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International Trade: Isolationism, Trade Wars, & Trump

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INTRODUCTION

INTERNATIONAL TRADE: ISOLATIONISM, TRADE WARS, & TRUMP

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Trade, and its regulation at the international level, has been at the center of diplomatic negotiations, controversies, and debates pretty much since its inception. Free trade, according to its advocates and supporters, is essential to promote, *inter alia*, economic growth, prosperity, and global peace. Critics and detractors of free trade, on the other hand, lament the negative impact of trade liberalization on, *inter alia*, domestic economies, labor, health, and the environment.

International trade negotiations are often as long and complex as their outcome, in the form of legally binding trade agreements, and have a huge impact on domestic economies and peoples. International trade agreements, both at the global and regional level, have been the object of hard-fought negotiations and legal battles, and often the term trade “wars” has been used to describe tense trade disputes and the deterioration in trade relations between nations.

Diatribes on international trade started in the very early days of its regulation at the global and regional level. For example, the first multilateral organization that was meant to regulate international trade, the International Trade Organization (“ITO”), never saw the light of day. After years of negotiations (1945-1948), the Havana Charter, intended to set up the ITO, failed to receive the necessary support in the US Congress, following concerns over the potential impact and power of such an international body over US domestic economic policy.¹ The General Agreement on Tariffs and Trade (“GATT 1947”) by default became the “body” through which international trade was regulated until the establishment of the World Trade Organization (“WTO”) in 1994, created following the Uruguay Round, one of the

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1. *The GATT years: from Havana to Marrakesh*, WORLD TRADE ORG., https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact4_e.htm [<https://perma.cc/PTZ7-5UUC>].

largest and most comprehensive international trade negotiations, that lasted from 1986 to 1994.²

Success and progress in trade liberalization have also been achieved over the years. For example, 164 countries³ representing ninety-eight percent of international trade are now members of the WTO.⁴ Following the Uruguay Round, trade agreements now cover not only goods (“GATT”), but also services (“GATS”) and aspects of intellectual property (“TRIPS”), and there is now a strong system for the settlement of disputes (“DSU”).⁵

Trade and its international regulation are now again at the center of a very heated political and legal debate, partly fueled by the election of President Trump in 2016. The current administration has made the renegotiation of international trade deals a central feature of its economic agenda. The North American Free Trade Agreement (“NAFTA”) has been renegotiated and a new United States, Mexico, Canada Agreement (“USMCA”) has been agreed upon. The United States has engaged in negotiations with several key partners, from the European Union, to China, to South Korea, to address what it considers to be unfair existing trade deals. The aggressive stance of the Trump Administration with the imposition of tariffs, the invocation of national security exceptions, and the attacks on the global rule-based trade system have led many to raise serious concerns about the isolationist policies and trade wars of the United States under its current leadership.

The *Fordham International Law Journal*’s Symposium on “International Trade: Isolationism, Trade Wars, & Trump” could not have been more timely to contribute to the understanding of the current debate on trade. During the one-day symposium, the first panel “Setting the Stage: The Current Landscape of the Trade Issues & the WTO” provided an overview of the key trade issues and an overview of the WTO. The following panel “Trade & National Security, Sanctions, Tariff, and Other Carrots & Sticks” focused on the Trump Administration’s current use of tools in the trade “arsenal” to address its concern on imbalances in existing agreements. The third and final

2. *Id.*

3. *Members and Observers*, WORLD TRADE ORG., https://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm [https://perma.cc/K2CV-PB99].

4. *History of the multilateral trading system*, WORLD TRADE ORG., https://www.wto.org/english/thewto_e/history_e/history_e.htm [https://perma.cc/S2NG-XDK5].

5. *Overview: a navigational guide*, WORLD TRADE ORG., https://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm1_e.htm [https://perma.cc/XWG4-BVFS].

panel, “The United States and the Global Economy,” debated the role of the United States in the global economic environment and proposed a way forward (and out) of the current situation.

This Symposium Issue contains four scholarly contributions from those who participated in the Symposium: William Jannace and Paul Tiffany’s debate “A New World Order: The Rule of Law, or the Law of Rulers?”;⁶ Rachel Brewster centers on “Analyzing the Trump Administration’s Strategy on International Trade;”⁷ J. Benton Heath discusses “National Security and Economic Globalization: Toward Collision or Reconciliation;”⁸ and finally Simon Lester and Huan Zhu focus on “A Proposal for Rebalancing To Deal with National Security Trade Restrictions.”⁹

The international trade system, and arguably, and more generally, international law and institutions, have come under intense scrutiny and some would say attack under and from the Trump Administration. The Administration’s isolationist tendencies and strong reaffirmation of sovereignty often collide with international rules and institutions and long held traditional alliances and views. The international system established after the end of World War II, a system that the United States was instrumental and indeed central in establishing, has formed the basis for international relations for the past seventy years. Trade rules have been a core part of that system and contributed to promoting economic growth and stability. However, international law and institutions, in the field of trade and elsewhere, need modernization to address the challenges we are facing in a changing world, with new actors and global challenges, from climate change to growing economic inequalities. The Trump Administration’s policies have renewed the attention and focus on trade, international law, diplomacy, and the role of international institutions. Isolationism and trade “wars,” as history has shown us, rarely if ever contribute to addressing complex global problems. They rather tend to exacerbate and worsen them. Supporters of an international rule-based system must rise to the challenge and address the current shortcomings of international law

6. See William Jannace & Paul Tiffany, *A New World Order: The Rule of Law, or the Law of Rulers?*, *infra* 1379.

7. See Rachel Brewster, *Analyzing the Trump Administration’s International Trade Strategy*, *infra* p. 1419.

8. See J. Benton Heath, *National Security and Economic Globalization: Toward Collision or Reconciliation?*, *infra* p. 1431.

9. See Simon Lester & Huan Zhu, *A Proposal for “Rebalancing” to Deal with “National Security” Trade Restrictions*, *infra* p. 1451.

and institutions, and suggest constructive reforms to ensure the long-term longevity of a system that is critical to successfully confront the many challenges we are facing in the twenty-first century. By focusing its Symposium on International Trade and the Trump Administration, Fordham and the *Fordham International Law Journal* continue their tradition of being at the cutting edge of international law by offering scholarly analysis, debates, and proposals for a way forward.