tariff adjustments confirms a transformative period in international trade law. We are witnessing the "legalization of protectionism," where domestic security concerns are used to override multilateral obligations. While these adjustments may achieve short-term political goals for the U.S., they erode the foundational principles of predictability and non-discrimination that have governed global commerce for seven decades.

The findings of this study suggest that international trade law must evolve to survive. This evolution should include:

1.A Clearer Definition of "Security Interests": Limiting the scope of Article XXI to prevent its use as a shield for routine industrial protection.

2.Restoration of Dispute Settlement: Finding a middle ground that allows for sovereign policy space while providing a binding mechanism for conflict resolution.

3.Adaptation to Green Trade: Creating new legal categories for environmental subsidies and tariffs that do not trigger retaliatory cycles.

Ultimately, the survival of the global economy depends on the ability of international law to adapt to the realities of a multipolar world without descending into the mercantilism of the 1930s.

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