



The Impact Of The U.S. Trade Policy On International Trade Law: Unilateral Tariffs And Paralysis Of The Appellate Body

Emily Kim^{1*}, Aiden Kim²

1. University of California, San Diego, 9500 Gilman Drive, La Jolla, CA 92083, USA

2. Seoul Academy Upper Division, 422 Yeoksam-ro, Gangnam-gu, Seoul 06200, Republic of Korea

* Corresponding author email: emilykim1216@gmail.com

Abstract

A growing global crisis are tariff rates and the appellate body of the international trading system. As President Trump entered his second-term, the United States is experiencing the sudden changes in the trading system, initiated by its policies. International trade law follows the foundational principles of the World Trade Organization, but there happens to be a retaliation against the organization, creating a fragmentation in the system. Not only are tariffs weakening the trading system, but the undermining of the dispute settlement further damages international trade relations. The growing concern is the lack of presence in the appellate body which is leading to unresolved and neglected disputes. Without the appellate body, the trading system is completely broken, causing states to divert from the original international trade law.

Keywords

World Trade Organization (WTO); General Agreement on Tariffs and Trade (GATT); Tariffs; Dispute Settlement Understanding (DSU); Appellate Body

Introduction

President Trump proposed to restore America from devastating losses, but a growing body of scholars are arguing the opposite. He vowed to help the country and make it thrive, but instead he is creating fragmentation in the country's credibility and the international dispute settlement system. His viewpoint from the first and second terms aligns as he continues to focus on the importance of increasing tariffs for the benefit of improving the demand of domestic products while reducing the increasing trade deficits. He deems the irrelevance of the World Trade Organization (WTO) and the Appellate Body, as he continues to neglect it, leading to a complete breakdown of the mechanism. He asserts his power by undermining the international legal system and through the creation of tariffs to prove a point, but his main motive for these proposals are unestablished and polar opposite to his liking.

This paper argues that the United States' sustained political strategy of undermining the WTO dispute settlement—through the paralysis of the Appellate Body—has enabled a shift toward unilateral tariff measures that are often defended through GATT (General Agreement on Tariffs and Trade) Articles XX and XXI but, in practice, frequently lack the evidentiary basis required by those exceptions, leaving the measures legally vulnerable and the resulting disputes largely unresolved. The paper is institutionally organized in subsequent sections that will review the course of tariffs and the Appellate Body, WTO's primary dispute settlement system. It will first establish the research question through a literature review that will provide various scholarly perspectives while identifying the gaps between the two topics. Then the paper presents a series of hypotheses that will be tested later in the paper regarding tariffs with the international trade law and the WTO dispute settlement focusing on the Appellate Body. A legal analysis will be presented displaying articles of the GATT with foundational principles of trade and the Dispute Settlement Understanding of the WTO. This will then be followed by case studies that will evaluate the



hypotheses and the paper will display recommendations for international trade tariffs and the Appellate Body, with the results from the case studies. The concluding segment will reflect on the occurring problems in the present day and the analysis of its implications.

Literature Review

A. Introduction

The World Trade Organization (WTO) is the foundation of the global trade system; however, President Trump's administration developed tariffs that dismantled the pillars of international trade law and violated the country's agreed obligations. Over time, the United States administration also refused to appoint new members to the Appellate Body, the WTO's essential dispute settlement system, ultimately leaving it paralyzed and inactive. These violations of international law have been widely criticized by scholars and observers, as they raise concerns about the effectiveness of the organization's legal system and global dispute settlement mechanism.

i. Tariffs

When trading or shipping manufactured goods, tariffs are implemented which are taxes on imported items. The action of implementation, at negotiated rate, is part of the World Trade Organization principles to ensure equality between countries, transparency, stability, and predictability in the international trading system. By focusing on the key aspects of the WTO principles there would be balance and the establishment of an "ideal" trading system ensuring economic opportunities within countries. Importantly, the term "Most-favored-nation" (MFN) is the pillar of the trading system in the matter of tariffs because it pushes on the concept of equal treatment on "like products" trade barriers (General Agreement on Tariffs and Trade 1947, Art 1). These obligations and standards in the WTO present what the countries are expected to follow. International trade laws and tariffs are existing mechanisms in the government to help the foundations of businesses for countries.

ii. Appellate Body

The WTO not only administers their standard principles such as tariffs imposed on imported goods, but also the international disputes that occur as a result of non-compliance with their legal boundaries. The Dispute Settlement Understanding (DSU), establishes the legal frameworks for the mechanism and emphasizes that the Appellate Body, the supreme court of international trade and a central pillar for WTO's dispute resolution system, provides "security and predictability to the multilateral trading system" (World Trade Organization 1994, Art. 3.2). The structured legal process of dispute settlement begins with consultations, panel establishment by a member, followed by appellate review by the Appellate body and the adjudication is finally enforced by the Dispute Settlement Body (DSB). As of 2024, out of 376 times that a panel had been established, 195 disputes were adjudicated by the Appellate Body, indicating its profound role in resolving international legal conflicts (World Trade Organization 2024, par. 8). However, the current paralysis of the Appellate Body has created a legal deadlock, where disputes can still be raised and reports can be issued, but the rulings cannot be finalized. The DSU attempts to mitigate the major flaws in the system through higher emphasis on consultation and mediation, however these non-binding steps are not as influential and imposing as the traditional Appellate Body, indicating the evident limitation in the system.

B. Scholarly Review



Amidst the critical period, in which President Trump's imposition of tariffs infringes the basic WTO legal boundaries, the Appellate Body should have acted according to rigid and consistent policies to bring justice. Instead, the once supreme authority is only left to painfully watch the violation without being able to intervene, and their absence is leaving a profound mark in international relations. Sherman and Joseph outlines this exact circumstance in their article regarding the crisis as they observed China's response to President Trump's 10% increase in border taxes for Chinese goods (Sherman and Josephs 2025). After being controversially charged with being related to illegal pharmaceutical distribution, China filed their complaint, strongly denying the accusation of its role in the fentanyl trade. China protested to the WTO, arguing that the measures taken by the Trump administration were discriminatory and a violation of trade rules. However, many WTO officials have concluded that their dispute has "no possibility of succeeding" as the appellate body remains unable to function due to the U.S.' refusal to approve new appointments of judges (Sherman and Josephs 2025, par. 4).

The authors argued that while the content and the evidence of the case may be valid, without the Appellate Body's underlying adjudicative power to impose consequences and process legal disputes, China's litigation will not be binding. In other words, the United States will be able to get away with a false accusation that potentially defamed a country without receiving appropriate punishment for their wrongdoings. The article demonstrates the evident challenges that occur in the modern world with the absence of the WTO's Appellate Body and how the absence led to a period of international stagnation in legalized trade disputes. Overall, the paralysis of the Appellate Body exhibits the failure of WTO as global relations are tarnished due to the inability to negotiate and settle disputes in a smooth and just manner.

C. Tariffs

The General Agreement on Tariffs and Trade (GATT 1947) established the rules and regulations of the international trading system. The agreement provides clarity on what is expected of countries, defining the accepted actions and restrictions; importantly, it was created to foster unity and prevent the imposition of trade barriers while increasing the likelihood of a stable trading system. The general agreement was to bring prosperity while being advantageous to the concept of "reduction of tariffs and other barriers to trade and to the elimination of discriminatory treatment in international commerce." (World Trade Organization). The "Principles of the trading system" is the general legal trade framework because it provides an outline of the essential aspects of trade, such as the "Most-favored-nation" (MFN) equality principle. The WTO and its principles are contributing to developments and economic reforms to provide opportunities for countries.

These principles are standards countries must follow to ensure a "smooth" distribution of trade. Madeline Sesti wrote an article, "Background on the WTO and recent international trade", to explain the roles of the WTO, along with what the countries have at stake by being a part of this organization. "To achieve such goals, the WTO provides a structured set of rules, mediates disputes, and fosters negotiations among countries." (Sesti 2025, para. 2). The article outlines what the WTO is about and the mechanisms incorporated in the organization to maintain the multilateral trade system. The organization established these obligations to ensure a balanced, stable trading system that allows WTO members to receive benefits. According to Goktug Keskin article "Trade Wars and the WTO: Navigating Trump's 2020 Tariffs", it has pointed out the "reimplementation of aggressive tariff policies significantly disrupted the global trade landscape." (Keskin 2025, para. 1). The president's "good deed" tariffs is questioning the existence and implications of the international trade law system in the matter of the action violation and the future of the trading system.

In Pam Karland and Alan Sykes's podcast transcript "Trade Wars, Economic Chaos, and Law: Unpacking Trump's Trade Tactics with Alan Sykes", it outlines how Trump's tariffs are not following his desire for a "bilateral deficit" since he refuses to follow the standard procedures. Not only are the tariffs and trading system not fully functional, but Sykes also points out that this constant change is a "real problem with the



credibility of the United States has been significantly damaged.” (Karland and Sykes 2025). The podcast references all the questioned topics regarding the president’s actions, which showcases similarities to how Trump is taking the trading system back to the 19th Century. Ryan Mulholland’s article “Why is Trump Pursuing a 19th Century Trade and Economic Agenda in the 21st Century?” reports how the president’s tactics are similar to those of the Gilded Age and how this tariff policy poses threats to the U.S. The scholars Karland, Sykes, and Mulholland agree that Trump’s tariff tactics are only pushing the country into a vulnerable state while concentrating on the idea that tariffs will create problems in the future, as seen in history.

Scholars are focusing on questions about the WTO’s powers and how international trade law is affected as they argue the U.S. position with the organization. Nicolas Lamp wrote an article, “What President Trump’s ‘Reciprocal’ Tariffs Mean for International (Trade) Law,” to argue that international trade laws are no longer incorporated since the US domestic laws are taking over the structure of trading. “People interested in understanding US trade relations have found this WTO law expertise virtually useless” (Lamp 2025, para. 7). Lamp focuses on the aspect of how the US is challenging the trading system by refusal and violations in the WTO, risking predictability and security. He proposes that other WTO members must maintain and respect their obligations to preserve relationships and mitigate the effects of the U.S.’s abandonment of the WTO. Additionally, James Bacchus wrote “Do World Trade Organization Laws Still Exist?” to analyze the WTO’s relationship with the US regarding obligations and rights. Bacchus is arguing that under President Biden’s administration the US had rarely mentioned WTO obligations leading to the idea of “WTO is no longer central to world trade, and that lowering tariff and other barriers to world trade is no longer a principal of U.S. trade policy.” (Bacchus 2025, para. 6). Bacchus and Lamp are agreeing on the arguments of the inexistence of the international trade laws as the U.S. fails to oblige with their agreement further illustrating the image of the U.S. only following rules established within the U.S. Sesti’s article touches on the WTO’s powers, but notes that “the WTO’s ability to enforce its rulings has been significantly weakened in recent years due to the breakdown of its appellate body” (Sesti 2025, para. 6). All the scholars’ arguments collapse with one another leading to the broad interpretation of how the WTO has weakened in abilities and further demonstrates the legal aspects of how international trade law has changed leaving the future uncertain.

D. Appellate Body

The World Trade Organization (WTO) and the Appellate Body, acting as the organization’s supreme court, was a dominant force and were highly effective in carrying out international legal dispute systems in 1995, when they were first established. However, as foreign relations expanded rapidly and more frictional disputes occurred as a result, evident cracks began to appear in the once concrete system of the WTO and the United States were not hesitant in filing complaints regarding the issues.

In Hillman’s article “A Reset of the World Trade Organization’s Appellate Body“, she concisely summarizes the six concerns that the United States had about the way WTO were processing the disputes (Hillman 2020). Their complaints consisted of certain crucial structural errors such as expired WTO members continuing to serve and adjudicate, the system’s common failure to complete appeals in ninety days, excessive overrulings of dispute due to irrelevant obsession on the factual findings, WTO’s secretariats and the developing country benefits. However, the majority of the WTO members expressed “degrees of skepticism about the United States’ concerns” and ultimately their proposals were not completely enforced, marking the beginning of growing tensions between the United States and the WTO (Hillman 2020, par. 8).

This strained relationship did not remain merely within the institution, but soon translated into broader global tensions. The U.S. began violating core policies implemented by the WTO and Stewart’s report explores the negotiation between China and their claim of retaliation rights for the United States’ non-compliance with the Appellate Body’s obligations. The WTO eventually ruled in China’s favor, granting rights for 645 million dollars of yearly trade sanctions, which was legally enforced by the Appellate Body (Stewart 2022,



par. 2). Following this decision, Adam Hodge, a spokesperson from the United States Trade Representative (USTR), argued that the “decision reflects erroneous Appellate Body interpretations” as it fails to protect U.S.’ businesses from “China’s trade-distorting subsidies”(Stewart 2022, par. 4). Through the argument surrounding the controversial ruling, Stewart illustrates the contrasting perspectives between the U.S. and WTO as the government’s confidence and trust in the Appellate Body declines continuously as a result of disagreements in the result of dispute settlements. Overall, the persistent legal disagreements between the United States and WTO Appellate Body have contributed to the broader dispute settlement crisis and ultimately led to the complete paralysis and breakdown of the system, leaving the international trade industry extremely vulnerable to internal conflicts.

This increasing friction between the United States and the organization has prompted many scholarly analysis and debates, examining the core aspect that drove frustration. In a policy column, economists Henrik Horn and Petros Mavroidis argue the reason why the U.S. is dissatisfied with the Appellate Body and decided to dismantle it “did not concern the law itself” (Horn and Mavroidis 2025, par. 3). In fact, they claimed that the frustration stemmed from the number of disputes regarding their policies such as tariffs and anti-dumping measures that were adjudicated against them by the WTO panels.

i. Scholarly Recommendations

In response to the current crisis, there have been several suggested proposals, most notably the Multiparty Interim Appeal Arbitration Arrangement (MPIA), from national governments and individual scholars have evaluated the solution. Hopewell’s policy paper that overviews the breakdown of the Appellate body addresses the MPIA and acknowledges its purpose of preserving the minimal legal procedure and authority over the world. However, she expresses her concerns that with only “32 per cent of the WTO’s membership” and lacking many important states such as India, Russia, South Korea and the U.S., the system requires a more complete set of states to essentially replace the Appellate Body (Hopewell 2025, 1109). She further notes that despite the common occurrence of trade-distorting measures in recent times, such as imposition of tariffs by the U.S. government, the number of disputes in WTO has “fallen to about 40 per cent of the normal level” prior to the collapse of the system (Hopewell 2025, 1113). Through this, she suggests that what was once the world’s most impenetrable dispute settlement system in the world has lost its command over states and requires urgent rescue through a more pragmatic and permanent solution.

Alongside Hopewell, Horn and Mavroidis again argue that the MPIA is not the most suitable solution and they blame the single entity and the root of the crisis, the United States. They stated that if the “US favours a toothless WTO” and are willing to violate fundamental principles, their withdrawal from the WTO may be the least damaging option for preserving the institution’s remaining credibility (Horn and Mavroidis 2025, par. 1).

E. Conclusion

The World Trade Organization in the current trading circumstances is facing hardships from the actions of President Trump. The questions of tariff violations, future of the WTO, consequences of the Appellate Body breakdown, and what could be done for the future are what are trying to be found. Scholars have argued on the points of how the distance between the U.S and the WTO have created a growing amount of unresolved circumstances leading to the uncertainty of the future despite suggested proposals. The sources breakdown the key aspects of the trading system, principles, and necessary details for trade policy; however, how do these agreement of arguments determine the actions of what can be done to restore and maintain the international trade law.



Methodology and Statement of Hypotheses

Hypothesis 1: Rise in Trade–Distorting Measures Hypothesis

The breakdown of the WTO Appellate Body has led to an increase in trade tariffs and the emergence of retaliatory trade measures between the United States and China. The dispute settlement system is designed to mediate conflicts between states through negotiation and legalized procedures to arrive at mutually agreeable solutions. This hypothesis predicts that in the absence of a methodical dispute resolution mechanism, countries are more likely to resort to countermeasures, involving excessive increases in tariffs and other retaliatory trade penalties. The United States and China both encompass the capacity to inflict substantial harm on each other's economies through import restrictions, and measures such as tariffs and trade sanctions become a logical and effective option in the absence of a formal dispute settlement.

Hypothesis 2: Deterrence of Dispute Resolution Hypothesis

The immobilization of the WTO Appellate Body constrains the organization's ability to resolve trade disputes between the United States and China. The WTO dispute settlement mechanism has benefited both the United States and China over multiple decades, resolving disputes through a structured, rules-based forum to ensure compliance. This hypothesis posits that the paralysis of the Appellate Body deters both the United States and China from pursuing formal dispute settlement, as panel rulings are no longer binding and thus no legal proposal or adjudication is made. In the absence of a credible enforcement mechanism, states may perceive WTO litigation as ineffective or irrelevant, leading to a decline in the credibility or usage of the dispute settlement system. Consequently, unresolved trade disagreements persist or are addressed through unilateral or informal means, weakening the role of the WTO as a central forum for managing bilateral trade conflicts.

Hypothesis 3: Null Hypothesis

The international relationship between the United States and China has not been impacted by the paralysis of the WTO Appellate Body. While the WTO Appellate Body does exert profound influence globally, the United States and China have always had the tendency to act independently, being the two dominant forces of the world. This hypothesis suggests that the breakdown of the WTO Appellate Body will not alter the two nations' international relationship in any relevant way, as even when the organization was active, they sometimes ignored or resisted the rulings. While their reliance on the legal adjudication is evident, both the U.S. and China are more than capable of acting independently through other diplomatic measures to settle disagreements between them, ultimately not being severely affected by the paralysis of the WTO Appellate Body.

Hypothesis 4: WTO Article Agreement Violation Hypothesis

President Trump's tariffs violate the WTO (World Trade Organization) agreement, specifically the GATT (General Agreement on Tariffs and Trade) articles.

i. Hypothesis 4a: They violate the Most-Favored- Nation Treatment.

The WTO principle structures global trade to ensure non-discrimination, meaning every country participating in trade must be treated equally, unless a granted favor. This hypothesis section predicts that President Trump's tariffs do not align with the WTO's MFN policy, which allows countries to have equal low trade barriers. Under the GATT, this is a current violation of Article 1: General Most-Favoured-Nation Treatment. President Trump's tariffs do not align with equality or the concept of non-discriminatory trade barriers.



ii. Hypothesis 4b: They violate the Schedule of Concessions.

Another significant WTO principle that structures global trade is the importance of a country maintaining the tariff rates it has agreed to during negotiations, meaning agreed tariff rates preserve non-discrimination and stability in the trading system. The following hypothesis section predicts that President Trump's implemented tariffs violate not keeping the agreed-upon tariff rates on imported goods.. The President's actions violate GATT Article 2: Schedule of Concessions.

Hypothesis 5: No Relationship Between WTO and Tariff

This hypothesis claims that the WTO agreements do not apply to President Trump's tariffs because his particular tariffs are considered to be unilateral actions. President Trump's tariffs were imposed due to his subjective viewpoints on the United States's position with international trade and competition. The WTO agreements are based on prior commitments and negotiations, these unilateral tariffs were based on the President's proposition alongside his will to bring justice to the unfairness of previous trading contradictions. The WTO is not applicable due to the U.S. sovereign move on their trading policies and tariff rates which leads to independence on their intuitive decisions.

Hypothesis 6: Permitted Tariffs Under Exception Hypothesis

While Trump's tariffs appear to violate WTO rules, they are actually allowable under the national security exception to WTO rules.

While President Trump's nationwide tariffs appear to be in violation of the WTO principles, Article XXI: Security Exceptions under the GATT proves the President's actions to be legal. The particular hypothesis argues that national security and the protection of the country are reasonable reasons for the imposition of tariffs. When President Trump announced his proposal, he announced that tariffs were implemented due to the country being in a "national emergency" in the matter of security and the economy. Announcing an emergency and stating the security purposes allows members of the WTO to bypass the initial trade rules making the President's actions legal.

Legal Analysis

The Dispute Settlement Understanding, the WTO Appellate Body and its legal vulnerability

i. The Structure and Legal Procedure of the Dispute Settlement System

Under the Dispute Settlement Understanding (DSU) by the WTO, disputes are resolved in a rigid legal procedure involving many critical steps. The complex process is all initiated with a filed dispute from a state, after a breach in the international laws is anticipated. If the sixty days of consultation and nation-wide negotiation is unable to resolve the case, a panel is established, weighing the arguments from both sides of the argument and the adjudication is delivered (World Trade Organization 1994, Art. 8.1). This deliberately structured and intricate procedure ensures global order when disputes between even powerful states arise, legitimizing conflicts into official negotiations.

The DSU further introduces the Dispute Settlement Body (DSB) as the institutional body responsible for the administration of the DSU. In article 2.1, it specifies the body's institutional duty to "maintain surveillance of implementation of rulings and recommendations" (World Trade Organization 1994, Art. 2.1). This delegation of responsibility to a separate institution emphasizes the importance of the rigid legal procedure as it becomes the fundamental pedestal of resolving all major international diplomatic conflicts.



ii. Formation of the Appellate Body

The legal agreement further outlines the goal of the Appellate Body and the required circumstances to involve the Appellate Body in a dispute. Acting as the supreme court, when a party appeals the adjudication from the panel and does not adopt the decision, then by the DSB, “a standing Appellate body shall be established” (World Trade Organization 1994, Art. 17.1). By assigning distinct conditions that are required to be met, the DSU models the Appellate Body as a strictly law-bound organ that is involved in major international disputes, implying institutional gravity and authority.

The Appellate Body consists of seven individuals of recognized academic achievements, and expertise in law. In addition, the DSU states that the quorum of three selected judges among the distinguished body will serve on the appealed cases in rotation within the four-year term. This quorum requirement is profoundly significant as it allows flexibility and impartiality among the Appellate Body through reinforcing continuous changes of the judges.

iii. Appointment of Judges

When the period of service for judges of the Appellate Body expires, then the vacant positions will be replaced by formal appointments of new qualified judges by the DSB. However, the DSU provides additional requirements for this procedure, stating that when the DSB and close committee finalizes the appointment, it will be presented to the WTO members, and a “consensus” is required, meaning all members of the WTO must agree with the appointment (World Trade Organization 1994, Art. 2.4).

The consensus requirement, on one hand, ensures that appointments reflect the collective agreement of the entire WTO organization and contributes to the reinforcement of the legitimacy and credibility of the Appellate Body judges.

iv. Legal Ambiguity and Area for Reform

However, the exact aspect of the DSU that is intended to validate the Appellate Body has led to its overall decline in credibility and the legal gridlock of the WTO. While the requirement of consensus reinforces equity between states, there is an evident legal ambiguity that exists regarding the ability to reject the judge appointment. The DSU is unable to limit a state’s ability to veto an appointment, and instead allows a state of the WTO to continuously reject the appointment of new members, essentially leaving the possibility of institutional paralysis. This gridlock can have further political implications as it reshapes the bargaining power dynamics during the consultations stage, potentially allowing more powerful and influential countries such as the U.S. to abuse the international system. Indeed, from 2020, the U.S. has effectively avoided nine out of eleven cases where its legal violations would have most likely led to serious consequences otherwise, by appealing the case into “the void”, illustrating how the absence of the system disproportionately benefited different states (Hopewell 2025, 1104).

Even as it argues to fill vacancies “as they arise”, the DSU has been generally discussed among scholars to lack the explanation and secondary solution regarding how the breakdown can be halted, or how the organization could be revived to achieve international justice again (World Trade Organization 1994, Art. 17.2). Furthermore, through articles 16 and 17, there is no explanation or solution regarding what measures will be enforced when appointments are continuously refused, and the inelastic quorum cannot be met. This critical vulnerability of the DSU does not address the ongoing status of disputes, nor provide further mechanisms for ensuring effective negotiation in the absence of a functioning Appellate Body, and this will be tested in practice through a legal dispute between the United States and China.



The WTO and GATT

i. World Trade Organization: Principles of Trade

The World Trade Organization (WTO) is an institution where governments can come together to negotiate trade agreements in order to settle trade disputes. “Above all, it’s a negotiating forum.” (World Trade Organization, para. 2) The organization holds the contracts, agreements, and rules of international trading that places each country’s government within limits. These negotiations are implemented to achieve goals of helping “producers of goods and services, exporters, and importers conduct their business...meet social and environmental objectives.” (World Trade Organization, para. 4).

Principles of Trade are standards that simulate an ideal trading system where every member in the WTO would experience a balance between exportation and importation of goods. Pinpointing the importance of an equal, non-discriminatory trade barrier would allow for countries to experience stability and predictability in the business environment accomplishing one of the desired goals. Alongside the encouragement for businesses to have opportunities and a sense of stability, but these principles are more accurately “a system of rules dedicated to open, fair and undistorted competition.” (World Trade Organization, para. 14). The WTO principles primarily focus on the explanation of how international trade should be constructed with the idea of what goals countries should achieve in the midst.

ii. General Agreement on Tariffs and Trade

The General Agreement on Tariffs and Trade is an established foundational agreement that is breaking down international trade laws into specific responsibilities for trade to be free-flowing. These articles specify how tariffs, imported/exported goods are expected to be, and how international trade is maintained in an organized manner.

A. Allowed Mechanisms of Tariffs

Within the GATT, there are specific articles that discuss the actions of tariffs in terms of how they are supposed to be when implemented in a country. The GATT articles one and two are the main articles that discuss the mechanisms of tariffs in terms of what a country is allowed to do. The two articles focus on the importance of commitment and equality.

Article 1: General Most-Favored-Nation Treatment is an article highlighting equal treatment being reflected upon each partner country in trade. This article means that one tariff for one country should be reciprocal towards other WTO members. “...to any product originating in or destined for any other country shall be accorded immediately and unconditionally to the like product...of all other contracting parties.” (Article 1.1). It is a reflection of non-discrimination and the creation of a fair competition trading ground for all. Article 1 controls how countries set tariffs and the advantages that can occur in the trading system, which emphasizes on the inexistence of discriminatory tariffs.

Article 2: Schedules of Concessions is an article reflecting on the commitments countries have agreed upon when it comes to the tariffs applied on imports. As part of the negotiation process, countries must agree upon the maximum tariff rates they can impose on imports in order to prevent countries from announcing sudden changes to the charges. Binding countries to commitments to a specific negotiated tariff on imported goods allows there to be “no less favourable” treatment occurring. This article controls the occurrence of manipulation, conversions, or protecting countries. Article 2 reflects the importance of an organized, negotiated foundational system for a smooth-flowing trading system.



B. Exceptions

As the GATT declares that there are limitations on what tariffs can do in trade, there are exceptions that countries can invoke to change their tariff rates. These trade restrictions could mean higher tariffs or redefining the rules of imported goods. However, with these exceptions, they occur in the event of an emergency or in crucial need for their country.

Article XX: General Exception is one of the articles in the GATT that is considered an exception because it allows the tariff obligation to not be applicable in necessary matters such as social, environmental, or legal scenarios. "...necessary to protect public morals...protect human, animal or plant life or health...imposed for the protection of national treasure of artistic, historic or archaeological value" (Article XX a-f). These instances that can occur in the country's situation is a reason to not be obligated with the standard tariffs agreements. This article is presenting one instance of how tariffs can be expressed differently than normal.

Article XXI: Security Exceptions is another article that is an exception to the standard tariff obligation implications. This particular article overlooks a country's ability to move past the obligations for the country's national security and the necessary need to overcome those instances. "...taken in time of war or other emergency in international relations..." (Article XXIb iii). This particular article provides countries the opportunity to deal with national security/emergencies, but the important matter in the article is that the matter can be reviewed in order to determine the article is not abused for neglect. The review process consists of panels assessing the measure to see if it is a national security, "Essential Security Interests", then the WTO will request the country to demonstrate the necessary measures specifically pinpointing the security needed against trading. This process determines the country's necessity of declaring an emergency. A reflection of how the GATT contains exceptions in order to maintain the systematic procedure.

iii. Implication of Exceptions

Article XXI can be implied in the stance of a national emergency in terms of saving domestic economic positions, specifically businesses, manufacturers, or companies. Implying this exception would allow a country to change their tariff rates in order to make the competition "fair" and advantageous. Full potential of the article can occur if the country displays full necessities for a declaration of emergency and needs to increase security. This gives the country the ability to uphold any beneficiary actions without being in violation with WTO standards. However, announcing a national emergency weakens the WTO function because when following through with Article XXI a country is no longer under the obligations of the WTO meaning the rules do not have impact on future declared trading actions. These exceptions do help countries, but they hurt the WTO/GATT procedures by pieces.

Russia - Traffic in Transit is a primary example of Article XXI, as it provides an interpretation of how the GATT article is supposed to operate. Ukraine was the complaining country, and the Russian Federation was the respondent, with the outcome that the Article XXI declaration of an emergency was within jurisdiction, making the actions taken necessary. This is an example of how the GATT Article XXI should be used. An emergency would mean the country is facing critical nationwide situations that necessitate extra precautions and protective measures, such as international conflicts or war. Even though emergencies vary in how they are interpreted and how one perceives them, in the case of Article XXI, emergencies mean a nation in a critical position, unable to function as a whole.

Case Study Analysis

China-U.S. Dispute



i. Background of the WTO Dispute

Following the United States' continuous veto of judicial appointments, in December 2019, the WTO Appellate Body was officially paralyzed, with the organ lacking the minimum quorum of three judges needed to hear cases. Two years from then, there have been 45 pending WTO disputes that are yet to be settled due to the immobilized Appellate Body, leaving many international negotiations and legal disputes undecided (Titievskaja 2021).

This case study examines a specific dispute issued by China to the United States regarding their tariffs during the period with the paralyzed Appellate Body under scrutiny, applying the outcome to test three of the paper's hypotheses (World Trade Organization 2020). Through analytical interpretation, the paper will test whether the case study proves or falsifies that the breakdown of the Appellate Body led to the increase in trade-distorting measures (H1), halted international dispute settlements (H2), or did not alter the U.S. and China's relationship at all. This specific case study exemplifies how a dispute was issued and a panel was established, but could not progress further due to the absence of the Appellate Body, allowing the paper to evaluate the given hypotheses more accurately.

ii. Analysis of WTO Proceedings in China–U.S. Tariff Dispute

Even when the Appellate Body is immobilized, the rest of the legal procedure must be followed, and this China–U.S. dispute was no exception. China initiated the dispute in 2018, requesting consultations in response to the U.S. escalating its tariffs for Chinese imports to 25% and then further requested a WTO panel to be established. In total, 14 WTO members, including the European Union (EU), Russian Federation, Singapore, and other core states, reserved their third-party rights during the original proceedings, indicating the broader attention and global economic implications this case brought.

The panel examined the United States' tariffs imposed on Chinese goods under Sections 301 of the U.S. Trade Act, which empowers the USTR to investigate and retaliate against trade-distorting measures. China challenged the tariffs, claiming that the measures were a violation of Article I:1 of the GATT 1994, the MFN principle, contending that "these duties were only applied to China's products" (World Trade Organization 2020, par. 4). They further claimed that these additional duties were "in excess of the United States' bound rates", as they were inconsistent with the schedule of concessions, the maximum duty rates that the United States and all WTO members agreed on. Ultimately, they claimed that the additional Section 301 tariffs breached several international laws and agreements concerning the GATT because the duties were imposed at rates that exceeded the tariff levels legally allowed. And in response, the United States stated that their duties were justified under Article XX(a) of the GATT, arguing that the levies were necessary for the protection of public morals.

However, the Panel concluded that they did not provide sufficient explanation demonstrating how the imposition of tariffs enhance the public morals they referenced to, ultimately ruling against the United States, recommending it to bring its violating measures into conformity. Although the initial adjudication was given, because of the Panel's lack of binding authority, the United States did not reduce its tariffs within the legally obligated rate of the WTO, and instead appealed the case to the Appellate Body. This action practically prevented the panel's findings from being implemented, leaving the dispute and the political tension between the United States and China unresolved as the Appellate Body was already paralyzed, unable to adjudicate appeals.

iii. Testing the Rise in Trade–Distorting Measures Hypothesis



This U.S.–China case study provides strong support for the Rise in Trade Distorting Hypothesis and establishes a reasonable context for potential retaliation following the unresolved dispute. If the Appellate Body was in fact active and had the minimum number of judges to adjudicate the dispute, a binding decision would have been enforced, limiting the United States' distortive policies and reducing the tariff levels on Chinese goods to return to standard rate.

However, the absence of the predominant body created a legal void and a gridlock in the international dispute resolution system. Ultimately, it failed to bring order in the global trade structure as the tariff rates of the U.S. remained at highly elevated levels. Thus, this critical case study, which exhibits the unresolved dispute between the United States and China, confirms the hypothesis by demonstrating how the lack of an authoritative adjudicatory body leads to sustained increases in trade-distorting duties.

iv. Evaluating the Deterrence of Dispute Resolution Hypothesis

This case study also serves as a clear example supporting the Deterrence of Dispute Resolution Hypothesis. The prolonged inability of the Appellate Body to process a state's appeal from the panels' adjudication effectively renders their enforcement irrelevant. While some disputes may be resolved at the consultations stage and adopt the non-binding panel's recommendation, even if a state truly questioned the adjudication, there was no official mechanism to ensure compliance. In DS543, the United States was able to maintain tariffs on Chinese goods despite the panel's ruling against them, indicating the failure of the WTO to resolve China's complaint. Overall, the case study confirms the hypothesis as it provides strong evidence that the breakdown of the Appellate Body encouraged sustained violations and deterred international trade disputes from being properly resolved through lawful enforcement.

v. Impact of the breakdown on the U.S. – China relationship

The dispute case between the U.S. and China further presents strong evidence against the Null Hypothesis, which proposed that the breakdown of the Appellate Body would not have any effect on the international relationship between the two nations. The unresolved dispute created a tangible political and economic tension between the two countries, as the United States maintained elevated tariffs on Chinese goods, continuing its aggressive trade policies against the panel's ruling. If the Appellate Body had been fully functional and able to enforce legal consequences against the U.S., compliance would likely have halted the escalation of tariffs, reducing tensions and generating a more stable trade relationship.

However, without the Appellate Body, the complaint from China was not recognized officially, indicating an institutional failure and leading to strained U.S. –China trade relations. Thus, this case study falsifies the Null Hypothesis by illustrating that the breakdown of the Appellate Body did, in fact, lead to increased political tension and affected the bilateral trade relationship between the United States and China.

The U.S. Liberation Day Reciprocal Tariff

i. Introduction and Connection with Legal Framework

The General Agreement on Tariffs and Trade includes two articles that allow exceptions from the standard tariff signed commitments. These articles are incorporated into the system to allow nations to prioritize domestic matters during emergencies. The application of the articles, when in use, allows countries to make decisions without facing restrictive consequences. Scholars argue that the original tariffs were established to build credibility and foster relationships among trading countries (Karlán and Sykes, 2025). Yet, President



Trump's desire to impose elevated tariffs began in 2018 with aluminium and steel, continuing through the 2025 Liberation Day celebration, raising arguable questions about his actions.

This case study examines the implications of President Trump's reciprocal tariffs to test three hypotheses: the WTO Article Agreement Violation Hypothesis, Permitted Tariffs Under Exception Hypothesis, and Null Hypothesis. Liberation Day is a legal challenged case study being examined as it overlooks the overwhelming increase of tariffs that are identified as reciprocal to shield the United States for protection against the growing unfairness of trade. A scholar views the Trump tariff situation as a repetition of history of former President McKinley's Tariff Act of 1890 meaning that President Trump's trading policies are similar to the 19th century when they should be building blocks of the 21st century (Mulholland 2025).

ii. Violation in the WTO Agreement

The Liberation Day case study does not align with the WTO Article Agreement Violation Hypothesis, as it focuses on the violations arising from the imposition of tariffs. Scholars find that President Trump's tariffs violate the WTO in terms of the first two articles, but the Trump administration opposes this claim. The case study does not support the hypothesis because Trump finds that his actions are necessary, but importantly, some countries have agreed to his standards. "For example, some trading partners have agreed to, or are on the verge of agreeing to meaningful trade and security commitments with the United States" (Executive Order 14257).

Executive Order 14257 is argued to be in violation with the WTO as he is establishing the actions under the validation of domestic law satisfaction. The U.S., as a founding WTO member, is obligated to follow the established policies and proceed with the required demands. However, President Trump's tariffs are not consistent with the GATT Articles I and II leading to an increased amount of complaints from other countries.

iii. Exceptions are Noted in Tariffs

The Liberation Day case study supports the Permitted Tariffs Under Exception Hypothesis to an extent because under the GATT there are two articles (XX and XXI) that permit a country to dismiss the WTO trading structure. However, the important aspect of these exceptions is that the country has to declare that it is taking these appropriate measures as its country is in an emergency. The case study supports the hypothesis to an extent because President Trump did declare that the U.S. is under an emergency due to the unjust trading system over the past years. "I declared a national emergency with respect to that threat, and to deal with that threat, I imposed additional ad valorem duties that I deemed necessary and appropriate." (Executive Order 14257).

President Trump believes that "punishing countries that have imposed unfair trade barriers on U.S. goods, will catalyze the reindustrialization of the United States." (Harithas, Meng, Brown, and Mouradian 2025, para. 8). He declares a national emergency in which Trump's imposed tariffs are exceptional due to Article XXI of the GATT. "What began as economic decline becomes a national security liability..." (Harithas, Meng, Brown, and Mouradian 2025, para. 7). Under the GATT, President Trump's tariffs are the exception meaning his actions are not in violation. This case study regarding the exception is similar to the Russia Traffic in Transit Act because the main concern was the use of the GATT Article XXI. Ukraine filed a complaint about Russia's use of article XXI as Ukraine wanted to pass through the Russian Federation to a third country. The WTO panel ruled that Russia's measure of emergency is validated because the panel recognized that the two countries were during the emergency of international relations.

When comparing the two case studies, one is recognized as an emergency while the other is not. President Trump's declaration of a national emergency due to trade, but it is not considered under WTO.



The Russia Traffic in Transit Act validates the use of Article XXI due to the international relations emergency, but Trump's declaration is aimed at combating "unfair" trade to protect domestic industries and manufacturers. President Trump's national emergency declaration is not validated due to the lack of evidence and an unjustifiable claim.

iv. No Established Relationship

The Liberation Day case study does not support the Null Hypothesis because tariffs are validated through the WTO and its members by negotiating with one another. The null hypothesis is that the WTO and the tariffs have no relationship with one another, but that is not true because Trump's tariffs must be connected to the GATT articles. Although President Trump invoked IEEPA as part of his justification for imposing tariffs, the WTO has the power to review his declaration of a national emergency. Alongside that, WTO members can file complaints about U.S. tariffs, which would mean the WTO panel would review the matter. Despite President Trump's continual reliance on domestic law for his decisions and validation, the WTO has the power to review the enforcement mechanism as a final clarification of the matter.

Recommendations

WTO Appellate Body

From the case study, it is evident that the Appellate Body could benefit greatly from amending the DSU to explicitly state the limitations that a state has compared to the DSB. In October of 2025, the United States refused the appointment of a judge for the 91st time, underscoring the ongoing disagreements between the U.S. and the organization (Knolle 2025). Through the restriction of excessive judicial overreach and modifying the DSU to include a formal written legal objection by the state rejecting the approval of a judge, the WTO would have been able to maintain the operation of the Appellate Body. While amendments aimed to completely remove individual states' involvement in the selection of judges would be unrealistic and even more destructive to the current impaired state of the international trade system, the legal ambiguity in the DSU, as has been examined in the legal analysis, necessitates an adjustment.

For every member of the WTO, they would be granted one formal objection for each appointment cycle of a judge serving on the Appellate Body. The procedure would involve the challenging state submitting a document with legally grounded reasons for their objection to the DSB. They will then engage in multiple consultations with the DSB regarding the appointment of the judge under a designated time frame, to ensure mutual agreement. This adjustment to the DSU would first enable the DSB to restore the Appellate Body from its paralysis to function as the United States will have difficulties justifying their repeated rejection of judges on 91 separate occasions. While the amendment will be enforced by the DSB, any modifications to the DSU requires a consensus among all WTO members, thus requiring the agreement of the United States.

However, considering the current relationship between the WTO and the U.S., the immediate approval to limit the United States' power seems unlikely without any additional benefits. Therefore, the paper's second recommendation is to follow the United States' proposed suggestions to rebuild trust. The United States has long complained about certain structural weaknesses in the WTO and criticized its unwillingness to accept those evident errors. To address one of the concerns regarding the WTO secretariat's increasing involvement in the adjudication of international disputes alongside the Appellate Body, Hirsh proposed to abolish the group and replace them with legal clerks (Hirsh 2020).

Similarly, to adhere to another genuine concern that is not exclusive to the United States but is shared at the global level, the WTO should reconstruct the developing country benefits. The United States argues that the current mechanism of self-claiming developing country status reflects a broader weakness in



WTO's legal enforcement and in practice, it does not offer a realistic representation of the society. Among the two-thirds of the WTO members that receive the developing country benefits, the WTO should force certain economically advanced countries to stop claiming those benefits (World Trade Organization n.d.). This adjustment would be a crucial step in rebuilding a credible relationship with the United States as the overall tension began from simple institutional disagreements like such. This will further ensure certainty in reactivation of the Appellate Body as without the United States' agreement, the amendment in the DSU can never be achieved, thus having no effect on the current stagnated state of international trade dispute system.

Overall, the Appellate Body's paralysis reflects legal ambiguity within the DSU and other institutional disagreements between the WTO and the United States. Imposing limits on repeated objections to judicial appointments could restore functionality without undermining individual state's sovereignty, but such reform relies heavily on the consent of the United States. Addressing U.S. concerns over Secretariat involvement and developing country status is therefore essential to rebuilding trust and reactivating the Appellate Body.

WTO and GATT

The hypotheses and the case study of Liberation Day propose the relationship between the imposed tariffs and the WTO in the matter of violation with one another. The question that is still to be answered is whether President Trump is in clear violation of the WTO, or if the declaration exempts him from violations with the WTO. Debating and trying to break down the President's argument of purpose may be beneficial, but modifying the articles for clarity, precision, and understanding would maintain the international trading system framework.

When examining the evidence, scholars have found that the "reciprocal" tariffs are unilateral proving the violations, but the case study presents the usage of exceptions as justification. While the current WTO provides structure and a precise viewpoint on trade, the key aspect is the interpretation of the articles. Modifying particular articles in the GATT would provide clarity in what is restricted or allowed. For instance, Article XXI of the GATT is about National Security meaning countries can declare an emergency for the protection and giving the authority to break WTO commitments for the sake of the nation.

However, there is controversy because countries can self-judge and declare these emergencies leading to possible abuse despite there being review procedures as confirmation it is not enough. Proceeding with the modification of the GATT article would follow a lengthy procedure to ensure that the WTO members and the Ministerial Conference agrees upon the matter. For the process to begin, a member must propose an amendment to the Ministerial Conference, which will be decided upon by majority vote. Then WTO members must present their acceptance to the amendment in order to move forward with the modification process to take effect. By completing this process an article's framework is being reframed presenting the new modification.

Secondly, the research not only focuses on the violations and impacts of President Trump's tariffs, but the mention of the imbalance it creates in the WTO and trading competition. The WTO stands by the concept of balance and equality to maintain relationships for countries in order to provide development and inclusivity. Modifications would allow the balance to be secure, but it would help address specific needs for countries in the matter of exporting/importing goods. The modification process would allow countries to receive benefits alongside the ability for better cooperation between one another. Proposing modern modifications to the GATT such as articles XX and XXI within the WTO would allow for a more understandable and clear framework structure that countries would be able to recognize without misinterpretation preventing countries from abusing such power.

The Liberation Day case study highlighted a gap in the WTO stemming from misinterpretation and abuse of articles for personal gain. Although certain actions are under review and declaration if the measures were necessary, a change in the WTO is an essential action that must be taken as time passes by with new



developments. “The next evolution the multilateral rules-based trading system needs may not be another workaround, but a reset of the rules governing how governments can intervene to shape trade.” (Tipping 2025, para. 14). Resetting or modifying the WTO would allow the organization to improve and grow with the progress of time to ensure that countries are receiving essential. Tipping agrees with the concept of modification as she argues that the WTO must change to keep up with governmental pressures and provide opportunities.

In the end, proposing these modifications to the WTO would allow for the organization to grow and follow the process of time in the matter of restrictions. The implementation would present a unified agreement with the members and the council presenting the acceptance of change leading to legal effectiveness for ratification into the international trade law system. The modification process would allow for the overlooking and abuse of certain principles to be stricter or more flexible depending on the responses when in use. Making these changes can help countries and the international trading system be more unified alongside balanced in the future.

Conclusion

This paper has argued that the United States’ efforts that potentially undermine the WTO dispute settlement, particularly through the sustained veto for the appointment of the Appellate Body judges, has enabled a shift toward unilateral tariff measures that are justified through GATT Articles XX and XXI but often lack the fundamental evidences required by those exceptions, raising legal questions for the policies and many international disputes unresolved. Through legal analysis and a case study of the U.S.–China tariff disputes and Liberation Day, the paper demonstrated that these measures were legally vulnerable yet remained with impunity due to the Appellate Body’s paralysis. It further showcased the impact of the Appellate Body’s inability to adjudicate disputes had on the relationship between the U.S. and China, confirming the hypothesis that the breakdown of the Appellate Body has resulted in the rise of tariffs and weakened the multilateral trade system. Without approvals and reviews of actions, the legality of tariffs would be questioned, but importantly, the validation and justification of the action is to be determined. The increasing tariffs titled as reciprocal present how, without the WTO, the principles can be misinterpreted and bent in certain ways to benefit the country in action.

Although some may argue that the trade relations between the United States and China were already deteriorating before the Appellate Body’s breakdown, the evidence presented suggests that the absence of the Appellate Body was a driving force in accelerating the diplomatic conflicts. Without a functioning Appellate Body, violation of the WTO’s underlying principles has become increasingly normalized, contributing to a less credible international dispute settlement mechanism. The international trading system became weaker in the sense of forgotten obligations and a lack of enforcement mechanisms to help the trading process. The arguments of how these issues have been long-standing since the very beginning of time, so it is not dependent on the current time, but it has progressively gotten worse. The Appellate Body and the unilateral tariffs are occurring due to the WTO’s inability to fully function with the growing fragmentation of international law. Further research on this topic should explore the impact of the more recent trade war between the U.S. and China on the WTO and whether any other amendments can be made to reverse the implications, alongside exploring the reciprocal tariffs’ effect on how it is shaping the international trading system and relationship with trading countries. This research is necessary to determine the future trajectory of the international trading system. It can also help make an estimation of how the system may need to be adjusted in the future, in consideration of deepening disagreements and a collapsing dispute settlement system.



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