REASSESSING GLOBAL TRADE EQUILIBRIUM: U.S. TARIFFS AND WTO COMMITMENTS

Meenal Kawatra, Symbiosis Law School, Noida

ABSTRACT

This article critically examines the United States' recent approach to trade policy, particularly under the Trump administration, highlighting the increasing reliance on unilateral tariff measures and the invocation of the national security exception under Article XXI of the GATT. It explores how expansive executive powers under Section 232 of the Trade Expansion Act and the International Emergency Economic Powers Act (IEEPA) have enabled the imposition of tariffs without meaningful oversight or alignment with multilateral objectives. The misuse of these powers most recently seen in the imposition of tariffs of up to 245% on Chinese goods reflects a broader erosion of the multilateral trading system, a violation of the Most-Favored Nation (MFN) principle, and a departure from the WTO's rules-based framework. The article further critiques the legally unfounded use of the fentanyl crisis as a justification for punitive tariffs, arguing that such actions conflate public health concerns with trade enforcement, thereby undermining both. It concludes with a set of legal and policy reforms aimed at restoring balance, accountability, and credibility to U.S. trade policy, while reinforcing the integrity of the international trading order.

Introduction:

Global trade has long relied on a shared set of rules to keep things fair and predictable. For years, the United States played a leading role in building and supporting that system, especially through institutions like the World Trade Organization (WTO). But in recent times, there's been a noticeable shift. U.S. trade policy has taken a more protectionist turn- leaning on tariffs, targeting specific countries, and stepping away from multilateral agreements. This change has raised some serious questions: What does it mean for global trade? Is the U.S. breaking the rules it once helped create? And what impact does this have on the WTO and the idea of fair, rules-based commerce? This article explores these questions by looking closely at the WTO's legal principles, the MFN rule, and how recent U.S. actions are challenging the very foundation of global trade cooperation.

Understanding WTO's Core Legal Framework

Principle of Non Discrimination:

Since ages, Non - discrimination has been one of the most essential principles of GATT. The two most essential ones are- the most favored nation (MFN) principle and the national treatment principle. The MFN principle has been enshrined in Article 1 of the GATT. There are two questions concerning non- discrimination: 1) how is discrimination identified? 2) de facto vs de jure discrimination.

Purpose, Impact and Parallels:

There are two essential components in this respect: an intention of discriminating i.e. motivation, reason or aim) and the consequence of discrimination which is known as the disparate impact. In addition to these aspects, discrimination mostly takes place when there is an extent of likeness between the imported good and the domestic good in question. As per intent, it is the conduct that has to be prohibited through law, so it is essential to give importance to that conduct in creating a legal provision. Though it is usually tough to determine intent. It is essential to differentiate between subjective intent and objective intent. When we talk about subjective intent we refer to the motivations of individual leaders in implementing any policy. On the other hand, in objective intent, the purpose of the authority reflects the general objective of the state in introducing the action, as interpreted from the language used in the action itself.

Impact:

Another aspect usually affiliated to discrimination is effect i.e. if the impact of an action has a discriminating impact opposing the imports. This aspect is more broadly recognized with respect to discrimination compared to intent. For this aspect, the distinction between de facto and de jure discrimination needs to be comprehended. It will be based on the distinct product categorization in the tax system of a member. It will have to be ascertained if an action has an imbalanced effect on imported goods as opposed to the local goods.

There are various methods for assessing discriminatory treatment, but one method which is used is known as the individual product test which examines whether imported and domestic goods within the same category receive different treatment. This approach, sometimes called the diagonal test compares products across different groupings without considering the overall impact on the market. It focuses on how a particular set of imported items is treated in comparison to similar local products. If the imports are to be found at disadvantage, this approach generally leads to a finding of a violation and is typically referred to as a strict product- based test.

De Jure vs De Facto Discrimination:

A key concept in understanding non-discrimination rules is the distinction between de jure (legal) and de facto (in practice) discrimination. De jure discrimination happens when a law or policy clearly treats foreign and domestic goods differently on its face. For instance, a regulation might directly state that foreign-made goods are subject to a higher environmental tax than similar local goods - the bias is written into the rule itself.

On the other hand, de facto discrimination isn't always obvious in the text of the measure. It occurs when a rule seems neutral but disproportionately affects foreign goods due to the way it operates. For example, suppose a country introduces a high tax on electronic items that exceed a certain screen size, and most of these larger items are imported. Although the rule doesn't mention imports, it indirectly disadvantages them more than domestic ones.

The WTO's case law often deals with this kind of indirect discrimination, noting that it's not enough for products to be treated differently - there must also be a real impact on the competition between imported and local products. Just having two sets of rules is not, by itself,

a violation.

Ultimately, to prove a breach of trade rules, it's necessary to evaluate if the measure in question actually harms imported goods by placing them in a worse competitive position than domestic products.[1]

Importance of Binding Commitments:

At times, simply committing not to increase trade restrictions can be just as impactful as reducing them. Such commitments offer businesses a more reliable outlook on future prospects. When the trade environment is steady and foreseeable, it fosters investment, leads to job creation, and allows consumers to benefit from greater competition- through more choices and better prices. The goal of the multilateral trading system is to help governments build a business climate that is consistent and dependable.

Within the WTO framework, when nations agree to grant market access for goods or services, they make legally binding commitments. For goods, this usually means setting maximum limits called bindings on the tariffs they can charge at the border. In practice, some countries, especially developing ones, often apply lower tariffs than the maximums they've committed to. In contrast, developed nations typically apply tariffs that closely match the levels they've pledged.

A country is allowed to adjust its tariff commitments, but it must first consult with its trading partners- often involving compensation for any potential trade losses. One major success of the Uruguay Round of global trade negotiations was expanding the share of trade covered by binding agreements. In the case of agriculture, every product now has a set maximum tariff. This has led to a much greater sense of security and predictability for both traders and investors.

The system also works to boost stability and predictability through other methods. One approach is to discourage the use of quotas and similar tools that restrict the volume of imports, as these can create bureaucratic hurdles and raise concerns about unfair treatment. Another strategy is to promote transparency by ensuring countries clearly communicate their trade policies. Many WTO agreements require governments to make their trade rules publicly

[1] Simon Lester, Bryan Mercurio, Arwel Davies, Kara Leitner, World Trade Law 273 (Oxford and Portland, Oregon, 2008)

available, either within their own countries or by notifying the WTO. Additionally, the Trade Policy Review Mechanism offers a way to regularly examine and monitor national trade policies, helping to strengthen openness both at home and internationally.[2]

Most Favored Nation (MFN) Principle: A Cornerstone of WTO Law

The Most-Favored Nation (MFN) principle is one of the foundational rules of the World Trade Organization (WTO), embedded in Article I of the General Agreement on Tariffs and Trade (GATT)[3]. At its core, MFN ensures non-discriminatory trade treatment among WTO members. If a country grants favorable trade terms- such as lower tariffs or fewer import restrictions- to one member, it must extend those same benefits to all other members, immediately and unconditionally.

This principle promotes fairness, prevents the formation of exclusive trade blocs, and fosters predictability in the international trading system. By guaranteeing equal treatment, MFN also reduces the risk of political influence skewing trade flows and helps smaller or less influential countries benefit from global market access under the same conditions as more powerful ones.

While some exceptions to MFN are allowed- such as in the case of Free Trade Agreements (FTAs) or preferential treatment for developing countries- these are clearly defined and must comply with WTO rules. Any deviation from the MFN obligation must be either authorized under WTO agreements or negotiated and agreed upon multilaterally.

A quick guide to U.S. Tariffs:

President Trump launched the America First Trade Policy with the goal of revitalizing the U.S. economy. On what was dubbed Liberation Day, he introduced a 10% tariff on imports from all countries and added even higher, targeted tariffs for countries with which the U.S. runs the biggest trade deficits. The idea was to create a fairer playing field for American workers and to strengthen national security.

Since then, over 75 countries have reached out to begin talks on new trade agreements. In

[2] World Trade Organization, https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.htm#:~:text=In%20the%20WTO%2C%20when%20countries,the%20case%20in%20developing%20countries.

[3] GATT 1994, art. 1, https://www.wto.org/english/res_e/publications_e/ai17_e/gatt1994_art1_oth.pdf

response to those conversations, the U.S. paused the individualized higher tariffs- except in the case of China, which responded with its own set of retaliatory measures.

As a result, Chinese imports now face tariffs of up to 245%. This includes a 125% tariff to mirror China's own trade actions, an additional 20% in response to the fentanyl crisis, and a range of Section 301 tariffs on specific goods, which vary from 7.5% to 100%.

To close loopholes in existing trade rules, President Trump also signed proclamations to reinstate a full 25% tariff on steel and to raise the tariff on aluminum to the same level.

He introduced what he called the Fair and Reciprocal Plan, designed to ensure the U.S. is treated fairly in its trade relationships and to push back against agreements that aren't equally beneficial.

To protect American innovation, President Trump signed a memorandum that included the possibility of tariffs in response to digital service taxes (DSTs), as well as fines and policies from other countries that he believed unfairly targeted U.S. tech companies.

He also issued Executive Orders launching investigations into whether imports of copper, timber, lumber, and related products pose risks to U.S. national security and economic health.

Conflicts between U.S. Tariffs and WTO Law:

Trump's Use of Emergency Powers to Impose Tariffs Raises Legal and Economic Concerns:

President Trump recently announced plans to introduce tariffs on imports from Canada, Mexico, and China. He said the move was meant to hold these countries accountable for what he described as a serious threat to the U.S.- specifically, the flow of illegal immigration and drugs like fentanyl, which he has labeled a national emergency.

However, after having one-on-one talks with President Sheinbaum of Mexico and Prime Minister Trudeau of Canada, Trump has decided to hold off on those tariffs for now. He's given both countries a one-month pause to follow through on certain promises. That said, the 10% tariffs on Chinese imports have already been put in place.

It's worth noting, though, that Trump hasn't ruled out bringing back the tariffs on Canada or

Mexico if he feels they're not doing enough. He's made it clear that he could still use the national emergency as a reason to reimpose them.

These latest moves from President Trump bring up some serious legal and economic questions. In the past, when he put tariffs on goods from China and other countries, he relied on different legal grounds- like Section 301 of the Trade Act of 1974, which targets unfair trade practices, and Section 232 of the Trade Expansion Act of 1962, which deals with national security concerns. Those were the laws behind the broad tariffs on Chinese products and the ones on steel and aluminum.

But this time, Trump is using a different approach. He's calling it a national emergency and is using a law from 1977- the International Emergency Economic Powers Act (IEEPA)- to justify it.[4] It doesn't set any real limits or define what kind of situation qualifies as an extraordinary threat. For example, Trump has cited immigration and fentanyl as emergencies- but then used those justifications to put tariffs on everything from avocados and coffee to pet food and construction nails. In another case, he said tariffs were needed to fix trade deficits, but the penalties were applied.

The IEEPA- the law Trump is using to justify these new tariffs- doesn't actually mention tariffs at all. It was originally passed to let presidents deal with serious threats from abroad by placing economic sanctions on countries, like freezing assets or stopping financial transactions. But it wasn't meant to be used to mess with trade policy by slapping on tariffs. The law gives the president the authority to investigate, regulate, or prohibit certain types of foreign financial transactions, especially involving currency- but tariffs don't fall under any of those categories.

Some people argue that the power to regulate trade could be stretched to include tariffs. But that's a real stretch. First off, when Congress wants to give a president the power to impose tariffs, it knows exactly how to do that- and it's done so many times before in other laws. It didn't do that in law, no president has ever used it to impose tariffs. In fact, IEEPA was passed in part to limit presidential power here. Second, the Constitution clearly separates these powers: the ability to impose tariffs is found in one clause (Article I, Section 8, Clause 1), and the authority to regulate commerce is found in another (Clause 3 of the same section). They're not

[4] Achyuth Anil, Chaos Theory: Assessing the legal validity of Trump's tariffs, https://cepr.org/voxeu/columns/chaos-theory-assessing-legal-validity-trumps-tariffs

the same thing. And third, in the nearly 50 years since IEEPA became, not expand it.

Even if you ignore all of that and assume Congress somehow meant to allow tariffs under IEEPA, the law would still run into serious constitutional problems. That's countries we actually have surpluses with.

This kind of overreach doesn't just raise legal red flags- it also hurts the economy. These tariffs make it more expensive for American companies to do business and drive- up prices for consumers. On top of that, they often lead to retaliation from other countries, which only adds to the uncertainty. Even short-term tariffs can cause serious disruption, making it nearly impossible for businesses to plan ahead with any confidence.[5]

Violation of MFN Treatment:

In recent years, particularly under both Trump administrations, the United States has repeatedly violated the MFN principle by applying trade measures that discriminate between countries without legal justification under WTO law.

A clear example is the use of Section 232[6] tariffs, initially imposed on steel and aluminum imports in 2018. While these tariffs were applied broadly, certain countries like Canada and Mexico were later exempted, while others, including China, the European Union, and Turkey, continued to face restrictions. These selective exemptions directly contradict MFN obligations, which require that all WTO members be treated equally in the absence of a lawful exception.

More recently, in 2025, the Trump administration has reintroduced and significantly expanded this discriminatory approach. The U.S. announced a 10% base import tariff on most countries, but once again, exempted NAFTA partners Canada and Mexico. Even more starkly, Chinese imports were singled out for punitive tariffs up to 245%, including layers of duties allegedly tied to reciprocal trade, the trade deficit, and China's perceived inaction on fentanyl. These country-specific penalties not only bypass WTO negotiation procedures but also blatantly violate MFN rules by granting more favorable treatment to some countries over others based purely on political and strategic motivations.

[5] Oliver Dunford, Kyle Griesinger, The President doesn't have the power to set tariffs- Congress does, https://pacificlegal.org/the-president-doesnt-have-the-power-to-set-tariffs-congress-does/
[6] Trade Expansion Act, 1962, Section 232

Another significant breach of the MFN principle lies in the unilateral nature of the U.S. trade measures. WTO rules are designed around reciprocity and negotiation. When a member seeks to modify its tariff commitments, it must engage with trading partners through Article XXVIII GATT[7], allowing for consultations and compensation to affected members. The U.S. however, has chosen to sidestep this mechanism, opting instead to act unilaterally and impose tariffs first, leaving no room for discussion or reciprocal arrangements.

This undermines both the spirit and letter of the MFN principle. For example, during the 2020 lobster tariff negotiations, the U.S. and EU engaged in an MFN-consistent arrangement: each side reduced tariffs on products of equivalent value and interest, and the resulting benefits were extended to all WTO members. In contrast, today's U.S. approach isolates countries like China for maximum pressure while protecting others for political convenience- contravening the idea of marginal reciprocity, where countries exchange concessions of equivalent value in good faith.

Breach of Tariff bindings & Commitments:

WTO rules are built around three main ideas: making trade freer and fairer, ensuring predictability, and treating all members equally (MFN principle). Countries agree to cap their tariffs at certain maximum levels (called "bound tariffs") through negotiations. These commitments are locked in and can only be changed under strict procedures.

If a country wants to raise its tariffs, it must go through formal renegotiations under Article XXVIII of GATT, involving all affected countries- those that originally negotiated the tariff or are major exporters of that product. This process is long and complex, and while the country can't raise its tariffs during negotiations, it can do so afterward even without agreement but risks retaliation from others, who can withdraw equivalent trade benefits.

Only in special cases like defending against unfair trade practices (e.g. dumping, illegal subsidies), sudden import surges, or protecting national security can a country raise tariffs outside of this process. But those exceptions are narrow and must meet strict legal standards.

Trump's tariff policies, both past and proposed, break from these rules. During his first term, he raised tariffs unilaterally (on things like steel and aluminum), claiming they were necessary

[7] GATT 1994, Art. XXVIII

for national security or fair trade. Other WTO members challenged these moves, and WTO panels mostly ruled against the U.S., saying the tariffs violated core trade rules and that the national security excuse didn't hold up.

Now, with a new Trump term possibly looming, even broader tariff plans including blanket tariffs on all imports are on the table. But these would almost certainly conflict with WTO law, especially since there's no sign he'd go through the required renegotiation process under Article XXVIII.

Proposals like reciprocal tariffs- raising U.S. tariffs to match whatever other countries charge also don't fit WTO rules. That's because WTO negotiations are based on mutual benefit (not one-for-one matching), and the results apply to all members under the MFN rule. An example: in 2020, the EU dropped tariffs on lobsters in exchange for the U.S. lowering tariffs on other goods like ceramics. This wasn't tit-for-tat- it was negotiated value-for-value, and the benefits extended to all WTO members.[8]

Abuse of the National Security Exception by U.S.

The WTO is built on a rules-based system, meaning countries have to stick to what's written in the agreements. They can only rely on exceptions if those exceptions are clearly laid out in the rules. And even when they do, they must meet certain conditions and their actions can be legally challenged if they don't. That said, one exception stands apart: the national security clause under Article XXI of GATT. It's often seen as the exception among exceptions because it gives countries a lot more leeway than usual.

According to Article XXI, countries aren't required to share any information they believe could compromise their essential security interests. More importantly, they can take actions they believe are necessary to protect those interests if:

1. It involves nuclear materials or the stuff used to make them.

2. It relates to weapons, ammunition, or military supplies, or other goods tied directly or indirectly to supplying a military force.

[8] The Return of the Trump Tariffs- Navigating the Challenges of Trump's Return to the White House and his next strike on global trade, https://www.ashurst.com/en/insights/the-return-of-the-trump-tariffs/

3. The action is taken during a war or serious international crisis.

4. Or, if it's something a country is doing to meet its obligations under the United Nations Charter like helping to keep international peace and security.

The Trump Administration's Use and Abuse of Article XXI

In both his first and current terms, President Donald Trump has utilized Section 232 of the U.S. Trade Expansion Act of 1962 to impose tariffs under the pretext of national security. These actions often lack substantial evidence of actual security threats, raising concerns about their legitimacy.

Previously, the administration imposed 25% tariffs on steel and 10% on aluminum, affecting various countries, including China, Canada, Mexico, the European Union, and Japan. The justification was to protect domestic industries from unfair trade practices. However, WTO panels later found these measures to be in violation of international trade law, rejecting the broad interpretation of national security.

What's Happening in 2025? A Major Escalation

In 2025, the Trump administration has significantly expanded its use of Section 232 tariffs:

245% Tariffs on Chinese Imports: On April 2, 2025, President Trump announced a new baseline 10% import tariff on most countries, exempting Canada and Mexico. However, Chinese goods face steeper tariffs, with some items reaching up to 245%. This includes 125% for reciprocity, 20% as a penalty for alleged Chinese inaction on fentanyl trafficking, and additional Section 301 tariffs ranging from 7.5% to 100%. These tariffs have led to increased prices for consumers and disrupted supply chains.

Fentanyl-Related Tariffs: The administration has justified additional tariffs on Chinese imports by citing the flow of illegal drugs, particularly fentanyl, into the United States. President Trump stated that a significant percentage of these drugs are produced in, and supplied by, China. In response, China has condemned these tariffs, asserting that the issue of fentanyl is primarily an American problem and that the U.S. is politicizing the matter.

These actions reflect a continued misuse of the national security exception, undermining the

WTO system. Rather than responding to real threats, the U.S. has used national security as a cover for economic protectionism, bypassing the negotiation processes required under Article XXVIII of GATT and ignoring MFN obligations.

The targeted countries, including China, Mexico, the EU, and others, have challenged these tariffs at the WTO and considered retaliatory measures. As of 2025, the U.S. has become increasingly isolated in the WTO, and the disintegration of U.S.- China trade, with an 80% drop in bilateral goods trade, is contributing to a global economic slowdown.

Ultimately, this case isn't just about tariffs- it's about whether the world's largest economy can rewrite the rules to suit its own short-term interests. The real question is: are these tariffs truly about protecting national security, or are they a political tool to shield U.S. industries from fair global competition?[9]

WTO Dispute Settlement Remedies in the light of Trade War between U.S. and China:

The WTO's Dispute Settlement Understanding (DSU) was created to provide a structured, rules-based process for resolving trade disputes and avoiding unilateral retaliation. Under **Article 23 of the DSU**[10], members are explicitly prohibited from unilaterally determining that a violation has occurred and from taking retaliatory action outside the WTO framework. Yet this is precisely what the United States appears to have done in 2025, by imposing sweeping tariffs on Chinese goods under the justification of a national emergency without waiting for or seeking a formal ruling from the WTO.

When China responded to these tariffs by requesting consultations- a step required under Article 4 of the DSU- it was acting in compliance with the WTO system. However, the U.S. showed little willingness to engage, continuing to act unilaterally. This undermines the multilateral spirit of the WTO and calls into question whether powerful members are still willing to follow the rules.

Moreover, the U.S. tariffs may also violate Article I (MFN) and Article II (Schedules of Concessions) of the General Agreement on Tariffs and Trade (GATT) 1994. These articles

[9] Gerhard Erasmus, What does the National Security Exception in GATT mean? https://www.tralac.org/blog/article/14151-what-does-the-national-security-exception-in-gatt-mean.html
[10] Understanding on Rules and Procedures Governing the Settlement of Disputes art. 23, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 2, 1869

prohibit WTO members from imposing tariffs beyond their bound rates and from discriminating between trading partners. By selectively targeting China while exempting others (like Mexico and Canada, even temporarily), the U.S. actions raise clear legal concerns under these provisions.

While the U.S.'s actions appear to be inconsistent with WTO law, the dispute settlement system itself has weaknesses that contribute to the current crisis:

1. **Article 4 & 5**[11] – Consultations and Good Offices: The system emphasizes resolving disputes through mutual agreement, but when one party refuses to cooperate in good faith, the process stalls. There is no strong mechanism to force parties to come to the table.

2. **Article 21 & 22**[12] – Implementation and Retaliation: Even when rulings are made, the enforcement process is slow and often results in more trade retaliation. For instance, if a country refuses to comply with a ruling, the WTO can authorize the complaining country to impose countermeasures—but only after a lengthy arbitration process.

3. **Article 25**[13] – Arbitration as an Alternative: While arbitration is an option, it's voluntary and rarely used, partly because there's no guarantee both sides will agree to the procedure or its outcome.

Interestingly, the U.S. has justified its tariffs under the **International Emergency Economic Powers Act (IEEPA)**, which doesn't explicitly authorize tariffs. This is a domestic legal issue, but its use to override international obligations under WTO law raises serious **Article XVI:4 of the WTO Agreement** concerns. This article obligates members to ensure their domestic laws are in conformity with WTO rules.

Reforms and Recommendations:

Over the past several years and most notably under the Trump administrations the United States has demonstrated a worrying pattern in its trade policy: an increasing reliance on unilateral measures, sweeping tariff hikes, and questionable legal justifications, all of which deviate from

[11] DSU, art. 4 & 5
[12] DSU, art. 21 & 22
[13] DSU, art. 25

the foundational rules of the global trading system. The most critical legal instrument enabling this shift has been the U.S. President's expansive authority under Section 232 of the Trade Expansion Act of 1962 and the International Emergency Economic Powers Act (IEEPA). These laws, initially created during periods of real strategic vulnerability, now allow presidents to bypass Congress entirely and impose economically damaging tariffs with minimal oversight, often under the loosely defined umbrella of national security.

Such unchecked executive discretion has led to tariffs being used less as a last-resort security tool and more as a front for economic protectionism. When the United States first imposed steel and aluminum tariffs in 2018 on both adversaries and close allies, it did so by invoking national security- a claim that was widely disputed and eventually found to violate WTO rules. Yet rather than rolling back or recalibrating this approach, the current U.S. administration has doubled down. In 2025, the reinstatement and expansion of 25% tariffs on steel and aluminum, and the extension of Section 232 actions to cover semiconductors, pharmaceuticals, and automobiles, reveal a clear trend: the use of national security arguments as a default justification for shielding domestic industries from competition.

Nowhere is this more apparent than in the U.S.'s latest move to impose tariffs of up to 245% on Chinese goods. These include a base tariff, a reciprocal component, and notably, an additional penalty tied to China's alleged inaction on stemming the supply of fentanyl. While the fentanyl crisis in the United States is tragically real and deserving of urgent attention, the decision to use it as a justification for trade sanctions is not only legally baseless, it dangerously politicizes a public health emergency. Fentanyl is a criminal and regulatory issue that should be dealt with through law enforcement cooperation, international health agreements, and diplomatic engagement, not through the imposition of sweeping tariffs that risk provoking economic retaliation and worsening geopolitical tensions.

In fact, tying unrelated public health challenges to economic policy not only undermines the legitimacy of U.S. trade actions, but it also dilutes the seriousness of the issue itself. China has, in previous years, introduced significant regulatory controls on fentanyl-related substances and collaborated with U.S. enforcement agencies. To claim that an insufficient response warrants a 245% tariff on unrelated goods not only stretches legal credibility, but it also reveals a broader trend of instrumentalizing crises for economic leverage.

Furthermore, these moves reflect a broader erosion of the multilateral trade framework. The United States has increasingly sidestepped its obligations under WTO agreements, particularly the principle of MFN treatment. By selectively targeting specific countries with harsh tariffs, while offering exemptions or benefits to others, the U.S. undermines the non-discrimination principle that is core to the WTO system. Even worse, it has effectively abandoned the structured negotiation processes available under Article XXVIII of the GATT, choosing instead to impose tariffs first and deal with fallout later. This disregard for global procedures has not only prompted retaliation from major trade partners like China, the EU, and Mexico but also diminished U.S. leadership and credibility in global economic governance.

To move forward constructively, the United States needs to begin by restoring institutional checks on executive power in trade. Congress must reassert its authority by introducing oversight mechanisms for tariff measures imposed under Section 232 and IEEPA. Emergency powers should be temporary, clearly justified, and subject to independent review, especially when the alleged threats are economic rather than strategic in nature. Simultaneously, U.S. trade laws must be modernized to reflect contemporary geopolitical and commercial realities, not outdated Cold War-era assumptions.

The misuse of the national security exception under WTO law also requires urgent international attention. Article XXI of the GATT was never meant to be a loophole for arbitrary or economically motivated trade barriers. The WTO, along with its member states including the U.S. should work to clarify the boundaries of what constitutes a legitimate national security concern. Measures invoked under this clause must be grounded in verifiable threats, narrowly tailored, and proportionate in scope. Otherwise, the clause risks becoming a free pass for protectionism, opening the door to abuse by other nations and further weakening the system.

Finally, the U.S. must recommit to the multilateral rules-based order it helped create. Trade policy should be rooted in dialogue, not dictation. Complex global problems from supply chain resilience to public health crises require collaborative solutions, not tariffs wielded as blunt instruments. The longer the U.S. continues down this unilateral path, the harder it will be to rebuild trust and repair the integrity of the global trading system.

In short, the current trajectory of U.S. trade policy reflects a dangerous combination of legal overreach, economic self-interest masked as national security, and an increasing disregard for international cooperation. Reforms are not just necessary, but they are urgent. The future of

global trade governance, and the role of the U.S. within it, depends on whether it chooses rules or rhetoric, partnerships or power plays.

Conclusion:

The United States' growing reliance on unilateral trade measures, framed under the broad and often ambiguous justification of national security, poses a significant challenge not only to the legal coherence of international trade law but also to the legitimacy of the WTO system itself. The use of presidential powers under Section 232 and IEEPA to impose tariffs without evidence-based justification or adherence to procedural safeguards—has transformed trade policy into a tool of short-term economic and political strategy, rather than one of principled international cooperation.

The recent imposition of tariffs up to 245% on Chinese imports, coupled with the invocation of the fentanyl crisis as a trade justification, underscores the erosion of boundaries between trade, health, and security policy. Such actions reflect a pattern of bypassing WTO disciplines, disregarding the principle of MFN, and using trade enforcement as a substitute for diplomatic engagement. Not only do these moves damage U.S. credibility, they also encourage other nations to adopt similarly aggressive and legally dubious approaches, further destabilizing global trade.

To prevent the collapse of the rules-based system, comprehensive reforms are urgently needed. These include limiting executive authority in trade matters, clarifying the scope of the national security exception, modernizing outdated trade laws, and reaffirming a commitment to multilateralism. Only by restoring legal accountability and procedural fairness can the United States reclaim its role as a responsible leader in global trade and contribute meaningfully to a fairer, more stable international economic order.