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America First Policy and Liberal International Order, 2017-2021

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Abstract

Over the years, the United States of America (USA) has been the major driver of the World Trade Organization, but the US policy of "America first" under the administration of Donald Trump has somewhat thrown a spanner into the liberal international order. Opinions are sharply divided on this obvious policy contradiction. While the protection leads to prosperity thesis dominates the literature, others contend that the need to meet the security of international polity in a highly competitive era, which has witnessed the reinvigorated Russia and emerging China, dwarfs any argument in favour of abstract ideas. Still others suggest that US global leadership will be reclaimed in a reformed multilateral institution instead of relying on mercantilist tenets. We examined both sides of the debate, and our findings show that while it negates the principle of realism for US to relinquish its global leadership uncontested, the US unilateral tariff measure against trade offenders has undermined the settled norms of an open and rule-based international order. The study relied on survey studies and statistical data generated by the US Department of State and the Agency for International Development, the WTO, the IMF, and others. Logical arguments and inferences were also used in interpreting the data.

Keywords: *America First policy, Liberal international order, Open-based and rule-based order, WTO settlement mechanism.*

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Background to the Study

Over the years, the United States of America (USA) has been the major driver of the liberal international order (LIO), but the US policy of "America first" under the administration of Donald Trump has somewhat thrown a spanner into the liberal international order. The liberal international order is "an open and rule-based international order enshrined in institutions like United Nations Organizations and norms of multilateralism" (Deudney, D. and Ikenberry,1999; Kundani,2022; Jahn, 2018; Ikenberry, 2018). it is open in the sense that it gives priority to economic liberalism over economic nationalism, while its rule-based characteristics emphasize a system that is organized with settled norms. It was built by the United States of America (USA), its European allies, and Asian partners after the Second World War and consolidated after the Cold War. This order, comprising economic, political, and strategic arrangements, was conceived as a solution to the very issue that led to the Second World War (Deudney and Ikenberry,1999).

Even though, the liberal international order was built with features of alliances and partnerships, it is a unipolar phenomenon that is under the hegemony of USA since according to (Kinssinger,1994), the USA is historically gifted to impose its will and intellectual impetus to shape the entire international system according to its values although the hegemonic order has a distinctively cooperative and integrative character that it dissuades self-help. An order in international relations is therefore a cluster of international institutions that rely on settled rules, expectations, regulations, and arrangements that guide and define states' interaction in international politics (Mearsheimer, 2018). Economically, the international institutional order includes the International Monetary Fund (IMF), the World Bank, the World Trade Organization (WTO), North American Free Trade Agreement (NAFTA). The origin of the contemporary liberal international order is the amalgamation of two unique order building projects preceding this one, namely: the modern state system that springs from the Westphalia treaty order of 1648 which thrives on the sovereignty of state principle and the liberal order that characterized the domestic politics of United Kingdom and US over the years with its inherent democratic ethos and the attempt to universalize the western democratic ethos to the other parts of the world (Ikenberry,2018). The current liberal international order is therefore a more realistic response to the anarchical nature of international relations than an idealistic conception of it framed in the concept of liberalism.

Some of the instruments of the LIO are embodied in a broad range of practices comprising open markets, international institutions, cooperative security, democratic community, progressive change, collective problem solving, and the rule of law (Ikenberry,2018, p.71). Others identified the key elements of this liberal international order as a period that witnessed unrivalled USA leadership in the global economy and the defense and promotion of democracy and human rights (Lake et al, 2021). More specifically, the "open-based rules conjure the idea of breaking down all barriers to free trade for the mutual benefit of the international community and the spread of democracy in all corners of the world (Ikenberry 2011, Deudney and Ikenberry,1999). Therefore, the "openness" of the economic order shares a close affinity with globalization, a capitalist ideology that privileges the dismantling of all artificial barriers to the flow of goods, services, capital, knowledge, and people across borders.

Its activities and procedures are being enforced by the World Trade Organization (WTO), especially after the Cold War, and it has garnered a global attribute since the joining of China in 2001 and Russia in 2012 (Kundani, 2022). Therefore, member countries of the WTO, comprising the G8 countries and other developing countries, have the stated policy of elimination of trade barriers. This is achieved through open trade policies and implemented by international treaties and organizations like the WTO. Some of the principles guiding the activities of the WTO, which enhance its openness, are its non-discriminatory feature. This means that countries should treat trading partners equally and do not assign them with most favoured nation status (MFN). Trading should also be freer and predictable, and any barrier to that should be sorted out through negotiation. And more importantly, trading should be competitive and discourage the dumping of products in member countries at lower prices to gain market share. When member states ignore these fundamental principles, the inbuilt settlement mechanism expects the injured industries to take the initiative of initiating complaints to the WTO, thus discouraging governments from self-initiating the complaints (Matsushita,2015).

The United States played a prominent role in establishing and WTO, a global trading system aimed at eliminating barriers and interference to open trade (Edgerton, 2022). One of the ways the US gave its unalloyed support to the global open trade system was its readiness to subordinate its trade laws to the open trade policies of the multilateral organizations. Some of these laws that were subordinated to WTO are Section 201 of the Trade Act of 1974, Section 301 of the Trade Act of 1974, section 731 and 701 of the anti-dumping and countervailing duty measures and section 232 of the Trade Expansion Act of 1962 which borders on national security and global safeguards (Bown,2019). The USA also supported the WTO by championing and adopting its Dispute Settlement Understanding (DSU) as a means of enforcing trade infractions among members instead of adopting a unilateral measure (Congress Research Service, 2021). The US has also served in the WTO Dispute Settlement Appellate Body (Palmeter et al, 2022). Therefore, the US has dominated the dispute settlement process. All these efforts of the US have stabilized and ensured order in a supposedly anarchical international polity. The US has also promoted liberal democracy around the world by putting pressure on government and non-governmental actors to pursue reforms that will lead to democratic governance around the world. This they did by funding organizations dedicated to the promotion of democracy around the world through non-governmental organizations.

President Trump declared during his campaign in 2016 that under his leadership, he would pursue an "America first policy," which includes getting America out of nation nation-building project and pursuing economic nationalism. The components of the "America First policy" were unveiled in the document of the US National Security Strategy (NSS) in December 2017. The objectives of America first policy are represented by four pillars and they are:(i) protect American people, the home land and the American ways of life, (ii) promote American prosperity, (iii) preserve peace through strength and (iv) advance American influence (USA National Security Strategy, 2017, 7, 17, 25 & 37). The first and second bullet points of pillar II specifically assign the rejuvenation of the domestic economy a high priority for the administration in achieving the America First policy. In pillar four of the NSS, Trump declared that American leadership under him would not engage in nation-building, which translates to a lukewarm attitude in the promotion of democracy. Generally, the policy document expresses doubt about the benefits of multilateral institutions and global free trade, refocusing attention on great power rivalry between China and Russia. The NSS could be disaggregated into two components. One that deals with the domestic economy, which aims to reduce the overall trade deficit of the US, and a strong disinclination to prioritize democracy support in US foreign policy, since, according to Trump's former Defense Secretary, great power competition, not terrorism, is the major focus of Trump's foreign policy. These measures are inconsistent with the open and rule-based liberal international order, which empowers the WTO to settle trade infractions and incentivizes the US to promote democracy and thus raising concern from US partners regarding US adherence to the international norms and rules it helped to create.

Despite the global attention the "America first" policy pronouncement generated, the policy has been understudied within the context of its impacts on the liberal international order, especially the open-based order that thrives on the dismantling of barriers to trade and democracy. Against this backdrop, the study attempts to evaluate the America First policy in order to specifically ascertain whether US trade deficit corrective measures during the first tenure of Donald Trump undermined the World Trade Organization's dispute settlement mechanisms.

Statement of Problem

After 1945, the US dollar replaced the pound sterling as the primary trading currency in the international economic system. (Norrlof et al, 2020). Estimated statistics as of 2015 indicate that the USA's share in international trade increased from 9% in 1960 to roughly 30% in 2015, with Asian countries accounting for more than one-third of the USA's trade over the last 30 years (Norland, 2015). From 1950 to 2015, the USA gained from international trade is about $ 2 trillion, with about $ 500 billion or more gains still estimated to come from the liberalization process (Hufballer et al, 2017). When the gains of international trade are calculated in a quantitative template, the USA GDP as at 2015 was roughly a quarter of global GDP (Norrlof,2018). At the regional level, US total trade imports from the North American Free Trade Agreement (NAFTA), which metamorphosed into the United State Canada and Mexico Agreement (USMCA), increased from $ 150.9 billion in 1993 to $ 677.9 billion in 2019 (349%). Its merchandise export also rose from $ 141.8 billion to $ 548.8 billion (287%) during the same period. The US also generated a service trade surplus of $ 36.2 billion in 2018 with NAFTA partners (Congress Research Service, 2020). This statistic does not only project the dominant place of the US in the contemporary global economy but a reflection of the contribution of market led economy to the prosperity of US in modern times.

Nevertheless, in the midst of this stupendous wealth from liberalization of trade, economic analysts estimated a job loss of 2.4 million as a result of import from China between 1999 to 2013. China's admittance into WTO increased importation of Chinese product by different corners of the world and US being the most driver of globalization experienced about 58 percent job loss in their domestic economy. Similarly, US trade deficit with NAFTA partners increased from $74.3billion in 2016 to $129billion in 2019 ((Norrlof et al, 2020 and Congress Research Service, 2020). America first policy aims to correct these deficits. It is therefore ironical that the creator, upholder and enforcer of the existing international system that is based on open and rule-based order is withdrawing into isolation.

These developments have generated robust arguments and have reincarnated the old debate on the nexus between international trade and the prosperity of the domestic economy. President Trump set the tone of the conversation during his inaugural speech when he alleged that the whole noise about the gains of international trade is an elite affair that marginalized the common man. Supporters of the import substitution strategy argue that it means the resort to tariffs to increase the price of imported goods and the provision of subsidies to the domestic economy in order to motivate companies to manufacture goods in the USA rather than having them produced overseas and importing them back. According to them, indigenous companies have a bigger potential of stimulating the economy or bringing prosperity back, especially when the local population gives preference to local products over imported products (Noland, 2018; Ritchie & You, 2021). Import substitution strategy as an indigenous economic plan of action is the application of macroeconomic policies within the national space of a country to encourage the indigenous manufacturing of goods and services in place of importing the same product from foreign countries. The third world countries that constitute a major opponent of free trade have relied on import substitution to encourage the growth of their domestic economies. They argue that subordinating national regulation and policy to a global system of rules would imperil nascent industries in poor and developing countries that do not have the internal capacity to compete on equal platform with developed and industrialized nations, who, on their part, have had a head start in industrialization even before the colonial era. Surprisingly, the USA, which had used open trade as a yardstick of military and democratic aid to other countries of the world, is reverting to economic nationalism. The development of China's productive forces has enabled it to penetrate every nook and cranny of the world, causing ripples in domestic economies like job loss and trade deficits, and many leaders are resolving the dilemma by reembracing the abandoned import substitution route. Trump's protectionist policies are contextualized within this milieu. Opponents of the import substitution strategy are concerned about the retaliation effect, which can overheat the international polity. (Li et al, 2021). However, despite the degree to which these works are illuminating, they have not sufficiently interrogated the implications of US tariff policy for the laws and policies of the WTO's mode of settling trade differences. To fill this gap, the study raised the following research questions: How have US self-initiated trade deficit corrective measures undermined the World Trade Organization's dispute settlement mechanisms?

Literature Review

In reviewing relevant literature on the America First policy and the liberal international order, the review examines the state of knowledge on the subject matter based on the following themes:

American foreign policy since 1945 and protectionist trade and economic prosperity

The views expressed by many scholars are that the "America First Policy" was a radical departure from the past (Ryan, 2018; Mead, 2017). These scholars agree that "America first policy" is a harbinger of doom to the norms of multilateralism. It was Paterson and Spencer (2018) who pointed out that over the years, US foreign policy has revolved around four dominating philosophies, like Jeffersonianism, Hamiltonianism, Jacksonianism, and Wilsonianism. Jeffersonians advocate for the preservation of democracy and states' rights over the federal government. Those who subscribe to the philosophy of Alexander Hamilton advocated for foreign relations based on a powerful national overseas trade but advised against overseas political adventures. Proponents of world trade organizations derive their impetus from this philosophy. Andrew Jackson laid the foundation of populism in American politics, defended the poor, and advocated for a strong military in defending the American interest, but advised against getting entangled with unwinnable wars overseas. Woodrow Wilson, on his part, contended that democracies make better partners than authoritarian governments, and therefore it was in the country's national interest to advocate for democracy and international stability (Oppermann and Spencer, 2018). It is believed that of all the four schools of thought outlined above, Trump's domestic and foreign policy is a reincarnation of Andrew Jackson's worldview on foreign policy. Juxtaposing the foreign policy of Trump with his predecessors, Geoff (2016) bluntly observes that the aggregation of Trump's foreign policies undermines the liberal international order which has been the basis for prosperity and stability across much of the western world for the past 70 years. He added that Trump appears to reject the notion of a higher calling for United States in international affairs and that Trump's 2017 National Security Strategy which maintained that American way of life cannot be imposed on others is a draw back to the traditional global leadership entrusted on USA. This kind of analysis is deficient of specification. It does not point out how Trump's policy undermines the liberal international order and the specific policies of the liberal order. One should have expected the analysis to track down the trajectories of USA observation of the liberal policies and how Trump's policies moved swiftly away from them.

Sasse (2019), on his part, is of the view that Trump's foreign policy cannot be analyzed outside the larger foreign policy crisis befalling America. He suggested the need for reimagination by the American intelligence community since it's clear that they are not adequately equipped to meet the challenges of the next century's great power competition. In a more positive note, Blackwill (2019) gave Trump's foreign policy a pass mark after appraising his performance in a variety of areas and comparing his predecessors. He believes that his foreign policies are substantially better than his opponents assert. In his grading style, he awarded him (B+) on China, (F) on climate change, (B) on North Korea, (D) on NATO and European security on Russia, (C) on Iran, (B+) on Syria, (B+) on Saudi Arabia, (B+) on Israel, (B+) on Afghanistan, (B+) on India, (B+) on Venezuela and (C) grade on the overall trading policies. This is not a bad grade after all. Blackwill (2019) noted that this passing grade for Trump is anchored on the Trump administration's extraordinary realistic contribution to U.S. security, which contrasted with the complacent and dangerous shibboleths regarding the rise of China, which his predecessors ignored for about two decades. Dobbins et al (2020) followed the footprint of Blackwill in assigning some positive grades to Trump's foreign policies. This they did when it is factored in that over the years, a generation of American foreign policy experts are bailing out of international assignments, and Donald Trump is one of them. In an article entitled: U.S. Role in the world: Background and Issues for Congress, O'Rourke and Moodie (2020) noted that the traditional U.S. role in the world since the end of World War II vary in their specifics and can be described in general terms as consisting of four key elements like global leadership, defense and promotion of liberal international order, defense and promotion of freedom, democracy, human rights and the prevention of the emergence of regional hegemons in Eurasia. They therefore observed that despite the seemingly advertised gains of Trump's realism in international affairs, there is a need to be cautious because of the effect on the longstanding friends.

Literature Review

Protectionist Trade and Economic Prosperity

Protectionism is a practice that allows countries to restrict imports to their markets. Protectionism can be implied through tariffs and non-tariff barriers such as quotas and exchange controls. According to the supporters of protectionism, free trade has harmful effects on their domestic industries and affects the balance of payment negatively. Protectionism is also used interchangeably with economic nationalism and is associated with tariff protection, subsidies for firms, legal regulation of markets, reorganization of industries, and many other industrial policies (Nakano,2004). It is a policy prejudice in preference to the product of one's country and the provision of subsidies to domestic firms, and is evidenced by the non-adherence of countries to international market regulatory mechanisms. The debate on whether protectionism serves America right is a recurring feature of American politics. According to Burns and Logevall (2002), the US has used trade protectionism to build its country through the instrumentality of the conditional Most Favoured Nation (MFN) treatment principle, but this came to a tentative end in 1934 with the passage of the Reciprocal Trade Agreement Act (RTAA). The RTAA is an act that provides that any third party that intends to benefit from the US lowering tariffs on their product must be ready to reciprocate the gesture towards American goods in their own country. According to them, this act of the parliament permitted US trade negotiators to use unconditional MFN treatment as an instrument of trade liberalization.

With specific reference to the use of tariff policy to attract economic prosperity in the US under Donald Trump, Schneider-Petsinger (2017) argues that there are risks associated with trade protectionism as it has the potential of extinguishing the old relationship of the US with European countries and elsewhere. He suggested that since the US Congress has a major role to play in shaping the trade policy of the US, trading partners should diplomatically engage the leadership of the Congress, who are disposed towards trade liberalization. In an article entitled: Trump and Trade: Protectionist Politics and Redistributive Policy, Ritchie & You (2019) also argued that the anti-globalization rhetoric of Trump which culminated in his victory and the implementation of protectionist policies is to satisfy the Rust Belt States who are mostly victims of trade liberalization and marginalized in USA but cautioned over the hyped expected gains given the interconnectedness and interdependence of the global trade. Apart from the backlash of international trade, others believe that Trump and some white sections of the USA are predominantly concerned about the US role in the changing world Noland, 2019). Despite the enlightened pictures these reviews provide on the impact of Trump's tariff on the US domestic economy and the international economy at large, none of the works reviewed sufficiently enumerated the implications of the tariff policies on the mode of resolving trade conflict by the WTO. This, therefore, forms the gap this present seeks to fill.

Methodology/Theoretical Framework

The study focuses on how the "America first policy of the Donald Trump administration undermined one of the pillars of the liberal international order, ie, the WTO dispute settlement mechanisms. The study, therefore, adopted an ex-post facto research design, also known as a single-case design. This design explains what happened before the study, considering the prevailing first observation (O1), and then what happened after the introduction of the independent variable (X), which is assumed to be the test tool, on the second observation (O_2). The study adopted a documentary method of data collection, which is basically a tool used in obtaining information from secondary sources. This method involves eliciting information contained in the works of authors, both published and unpublished material. Data on the implementation of the America First policy, which manifested in the self-initiated tariffs of the Trump administration against trade offenders, were sourced from reports of the Peterson Institute for International Economics' document, the World Bank trade Barrier database, the IMF trade barrier database, the WTO annual report, and academic journals. The study adopted content analysis and the theoretical frame of realism as analytical instruments. Realism deals with the real-life events the way they occur rather than visions and dreams about society (Gilpin, 1987). Both the works of E.H. Car (1946) and Hans Morgenthau (1967) have contributed to elucidating the assumptions of realism. Morgenthau (1978:5) argued that states seek their interest, which is defined in terms of power, and the explanation of this is linked to the theory about the nature of man. Man, according to the realists, is driven by the desire for power. He may seek power because of the inherently insecure nature of his environment. This expansive nature of man finds its expression in the state because the state is a "people's collective). And that is why national interest is defined in terms of power. What informs the view of the realists is the anarchical nature of international relations.

Application of the Theory

The quest to satisfy the national interest of a country has driven all the international struggles in the world. The United States of America is celebrated all over the world as a result of its exceptionalism. This exceptionalism is undergirded in the philosophy of pragmatism, pragmatism being a branch of realism (Greenstein and Ranney). As a pragmatic country, its foreign policy has revolved around sovereign independence, continental expansion, the no-transfer principle, ie, no transfer by one European power to another of any possession in the western hemisphere, and freedom of trade (Palmer & Perkins, 2004). Zakaria (1998) contends that it is this pragmatic and realistic appraisal of the nature of international politics that catapulted America from wealth to power. Explaining further, he observed that American foreign policy from the early period provides a clue on how American decision-makers understood their collective interests within the context of the international community, adjusting their decisions by the tune of the times. One of the headaches of American decision makers has always been whether to implement the conditional Most Favoured Nation (MFN) or the unconditional MFN. In international trade, MFN treatment is synonymous with non-discriminatory trade policy because it ensures equal trading among all WTO member nations rather than exclusive trading privileges. For example, if a nation reduces tariffs by 10% for one nation, the MFN clause states that all WTO members will have their tariffs cut by 10% for that nation. Conditional MFN implies that beneficiaries shall reciprocate the gesture back to the country providing the tariff, while unconditional MFN signifies freedom and open trade policy that harmonizes with the policy of the WTO.

In 2001, China was admitted into the WTO, although on a non-market economy status (NME) with the condition that after 15 years, they would have grown to market economy status and would be exposed to all the policies guiding the international market economy. For its part, China agreed to carry out numerous steps to open itself to global trade and investment markets. In return for its agreement to abide by certain rules that normally govern a market economy, China was led to believe that trading partners like the United States would officially revoke its nonmarket economy (NME) status in December 2016 assuming there are any infractions they commit regarding principles guiding international trade (Bown, 2016). Some of the crimes a nation could commit against another in international trade are the crime of dumping and the use of government subsidies to support the export of one product to another country. When it occurs, the country can apply anti-dumping (AD) measures to counterdumping and Countervailing duties (CVD) to checkmate subsidies, but within the framework of the WTO. From 1980 to 2016, the office of the United States International Trade Commission (USITC) whose job it is to verify trade infractions by the US trading partners recorded trade infractions and recommended 292 AD measures, 102 of which were China covering 9.2% and 631 CVD's covering 6.3% of US import from China (Bown,2017, 2020).

It is important to note that Donald Trump and his team of trade experts are away of the WTO trade laws like the Most Favoured Nation principles which frowns at discriminating measures in handling international trade, the agreement on subsidies and countervailing measures, the anti-dumping measures, the national treatment principles and a host of other trade laws. Before the emergence of Donald Trump as president, US presidencies have implemented WTO trade laws but Trump differed with them on the modes of initiations of those trade laws. The trade law explicitly states that the complainants of trade infractions are the owners of the industries and workers who have been injured, not their various governments, but Trump insisted on being the spokesman of the individual industries in the US and therefore self-initiated the remedying of the infractions. It is Trump's appreciation of the anarchical nature of international relations, which recognizes no central law-implementing body but relies on a self-help mechanism to implement the laws of international relations. Trump also appreciates the realistic notion of the state as a major and principal actor in international relations, not the individual companies in a given society. He believes in using the instrument of the state to protect the interests of his nationals. Trump also understands that flouting international law by a powerful nation like the US will not attract any consequence, and this led him to ignore the

MFN principles, the Anti-dumping principles, the Countervailing principles, the national treatment principles, and other WTO trading laws. Trump applied the assumptions of realism mostly in matters relating to China. Before Trump emerged, his predecessors dealt with China based on the principles of cooperation and shared interest. But Trump adopted a realistic response to them in contradistinction to others.

The Bush administration also continued with that partnership rhetoric. At a 2001 joint press conference with Jiang Zemin, George W. Bush said that their meetings convinced him that they could build on their common interests based on a cooperative relationship. Obama also remarked during his time that the cooperation of the US and China on a range of critical matters in the world is delivering results to the world. While in their reverie, "China implemented a grand strategy designed to undermine U.S.-Asian alliances, which has accelerated under Xi Jinping; violated international commercial practices, including by committing massive theft of U.S. intellectual property; manipulated its currency for trade benefits; threatened Taiwan; built up its military forces to push the United States beyond Japan and the Philippines; constructed and militarized artificial islands in the South China Sea, in violation of international law; systemically and brutally violated the human rights of its people; and patiently and incrementally built its power and influence with the strategic goal of replacing the United" (Blackwill,2019,p.9-10). Although Trump presumptuously withdrew the US from the Trans-Pacific Trade Partnership. The TPP, comprising Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, Vietnam, and the United States, would have served as a bulwark against the increasing weight of the Chinese economy in Asia. Nevertheless, Trump in the National Defense Strategy in 2018 boldly declared China "a strategic competitor using predatory economics to intimidate its neighbours while having militarizing features in the South China Sea" (Blackwill,2019, p.11). He later took the battle to China by imposing tariffs that would force them to open their market to US products and stop technology transfer to Chinese firms. It is not surprising that in the analysis of Trump's foreign policy impacts, Henry Kissinger and Robert Blackwill, two foremost American statesmen and foreign policy experts, awarded Trump "B+" ratings on how he realistically took the battle to China. In fact, in a special report by the Council on Foreign Relations, they declared unequivocally that "Trump's foreign policies are better than they seem" (Blackwill,2019).

In light of the foregoing, the "America first "policy and its impact on the liberal international order could be explained based on the anarchical nature of international relations, which privileges states as the principal actors in international politics. As the major actor in international politics, states only obey international trading laws or any other laws when it is in their interest, but when it is not in their interest, they circumvent them and move on. Between 2017 to 2021, when Donald Trump won the American presidency, he circumvented the rules guiding international trade, self-initiating the processes of complaints instead of allowing the companies injured to do so because he knew that it is US government is the major actor in international relations, not those individual industries. This period witnessed increased US self-initiated anti-dumping measures, Countervailing measures, global safeguard measures, and national security.

Empirical Verification

The empirical verification of the hypothesis which states that, the Trump's self-initiated discriminatory trade policy measures have undermined the World Trade Organization's dispute settlement mechanisms that US low support of democracy promotion infrastructure undermined market democracy in Middle east were carried out using a combination of the various units of analysis inherent in the major indicators of both the independent variable and the dependent variable. The hypotheses were therefore tested under the following headings:

i. Self-initiated tariff on American intellectual property rights and other imports from China, and Anti-dumping and Countervailing duty measures
ii. Self-initiated tariff on solar panels and washing machines, and global safeguard measures.
iii. Self-initiated tariff on Steel & Aluminum, US Farmers, and national security tariff measures.

The dispute settlement is one of the fundamental principles of the multilateral trading system, and the WTO's unique contribution to the predictability and stability of the global economy. Without a means of settling disputes among the players in the international economy, the economic rules-based system of the liberal international order would be chaotic because the rules could not be enforced. This is notwithstanding the anarchic nature of international politics, where morality is less emphasized. Therefore, the WTO's procedure underscores the rule of law, and it makes the trading system more secure and predictable. The system is based on clearly-defined rules, with timetables for completing a case. Disputes in the WTO are essentially about broken promises. WTO members have agreed that if they believe fellow members are violating trade rules, they will use the multilateral system of settling disputes instead of taking action unilaterally. That means abiding by the agreed procedures and respecting judgments. A dispute arises when one country adopts a trade policy measure or takes some action that one or more fellow WTO members consider to be breaking the WTO agreements, or a failure to live up to obligations. The system permits a consultation among members within some allotted time.

The spirit of this process does not allow a country to self-initiate the proceedings, but allows the injured industries to bring the matter to the attention of their governments. USA, as a major stakeholder in creating and formulating the policies undergirding the performance of WTO, has been subscribing to the dispute settlement mechanisms of WTO and has rarely relied on tariffs to settle its trade differences until recently. (See table 1a, b & 3 below).

Table 1a: United States' use of Trade Laws, 1980-2016

	Antidumping (Section 731)	**Countervailing duties (Section 701)**	**Global safeguards (Section 201)**	**National security (Section 232)**
Investigations	1,379	631	31	14
Self-initiated	6	6	4	3
Trade restrictions imposed	649	279	11	2
As an import tariff or quota	629	236	8	1
As suspension agreements, Voluntary export restraints, mixed	23	43	3	1

Source: Bown (2017)

Table 1b: Average investigations per year, Orders in place as of end of 2018

	Total	**China**	**Non-China**	**Total**	**China**	**Non-China**
Antidumping	23.7	7.4	16.3	292	102	190
Countervailing duties	9.3	4.0	5.3	82	37	45
	Average of share of import covered by new investigations per year (2002-2016)			**Share of imports covered by accumulation of trade restrictions as of 2016**		
	Total	**China**	**Non-China**	**Total**	**China**	**Non-China**
Antidumping Countervailing duties	0.2	0.6	0.2	3.7	9.2	2.1

Source: Bown, (2016)

The data in Table 2 shows that from 1980 to 2016, the US has conducted 1,379 investigations on antidumping, 631 on countervailing duties, 31 on global safeguard, and 14 on national security. Interestingly, it has self-initiated just an infinitesimal six times within the same period both in antidumping and countervailing measures. Table 1b shows that from 2002 to 2016, the antidumping investigation was 23.7% in global application, while China had a share of 7.4%, but within the same period, the USA made just 82 orders globally, with China taking a share of 37. Although in 2015, antidumping countervailing measures were imposed on China and other countries, showing the US increased resort to tariffs in settling trade differences, increased (see table 2 below).

Table 2: US Antidumping and Countervailing duties Applied in 2015

Exporter	**Number of cases**	**Average antidumping duty (percent)**
All antidumping cases		
China		
All cases involving China	89	81.4
Cases involving only China	58	67.5
Cases Involving China and Others	31	107.3
Other trading partners		
All cases involving other trading partners	149	54.3
Cases not involving China at all	93	52.1
Cases involving China and others	56	58.0
Antidumping only (No simultaneous countervailing duties)		
China		
All cases involving China	55	72.1
Cases involving only China	37	69.9
Cases Involving China and Others	18	76.5
Other trading partners		
All cases involving other trading partners	111	54.4
Cases not involving China at all	64	50.0
Cases involving China and others	47	60.5
Antidumping and countervailing duties simultaneously		
All cases involving China	34	96.4
Cases involving only China	21	63.3
Cases Involving China and Others	13	149.9
Other trading partners		
All cases involving other trading partners	38	54.2
Cases not involving China at all	29	57.0
Cases involving China and others	9	45.0
All countervailing duty cases		
		Average countervailing duty (percent)
China		
All cases involving China	33	83.8
Cases involving only China	30	79.3
Cases Involving China and Others	3	128.4
Other trading partners		
All cases involving other trading partners	27	30.7
Cases not involving China at all	25	31.8
Cases involving China and others	2	17.5

Source: Brown (2016)

Self-Initiated Tariff on American Intellectual Property Rights and Other Imports from China and Anti-Dumping and Countervailing Duty Measures

Under both GATT and WTO, Anti-dumping (AD) measures, are trade protection remedies which may be applied by a member of WTO after an investigation and determination by that member, following the provisions of the AD Agreement, that an imported product is "dumped" and that the dumped imports are causing material injury to a domestic industry producing the like product. Under the WTO anti-dumping laws, dumping occurs when a foreign firm is alleged to have sold its products in another country's market at a price that is "less than fair value" (LTFV), and these dumped imports are causing injury to the companies producing the competing product. When the competing industries have evidence that the two developments have occurred, the companies, industries, associations, or workers are permitted by the WTO law to file a petition to their home government, requesting them to investigate whether the alleged claim that a particular import has caused injury to their company's product. The investigators asses the injury caused by taking into consideration the changes caused in industry profits, sales, production, capacity utilization or employment (UNTAD,2006).

In the case of USA, the two agencies permitted by the US trade laws to investigate the alleged claims are the Department of Commerce and the quasi-judicial US International Trade Commission (USTC) (Bowen,2017). Procedurally, the Department of Commerce determines whether a foreign firm has sold its product at the price of less than fair value (LTFV) benchmark by the following ways: (i) ascertaining the price of the same product in the exporters home market, (ii) ascertaining the price of the product in a third-country market in which that exporter sells the same product, (iii) constructing the value of the exported goods by taking into consideration the labour hours and the value of the raw material used in producing such goods. However, if the country that is alleged to have committed the infraction is a non-market economy like China till 2016, the US Department of commerce is expected to track the information from a surrogate country that is a full-fledged market economy to allow US investigators access to documents on the raw material and hour value component of the alleged product (Bown,2016, p.3). If the Department of Commerce finds out that an exporter has dumped a product, the WTO anti-dumping agreement on implementation of Article VI of the General Agreement on Tariffs and Trade 1994 recommends that the offended party consult the member country involved within sixty days.

Assuming that the matter is not resolved at the level of consultation, the complainant is expected to make an official report to a duly constituted panel by the WTO, which will expose all the parties to the provisions of the WTO's settlement mechanisms. The panel's terms of reference are to determine evidence of (a) dumping, (b) injury within the meaning of Article VI of GATT 1994, and (c) a causal link between the dumped imports and the alleged injury claimed with a certain duration. (Aggarwal, 2004, pp. 5-8). Related to the anti-dumping law is the countervailing duty law. The law allows the government to investigate whether a firm that is selling its products in a place like the United States of America has been subsidized and whether those subsidized imports are injuring import-competing US producers. More specifically, a subsidy is defined as a financial contribution from the government or any public body of a trading partner to a foreign firm that confers a benefit to that firm. If the US industry is injured and there is evidence that the injury was caused by the subsidized imports, the United States can impose a CVD equal to the subsidy rate. (Bowen,2016). It is still the

Department of Commerce as in the case of USA that conducts investigation on whether a foreign firm really subsidized the products in their markets. The department uses the same process in the anti-dumping to determine if any infraction is committed. In each case, the law allows the companies that felt offended to bring to complaints to their various home governments, thereby discouraging the government itself from bring up the matter or self-initiating the process. The third law which was brought into the framework of WTO is the global safeguard trade law which is found under section 201 of the Trade act of 1974. Under this law, the United States International Trade Commission is empowered to investigate whether an increase of imports is causing injury to the import-competing US industry (Bowen,2017).

This harmonizes with Article XIX of GATT which noted that "a WTO member may take a "safeguard" action i.e., restrict imports of a product temporarily to protect a specific domestic industry from an increase in imports of any product which is causing, or which is threatening to cause, serious injury to the industry. However, they were infrequently used because they jeopardize the principles of Most Favored Nation (MFN), which frowns at discriminatory trade policies. According to the Congress Service Research (2020), the United States is a party to several international agreements that govern the use of AD laws, including Article VI of the General Agreement on Tariffs and Trade (GATT), which was incorporated into the agreements establishing the WTO, and the WTO's Antidumping Agreement (ADA). Both of these agreements were derived from U.S. AD law and practice, and the United States was the chief superintendent of both agreements. In contradistinction to the aforementioned processes of settling trade disputes, the USA under Trump self-initiated a lot of antidumping and countervailing duty measures to settle scores with their trading partners from 2016 to the time that he left office (see table 3).

Table 3: Timeline of Trump's self-initiated Anti-dumping and Countervailing duties (2016-2021)

Date initiated	**Date announced**	**Company represented**	**Company against**	**Gort agency**	**Amount of dollars imposed**	**Remarks**
18/8/2017	3/4/2018	American intellectual property rights, innovation	1,333 Chinese products	Department of Commerce	$50 billion	AD & CVD Self-initiated
15/4/2018	29/5/2018	American intellectual property rights, innovation & others	Other undefined Chinese products	Department of Commerce	$50 billion But put on hold	AD & CVD Self-initiated
18/6/2018	6/7/2018	Any imports from China in US	Any import from China	US Trade Representative	$34billion	AD & CVD Self-initiated
18/6/2018	10/7/2018	Benefits American industries in that sector	Computers and auto parts from China	US Trade Representative	$200billion	AD & CVD Self-initiated
	7/8/2018	Second phase of tariff	Removal of 5 out of 284 products from China	US Trade Representative	$400million	AD & CVD Self-initiated
-	17/9/2018	Finalizes tariff list to protect auto & computer industries	Chinese auto & computer industries	US Trade Representative	$200billion	AD & CVD Self-initiate
-	10/5/2019	Renewal of tariff	Increase from 10% to 25%	US Trade Representative	$260billion	AD & CVD Self-initiate
-	1/8/2019	Consumer goods	Chinese toys, footwear,	US Trade Representative	$300billion	✓
	7/3/2016	ZTE must possess license b/4 buying US goods	Chinese ZTE Company	Department of Commerce		✓
	16/4/2018	Enactment of Denial Order	Against Chinese ZTE Company for violating the terms of 2016	Department of Commerce		✓
		US Tightens Technology Export Restrictions	To prevent China, Russia, and Venezuela from purchasing	Department of Commerce		✓

Source: Compiled by the author from Data obtained from Peterson Institute for International Economics (2016-2021)

The above table reveals that on August 18, 2017, President Trump directed US Trade Representative Robert E. Lighthizer to self-initiate an investigation of China under section 301 of the US Trade Act of 1974, which empowers the president to unilaterally impose tariffs on another country to resolve trade differences. This law was a GATT procedure mostly deployed before the internationally agreed mode of resolving trade differences of the WTO came into force in 1995 (Bown, 2017). The tariff measure imposed against American intellectual property rights and other 1,333 Chinese products was investigated on the 18/8/2017, and adopted on the 3/4/2018, thus violating the duration process. Apart from the duration process, the complaints did not come from those countries that were alleged to have suffered injury; rather, it was the agency of the government, directed by the president, that self-initiated the process, an apparent abuse of the laid-down principle guiding the international political economy. As the table indicates, it was the US department of commerce, Trade Representatives, Justice Department that continue to intervene on the order of the president on behalf of other companies that were alleged to have been injured, imposing outrageous amount of dollars ranging from $50 billion, $34billion, $200billion and $300billion respectively. While these steps taken by the US are understandable in the context of playing realistic games of international relations, it is a dent to the diplomatic prowess deployed by the US in the management of a liberal order in which it is the creator, although in partnership with others. To show that the US was gradually losing its grip in the management of the global international economy towards an open and rule-based economic order, it was the recipients of Trump's draconian tariffs that resorted to the WTO in settling the trade differences. They made consultations, and when the consultations failed, they cited relevant documents of WTO dispute regulations and waited for panels to give them results (see table 4 below).

Table 4: How other countries resorted to the WTO's Dispute settlement Mechanism to resolve Trump's tariffs

ISSUE	Complaint country	Dispute number	Date filled	Panel established
On Section 201 U.S. safeguard measure on crystalline silicon photovoltaic products	Korea	DS545	5/14/18 consultations requested;	9/26/18 panel established
U.S. safeguard measure on large residential washers Imports Section 232	China Korea	DS562 DS546	8/14/18 consultations requested 5/14/18 consultations	10/24/19 panel c requested; 7/01/19 panel composed
Section 232 U.S. tariffs on steel and aluminium imports	China India EU Canada Mexico Norway Russia Switzerland turkey	DS544 DS547 DS548 DS550 DS551 DS552 DS554 DS556 DS564	4/05/18 consultations requested; 5/18/18 consultations req 6/01/18 consultations requested; 6/01/18 consultations requested; 6/05/18 consultations requested; 6/12/18 consultations requested; 6/29/18 consultations requested; 7/09/18 consultations requested; 8/15/18 consultations requested;	1/25/19 panel composed 1/25/19 panel composed 1/25/19 panel 5/23/19 settled 5/28/19 settled 1/25/19 panel composed 1/25/19 panel composed 1/25/19 panel composed 1/25/19 panel composed
U.S. tariffs on certain Chinese imports Section 301	China China China	DS543 DS565 DS587	4/04/18 consultations requested; 8/23/18 consultations requested 9/02/19 consultations requested	9/15/20 panel report circulated NA NA

Source: Compiled by the author from data obtained from WTO Dispute Data Base

Self-initiated Tariff on solar Panel and Washing Machines and Global Safeguard Measures
Under Section 201 of the Trade Act of 1974, the global safeguard law empowers the US International Trade Commission (USITC) to verify if an increase in import is causing injury to the import-competing companies in USA. The difference between global safeguard and anti-dumping and CVD laws are that there is no allegation of unfair trade that is needed to trigger the global safeguard and therefore the Department of Commerce has no role to make investigation. Secondly, the president uses his discretion to apply the safeguard law and it is still the office of the president that deems it feet when it is appropriate to impose import protection. Thirdly, which is the most important distinction is that under this law, trade barriers or tariffs are not imposed indiscriminately but applied to all the trading partners in consonance with the MFN principles, which emphasizes a collective application of principles to all the members (Bown, 2017, p.4). As observed in Table 1a at the outset of this analysis, global safeguard law was rarely put into practice from 1980-2016, just an infinitesimal 4 times. It was only in 2001 that it was put into practice, with chastisement from the international community to the US on why they should circumvent an order that they had built. The matter was, however, resolved. Nevertheless, the arrival of Trump, who promised to do things differently, changed the age-old discretion of the president to apply global safeguard principles with discernment (see table 6 below). The table reflects tariffs imposed on Chinese Samsung and LG electronics in order to protect the US Whirlpool, which specializes in building solar panels and washing machines that are used in various homes. Instead of resorting to the WTO for whatever trade infractions these companies committed, Trump invoked the archaic laws of GATT 1974 and imposed tariffs ranging from $ 8.5 billion to $ 1.8 billion. And following the established patterns of Trump, they were all self-initiated.

Table: 5: Timeline of Trump's self-initiated global safeguard tariff

Date initiated	Date announced	Company represented	Company against	Government agency	A dollar of tariff imposed	Remarks
17/10/2017	22/1/2018	Whirlpool, Solar panels	Chinese Samsung Electronics and LG Electronics	USITC	$8.5 billion &	Self-initiated
17/10/2017	22/1/2018	Whirlpool, the washing machine industry	Chinese Samsung & LG Electronics	USITC	$1.8 billion	Self-initiated

Source: Compiled by the author from data obtained through the Peterson Institute of International Economics

Self-initiated Tariff on Steel & Aluminum, and US Farmers and National Security Tariff Measures.

Another US trade law, which Trump relied upon but went against the spirit of WTO laws, is the national security law. The US trade law section 232 of the Trade Expansion Act of 1962 empowers the president to compel the Commerce Department if there is need to investigate whether imports threaten to impair US national security. In the data presented at the outset of this analysis, from 1980 to 2016, the Department of commerce just investigated such occurrence only 14 times and it was only two of which that resulted in restrictions. In lieu of Trump's pattern of deviating from the grand norms guiding the international economy, he went ahead and convoked the old laws of 1962 (see table 6 below).

Table 6: Timeline of Trump's self-initiated national security

Date initiated	Date announced	USA Companies represented	Companies Retaliated against	Government agency	Dollars of tariff imposed	Remarks
16/2/2017	1/3/2018	Nucor Steel & Aluminum companies and other	All US trading partners in Steel & Aluminum except Canada & Mexico	Department of Commerce	$48billion	Self-initiated
1/6/2018	1/6/2018	Nucor Steel & Aluminum companies and other	US ends exemption of Canada & Mexico in Steel & Aluminum tariff	Department of Commerce	25% on Steel & 10 on Aluminum	Self-initiated
24/7/2018	24/7/2018	US Farmers	Against Chinese farmers that retaliated on US goods	US Agricultural Department	$12billion	Self-initiated
10/8/2018	10/8/2018	Nucor Steel & Aluminum companies	Steel & Aluminum companies in Turkey	Department of Commerce	Increase of tariff from 10% to 20%	Self-initiated
24/1/2020	24/1/2020	Nucor Steel & Aluminum companies and other	Imposes new tariff on those affected before	Department of Commerce	$450million	Self-initiated
-	13/8/2018	Signs a new law on national security	Monitoring of foreign investment in the US	Legal Department	-	Self-initiated
	28/1/2019	Huawei threatens the national security of the USA	Accusation of fraud on Chinese Telecom, Huawei	Department of Justice		Self-initiated

Source: Compiled by the author from data obtained from Peterson Institute of International Economics (2016-2021)

Conclusion

The study was guided by the hypothesis, which states that US self-initiated trade corrective measures have undermined the World Trade Organization's dispute settlement mechanisms. In light of the data generated from the timelines of US unilateral tariff measures against trade offenders and US underfunding of core infrastructures of democracy promotion, the hypotheses are upheld. This is because our data shows the US's past support of the WTO through encouragement of other multilateral stakeholders to lean on multilateral institutions in solving their trade differences. Arising from this development, we state the following findings:

The US unilateral initiation of tariffs outside the framework of the trade settlement mechanism of the WTO undermined its rules and regulations.

Recommendations

Following the above developments, we make the following recommendations:
The US should spearhead a convocation of the meeting of all the stakeholders of where rules of a new engagement of international relations will be recodified in a reformed multilateral institution that will capture the realities of the resurrected Russia and the emerging China.

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