

# The Usa-China Trade War : Import Restrictions From The International Trade Law

*by* Ariawan Gunadi

---

FILE	THE_USA-CHINA_TRADE_WAR.PDF (324.64K)	WORD COUNT	6185
TIME SUBMITTED	16-OCT-2020 10:03AM (UTC+0700)	CHARACTER COUNT	32286
SUBMISSION ID	1416708645		

## The Usa-China Trade War : Import Restrictions From The International Trade Law

Ariawan Gunadi,<sup>1</sup>, Martono K.<sup>2</sup>

**ABSTRACT:** *The aggressive restriction on importing service and goods by the USA has led the world into a modern warfare, a trade war era. The USA started the trade war by increasing the import tariff of steel from China by 25% after experienced US\$ 65 million trade deficit by March 2018. Gauntlets have been thrown, China happily answered this by picking them up, increasing the import tariff for dairy products up to 25%. The so-called trade wars between these two economic titan countries has caused effect not only between them but also the world in general. As the world economic leader, the USA echoed the free trade imposition throughout the globe. The restriction, however, has showed the different side of the USA that is refusing the free trade itself. The further development leaves us with a question on whether the result of the economic warfare will affect the shift of power. This paper aims to identify the existing war trade between the super power countries and find out the legal and economic effects before eventually come up with a conclusion on whether the shift of power from the USA to China is happening.*

**KEYWORDS:** Trade war, USA, free trade, restriction

Date of Submission: 29-09-2018

Date of acceptance: 09-10-2018

### I. INTRODUCTION

The long partnership of the United States of America (USA)-China is no new development. The two superpower countries have established an economics relationship since 1990. The partnership began to accelerate in 2015 when China out did Canada in terms of import-export partnership with the USA, while the collaboration started in a conception of mutual benefit, the USA timely alleges the partnership to be no longer beneficial for the USA. Donald Trump, the USA's President, has actively promoted the future renegotiation to relieve the negative impact.

All along, Trump has been fiercely promoting his "America first" doctrine. A doctrine opposed by a lot of, if not all, countries. Other countries are angry with this policy as the result of what so called selfish doctrine may have destroyed the global free trade framework that has long been stemmed. Despite this, the doctrine is consistently enforced through real implementations, including Trump's policy to place tariffs on imported goods, which marks the beginning of trade war.

The war ignited by the 2018 USA policy to impose tariffs on steel and aluminum imported to the USA, continued with a policy to impose extra 25% tariffs on Chinese goods, worth more than US\$ 34 billion. The policy was instantly responded by the Chinese government by passing a similar tariff toward the USA's goods to China, while the current impact has been warned by some experts, this might only be a beginning of an even greater feud between the superpower countries. The purpose of this paper is to analyze the legal and economic impacts of the economic warfare to the parties of the trade wars, which are the USA and China, and other

<sup>1</sup> 7<sup>st</sup> author, Dr Ariawan Gunadi S.,H., M.H.,(Tarumanagara University), a senior lecturer at Universitas Tarumanagara, PhD cum laude (University of Indonesia) is a lecturer at the Law Faculty of Tarumanagara University and a legal consultant specialist in, among other topics, International Law, International Trade Law, International Business Transactions, and International Relations. He is a member of the Board of Executive and Legal Head of the Tarumanagara Foundation

<sup>2</sup> 2<sup>nd</sup> Author, Prof.Dr.H.K.Martono, S.H.(Indonesian University),LL.M (Mc Gill), PhD (Diponegoro University) Previously served as the chief of the legal division of the Directorate General of Civil Aviation, at Indonesia's Ministry of Communications. He has written extensively about aviation law and regulations in Indonesia and was the parliamentary resource person for when Indonesia was drafting the Civil Aviation Act of 2009.Prof.Dr.H.K.Martono serves as lecturer at the University of Tarumanagara (UNTAR), the Islamic University of Jakarta (UID) and Suryadarma University (UNSUR).

countries. The authors, then, conclude those effects and come up with the step might be taken by Indonesia to reduce the negative impact resulting from the economic warfare of the titans.

## II. RESEARCH METHOD

Legal research is a scientific activity based on method, systematic, and specific way of thinking that aim to learn one or more legal deviations and analyze it. In this research paper, we use two types research such as normative and empiric.<sup>3</sup> In conducting this research, we use normative legal research. Peter Mahmud Marzuki defines normative legal research is a process to specify legal regulations, legal principles, or legal doctrine to answer the legal issue.<sup>4</sup> Source data consist of primary, secondary legal material and non-legal material. Primary legal material including the binding legal instrument such acts, international treaty and customary international law, while secondary legal materials are the materials discussing the law and offer pointers to relevant primary legal materials and non-binding. It also offers analysis and critique of the law.

Secondary legal materials include books, journal and commentaries which discuss the law, reference tools which help find the law such as dictionaries, encyclopedias, guides and directories, while non-legal materials use the usage aims to gain understanding or enrich the viewpoint of the object of the study. Non-legal materials such as Black's Law Dictionary or Indonesian's Dictionary. In collecting the data needed in this research, the authors use literature study method and in processing data the authors use a series of actions or steps performed on data to verify, organize, transform, integrate, and extract data of written legal materials in an appropriate output form for subsequent use. In this case the processing of materials carried out by means of, selecting secondary data or legal materials, then do the classification according to the classification of legal materials and compile data of the research results systematically, of course it is done logically, it means there is a relationship and the relationship between legal materials one with other legal materials to get a general description of the results of research.<sup>5</sup>

## III. DISCUSSION AND RESULTS

### The Trade War

#### 1. Timeline of US-China Trade War

On January 2018, the trade war began when the USA announced her plan to impose 30% tariffs on imported solar panel. China, the world leader in solar panel, expressly opposed such decision. Despite the refusal, the USA enacted 20% extra tariff on imported washing machine, which China hugely exported to the USA. In March 2018, Trump continued his campaign on the import restriction by investigating possible tariffs imposition. The list includes medical devices, aircraft parts, weapons and satellites as well.

Responding to the imposition, China also placed tariffs on imported goods from the USA, including aluminum, fruit, cars, pork, soybeans and steel piping. In April, 2018, Trump expressed its plan to calculate new tariffs, while China sought for consultation to the World Trade Organization (WTO) regarding the revision of tariffs. In May 2018, Chinese top economic advisor visited the white house in the conquest of finding a proper mean in preventing the trade war. China agreed to purchase more goods from the USA in order to reduce the deficit of the USA, which has been Trump's basis in starting the trade war. However, by the end of May the White House its plan to impose 25% tariffs on Chinese goods related to "Industrial Significantly Technology" and gained control over some prominent export bodies in order to prevent China from taking over economic ambience of the USA. China viewed this not to be consistent with the previous discussion and, therefore, would discontinue their trade discussion.

In June 2018, President of the USA, Donald Trump, imposed another tariff policy, which is 25%, upon US\$ 50 billion of Chinese Export. China viewed this as a real action to take a measure of trade war and China retaliates with similar policy toward the USA starting in July, 2018. The USA, responding to the plan, answered that 10% tariffs will be further imposed if China passed the retaliation law. Disregarding the threat, China imposed the tariff while alleged the USA to be the one started the trade war. The impact of such war would affect the whole supply chain around the globe.

In shorts, B 36 mberg classified the timeline by the following:

- a. 9 Mar 2018: US President Donald Trump signs tariffs on imported steel and aluminum from all countries, including China.

<sup>3</sup> Mardalis, *Metode Penelitian Suatu Pendekatan Proposal*, (Jakarta: Bumi Aksara, 2009), page 55.

<sup>35</sup>

<sup>4</sup> Mukti Fajar ND and Yulianto Achmad, *Dualisme Penelitian Hukum Normatif dan Empiris*, (Yogyakarta: Pustaka Belajar, 2010), page 34

<sup>5</sup> *ibid.*

- <sup>26</sup>
- b. 22 Mar 2018: the US responses tariffs in response to China's "unfair trade practices" related to technology transfer, P, and Innovation; says it will complain to WTO and look at restricting investment from China.
  - c. 23 Mar 2018: China unveils tariffs on \$3 billion of US imports in response to steel and aluminum tariffs.
  - d. 16 Apr 2018: the US penalizes China's ZTE for violating a previous agreement punishing it for doing business with Iran and North Korea, bans it from buying US technology for 7 years.
  - e. 10 May 2018: ZTE ceases major operations in the US.
  - f. 20 May: Both nations reach an agreement and issue a joint statement. The US agrees to hold off on tariffs.
  - g. 29 May 2018: the US announces that it's moving ahead with tariffs on \$50 billion of imports and a plan to curb investment in sensitive technology.
  - h. 15 June 2018: The US announces tariffs on \$50 billion of imports from China, with Trump threatening more if China retaliates.
  - i. 19 June 2018: Trump says US looking to put tariffs on another \$200 billion of Chinese exports, with another \$300 billion after that if China retaliates.
  - j. 21 Jun 2018: President Xi Jinping says China will hit back of struck
  - k. 6 July 2018: ZTE Corp. receives limited authorization to resume business
  - l. 6 July 2018: Tariffs on \$35 billion imports begin from both sides

## 2. Trump's America First Policy

Trade war is one of Trump's controversial foreign policy, "America First". The Washington Post defines the philosophy to mean tweeted attacks on fellow world leaders, efforts to dramatically reduce the number of refugees allowed into the USA, threats of tariffs and deep cuts to the State Department's budget.<sup>6</sup> Indeed, this policy is beyond acceptable for foreign countries as Trump will be targeting all policy that causes America to suffer from any kind of negative impact, no matter how small it is. While other states argue that it is not true, the president decides to put a hard eye on them and promote the policy. With his policy of "America First," President of the USA, Donald Trump, has a very different take on this complex web of treaties and alliances set up and shaped by the USA over the past seven decades. Trump's business background guides his world view, and he often sees them as financial burdens rather than assets.<sup>7</sup>

The result, of course, the heating relationships between the USA and other countries. Trump originally urges this to recover America's economic health, which he accused to be crippled by other countries. However, many economists believe that this policy has adverse effects in a long term, not only economically, but also politically. The final result could even make this policy into "America alone" instead.<sup>8</sup>

## 3. History of Trade Wars

<sup>16</sup>  
There is no formal definition of trade war as it is merely a trade war is an economic conflict resulting from extreme protectionism in which states raise or create tariffs or other trade barriers against each other in response to trade barriers created by the other party. In other words, a trade war is ignited when a country increased foreign goods tariffs in order to get in the country. While the effect of the trade war has historically proven to be unpleasant for the global economic, trade wars had been waged from time to time, affecting the global economics. According to WTO, Customs duties on merchandise imports are called tariffs. Tariffs give a price advantage to locally-produced goods over similar goods which are imported, and they raise revenues for governments.

The current soon-to-be trade war between the superpower countries is not the first on the screen. To name a few, some infamous trade wars occurred including.<sup>9</sup>

<sup>21</sup>  
<sup>6</sup>Johnson, J. (2018, April 27). *What does 'America first' really mean?*. [https://www.washingtonpost.com/politics/what-does-america-first-really-mean/2018/04/25/907d2964-46ed-11e8-9072-f6d4bc32f223\\_story.html?utm\\_term=.7bfb36b00044](https://www.washingtonpost.com/politics/what-does-america-first-really-mean/2018/04/25/907d2964-46ed-11e8-9072-f6d4bc32f223_story.html?utm_term=.7bfb36b00044)

<sup>15</sup>  
<sup>7</sup>Myre, G. (2018, June 8). *With 'America First,' Trump Challenges The World Constructed After World War II.* <https://www.npr.org/2018/06/18/620939136/how-trump-s-america-first-policy-could-interfere-with-the-truman-doctrine>

<sup>19</sup>  
<sup>8</sup>Glasser, S.B. (2018, June 8). *Under Trump, "America First" Really Is Turning Out to Be America Alone.* <https://www.newyorker.com/news/letter-from-trumps-washington/under-trump-america-first-really-is-turning-out-to-be-america-alone>

<sup>25</sup>  
<sup>9</sup>Mishra, A.R. (2018, July 6) *Top 5 infamous trade wars in history.* <https://www.livemint.com/Politics/78YKGLdxbKUNTFqYEB1OP/Top-5-infamous-trade-wars-in-history.html>

**a) Opium War**

The trade war happened between 1839-1842 between the Qing Dynasty and the British Empire. The British Empire banned opium to be transported to China, which has eventually led to the loss of China's control over Hong Kong in the second Opium War in 1856-1860, on which Britain and France gained trade control by successfully forcing China to exempt all forms of tariffs on foreign goods. The exemption, then, shrank the power of Qing dynasty and ended up as the beginning of China's modernization.

30

**b) Smooth-Hawley Tariffs Act**

In 1930, to protect the falling stock market and domestic industry, the USA president Herbert Hoover signed the Smoot-Hawley Tariff Act which was originally aimed to protect the USA farm sector. However, the act also included more than 20,000 products from other sectors. The tariff invited other countries to retaliate, which led to 61% decrease in the USA exports 3 years after., worsening the Great Depression.

**c) Chicken War**

In 1960s, the demand of European Chicken fell as people prefer cheaper American Chicken in general. In retaliation, the USA imposed high tariffs on some goods imported from France and Germany, including cars.

**d) Pasta War**

In 1981, the USA raised tariffs on Pasta from Europe in due to the alleged discrimination against its Citrus product. Europe retaliated in kind with higher tariffs on American lemon and walnuts. In August 1986, both sides signed an agreement ending the citrus dispute and in October 1987 ended the pasta dispute.

**e) Banana War**

To restrict import of Bananas<sup>10</sup> to its colonies in Africa and Caribbean, Europe imposed heavy tariffs on import of Latin American bananas in 1993. Since the USA companies own most of the banana farms in Latin America, the USA filed eight separate complaints in the WTO. The EU agreed in 2009 to gradually reduce tariffs on bananas from Latin America. However, it is only in 2012 that the EU and 10 Latin American countries signed an agreement to formally end all the eight WTO cases, ending the 20 years long banana war. The USA is no new comer in the trade war. From time to time, the USA has ignited many trade wars for their economic sake. Therefore, it would be reasonable to expect the upcoming trade war realization with regard to the history.

**4. Legal Framework of Trade Wars and the USA's Failure to Comply**

Indeed the term "trade war" itself is not recognized under international law as it is by any mean merely refer to the tariffs infringement causing the countries to cause economic damage to the other states. However, as of now, the tariff regulation lies under the jurisdiction of WTO. WTO mainly relies on **General Agreement on Tariffs and Trade (GATT 1947)** in terms of tariffs' regulation. However, Article XXVIII of the agreement do not put any threshold but instead encourages negotiation to play an important role in setting tariffs.<sup>11</sup>

The negotiation should be carried out as stated on article 2 that,<sup>12</sup> "Negotiations under this Article may be carried out on a selective product-by-product basis or by the application of such multilateral procedures as may be accepted by the contracting parties concerned. Such negotiations may be directed towards the reduction of duties, the binding of duties at then existing levels or undertakings that individual duties or the average duties on specified categories of products shall not exceed specified levels. The binding against increase of low duties or of duty-free treatment shall, in principle, be recognized as a concession equivalent in value to the reduction of high duties". Furthermore, on the next article, WTO also standardized the means to be taken to conduct a successful tariffs negotiation, which should consider:

- a) the needs of individual contracting parties and individual industries;
- b) the needs of less-developed countries for a more flexible use of tariff protection to assist their economic development and the special needs of these countries to maintain tariffs for revenue purposes; and

<sup>10</sup>.Mardalis, *supra* note 2, page 55

<sup>11</sup>.Article 1 of the agreement says: "The contracting parties recognize that customs duties often constitute serious obstacles to trade; thus negotiations on a reciprocal and mutually advantageous basis, directed to the substantial reduction of the general level of tariffs and other charges on imports and exports and in particular to the reduction of such high tariffs as discourage the importation even of minimum quantities, and conducted with due regard to the objectives of this Agreement and the varying needs of individual contracting parties, are of great importance to the expansion of international trade. The CONTRACTING PARTIES may therefore sponsor such negotiations from time to time.

<sup>12</sup> Article XXVIII bis of the General Agreement on Tariffs and Trade (GATT 1947)

- c) all other relevant circumstances, including the fiscal, developmental, strategic and other needs of the contracting parties concerned.

The question arises further is whether the US has placed its active tariffs under the specified procedures or not. By all means, Trump based his tariffs placement by the allegedly increase of Chinese domination in the US market. Despite the argument, the GATT regulation does not find it to be a sufficient basis to justify the means taken in waging trade wars. Trump did not take a peaceful negotiation step before the tariff placement, not to mention his obligation to take into account other countries. Therefore, WTO has its authority to impose sanction to the US due to its failure to comply with the framework.

#### 5. The USA Withdrawal from International Agreements and Its Impacts

One of the notable saga of the Trade War include Trumps policy to withdraw or renegotiate some of important agreements. These include:

##### a. Trans Pacific Agreement

Trump's biggest controversy is withdrawing from Trans Pacific Partnership (TPP). The TPP was a secretive, multinational trade agreement that threatened to extend restrictive intellectual property (IP) laws across the globe and rewrite international rules on its enforcement. It would create a free-trade zone among 12 nations around the Pacific, making it the world's largest. The countries within its scope account for 40 per cent of the world's economic output. Impacts<sup>13</sup>: One of the most clear impacts should be taken seriously is the fact that US withdrawal has rung a bell of end to the current architecture of global trade. Secondly, US withdrawal has invited other countries, which might be even as powerful, to create other bilateral or multilateral agreements without involving US, which is a big drawdown for the US. Third, Just as Beijing was able to portray itself as a bastion of fiscal conservatism during the Great Recession, it is already in the process of portraying itself as the guardian of trade multilateralism and transparency by pushing its existing alternative to the TPP - the Regional Comprehensive Economic Partnership.

##### b. The North American Free Trade Agreement (NAFTA)

NAFTA is an agreement signed by Canada, Mexico, and the USA, creating a trilateral trade bloc in North America. The agreement came into force on January 1, 1994. It superseded the Canada–United States Free Trade Agreement between the U.S. and Canada. Most economic analyses indicate that NAFTA has been beneficial to the North American economic and the average citizen, but harmed a small minority of workers in industries exposed to trade competition. Economists hold that withdrawing from NAFTA or renegotiating NAFTA in a way that reestablishes trade barriers will adversely affect the U.S. economy and cost jobs. Despite the opinion, Trump invited the members to re-discuss the agreement and requested Canada to approve 5 years sunset clause on any renegotiated trade agreement. This was clearly unacceptable to Canada.

Impacts<sup>14</sup> the USA withdrawal from NAFTA will come with severe consequences. The American Action Forum, a center-right nonprofit, released the report to examine the negative economic impact the United States would face if it withdraws from the NAFTA. The research found that withdrawing from the trade deal would have a negative impact on trade, job growth, and consumer costs. The report adds that withdrawing from the trade deal could cost 187,000 domestic jobs, expose businesses to US\$15.5 billion in new tariffs, and increase consumer costs by at least US\$7 billion. Additionally, withdrawing from the trade deal could also send shockwaves through the stock market.<sup>15</sup>

##### c. Paris Climate Accord

Trump withdrew the accord on June 2017, claiming the agreement to be a “disadvantages the United States to the exclusive benefits of other countries.” Trump stated that the concept of global warming is a hoax from Chinese to cripple US's economic. In withdrawing from the accord, Trump has proven himself to be a “selfish” entity in terms on managing his country at least. Impacts<sup>16</sup>: First, for the US, the withdrawal is going

<sup>13</sup> Wagner, D. (2016, Nov 21). *Implications Of The U.S. Withdrawal From The TPP*. [https://www.huffingtonpost.com/daniel-wagner/implications-of-the-us-wi\\_b\\_13217208.html](https://www.huffingtonpost.com/daniel-wagner/implications-of-the-us-wi_b_13217208.html)

<sup>14</sup> Wolf, C.D. (2017, Dec 11). *NAFTA Withdrawal Could Cost 14 Million Jobs*. <https://www.insidesources.com/nafta-withdraw-costly/>

<sup>15</sup> *Ibid.*

<sup>16</sup> McGrath, M. (2017, Jun 1). *Five effects of US pullout from Paris climate deal*. <https://www.bbc.com/news/science-environment-4012070>

to give her a tough time as China is still consistent with the accord, strengthen her alliances with EU's countries. Secondly, the shift in the USA away from coal is mirrored in other developed countries. The UK will phase out coal for the generation of electricity by 2025 - the number of jobs in the USA coal industry is now just a half of the number employed in solar. While developing countries are likely to still depend on coal for decades to come as their primary source of energy, the impact on air quality and public anger about pollution will be a limiting factor.

#### d. **Iran Nuclear Deal**

Trump announced he was withdrawing the USA from the 2015<sup>th</sup> deal to limit Iran's nuclear program, President Barack Obama's signature foreign-policy achievement. It's never been clear to this observer why Obama was focused on reaching any deal with Iran instead of using sanctions leverage to forge a good deal: one that would have rewarded Iran, incrementally, for good behavior rather than delivering a lump-sum payment up front, which was used finance Iran's terrorist proxies. That said, Trump campaigned on a promise to withdraw from all of the above, unless his demands were satisfied. The Commerce Department opened an investigation to determine whether imports of "SUVs, vans and light trucks" threaten the national security of the USA. Some assertions are too ridiculous to rebut. Trump is determined to dismantle the system that has been built up over the last 70 years to integrate free nations, both politically and economically, by establishing institutions to settle disputes through dialogue. Trump is laying waste to that system. It is rare for the G-7 to condemn one of its members, at least publicly, as finance ministers and central bank governors stated. To direct that criticism at the U.S., once the chief proponent of free trade among nations, is unthinkable. For a president not known for taking criticism lying down, it would not be out of character for Trump to shake things up at this weekend's G-7 meeting with a veiled threat.<sup>17</sup>

Impact: By the withdrawal, Iran is now under the sanctioned which was promised to be lifted and, on the other hand, Iran's strict limit of nuclear program has now been casted out. The USA was known to be the leader of free trade. Yet, it seems that over the last years, US has slowly taken off the image by taking more "protectionism" act, making the free trade to be less feasible to be realized. It was quite clear that protectionism act was taken as the excuse of US withdrawal. Trump believes that USA will not be benefited from the agreement.

### 6. **Impacts of Trade Wars**

International law did not illegalize war by any means, despite of how severe the impact may be. No war in the history has positively impact the globe as a whole. The nature applies not only in terms of real warfare but also trade war. The trade wars, should it happen as expected, has historically proven its true threat to the world, especially in terms of economic development. The past always has something to say in predicting the future and the past trade wars ended up with dire consequences. In general, the following are the possible negative result of the trade wars, as reflected by previous economic warfare:

#### a. **In 1930's Trade Wars Ended up With the Great Depression**

Let us not forget one of the greatest trade war happened that happened in 1930, the Smoot-Hawley Tariff Act. The act was originally passed by the US to revive the crippled economy. However, instead of recovery, the policy started the Great Depression. Just to remind the readers, the Great Depression is considered to be the darkest economy era in the 20<sup>th</sup> century and has been used to symbolize how bad economics can plummet.

#### b. **Plunge of Stock Market<sup>18</sup>**

The stock market has never been on the side of the trade war. Historically, in any case where the trade war was about to be waged, including the current war, the bear will take over the bull. In stock market, bear represents the plunge of prices, while bull symbolizes the rise of it. The symptoms of war often alarm cautious steps to be taken by investors and, therefore, the stock traders will showed panicking characteristic, letting the

<sup>17</sup>.Wolf, C.D, *supra* note 13.

<sup>18</sup>.Sri Kumar, K. (2018, June 18). *History's Not on the Market's Side in a Trade War*.  
<https://www.bloomberg.com/view/articles/2018-06-18/trade-wars-don-t-end-well-for-financial-markets>

market to enter a downtrend phase.<sup>19</sup> A solid example can be found in the 1930 trade war where the great depression has noted the plunge in the stock market to be one of the worse in the financial market histories. The Great Depression, as mentioned in the previous point, was started with the Black Tuesday, where the Dow Jones Industrial Average fell by 12%.

### c. War Ignition

Frédéric Bastiat, one of the greatest economist in the 1800s, says that “when goods don't cross borders, Soldiers will”. His reasoning was based on the fact that in the economics point of view, the economically interdependent country has too much to sacrifice if it opts to wage a war against countries it depends on. However, if the USA forces China to release such dependency, despite how slight it is, the world war III might be closer than we thought.

## 7. Expected Impact from the US-China Trade Wars

There have been some estimation of the upcoming effects on any levels: between the parties of war, globally and other countries uninvolved with the trade war (the collateral “victims”). These

### a. Macroeconomics Disruption: Slowed Economic Growth

Oxford Economics, an economic consultancy, estimates that the trade war between the superpower countries will result to the decrease growth rate of each countries by around 0.1-0.2%, which is macro-economically significant, remembering the fact that each will lose the amount of US\$ 60 billion and US\$ 30 billion respectively.

### b. Microeconomics Disruption: Crippled Chinese Company

China is well known for their well-established companies with products throughout the globe. The tariff barriers imposed by Trump would hugely impact their growth, especially those with primary markets in the USA. Due to the nature of the imposition, it also important to bear in mind that non-tariff barriers (including quality standards, and bureaucratic means) may also be applied by the US Government, resulting in the possibility of extra cost involved.

### c. Global Supply Chain will be Unstable

Regardless of the fact that the trade war included only the US and China, the non-discrimination principle<sup>20</sup> disallow each to apply tariffs only on one country. Therefore, all foreign goods, not only Chinese, will be affected by the policies by the countries. The trade war will halt goods from all foreign countries, which is not something pleasant for the world economics.

### d. Collateral Damage to the Non-parties of the Trade War

The tariffs, even though mainly aimed at China, also inflict considerably huge impact to the other countries. Trump also has damaged United Kingdom (UK), as a few examples, by investigating the possibilities of placing tariffs on cars and automobiles. The Bank of England has done some simulations and estimated that a full-blown global trade war could end up hitting global GDP by 2.5% over three years, with the UK economy suffering a 2 per cent hit. This effects still yet to consider other damage to other countries with large export to the US, including Mexico and Canada.

### e. Shift of Power?

Many economists believe that the economic trend has somehow in favor of the east during the past years. The trade wars waged by the US has left the rest of the world in confusion and fear of the fact that the trade war between the superpower countries will greatly affect them. Up to the wage of the war itself, China still tried to resolve the issue. Despite the controversy, the fact that US\$ chart has gone through the roof is another prove that US is not going down so easily. US\$ has been raising for some time and to say that the USA is passing the torch to other countries is still too premature to conclude.

<sup>12</sup>

<sup>19</sup> During this phase it is clear that the business conditions in the market are getting worse and the sentiment is becoming more negative as time goes on. The market continues to discount the worsening conditions as selling increases and buying dries up

<sup>5</sup>

<sup>20</sup> Non-discrimination is a fundamental principle of the multilateral trading system and is recognized in the Preamble to of the WTO Agreement as a key instrument to achieve the objectives of the WTO. In the Preamble, WTO members express their desire to eliminate discriminatory treatment in international trade relations. Non-discrimination in the WTO is embodied by two principles, the most favored nation (MFN)

Despite the fact that the policy the USA enforces has caused a condition where it is moving toward "US vs other states", the USA still holds strong control over economic, politic and law. The shift of power will probably happen when the USA withdrawal has ended up with a new agreement between China and other countries. Should this happen, China would be leading the world in welcoming the free trade and the USA might be left alone, leaving her with less economic effect throughout the world. The data from World Trade Export still pronounces the USA's dependability to other worlds. The data of the USA imports from World Stop

port can be found below:

- 1).Electrical machinery, equipment: US\$356.8 billion (14.8% of total imports)
- 2).Machinery including computers: \$349.1 billion (14.5%)
- 3).Vehicles: \$294.6 billion (12.2%)
- 4).Mineral fuels including oil: \$204.2 billion (8.5%)
- 5).Pharmaceuticals: \$96.4 billion (4%)
- 6).Optical, technical, medical apparatus: \$86.2 billion (3.6%)
- 7).Furniture, bedding, lighting, signs, prefab buildings: \$67.2 billion (2.8%)
- 8).Gems, precious metals: \$60 billion (2.5%)
- 9).Plastics, plastic articles: \$54.9 billion (2.3%)
- 10).Organic chemicals: \$46.1 billion (1.9%)

If in any case, the USA fully implement the "America first" foreign policy, Trump will need to cope with the lack of supply from those goods as they do not have sufficient supply of those goods to maintain the national needs. Conclusively, China will probably gain control over the power when she has successfully invited other countries to arrange a new world with a real free trade without the USA. The USA might be having trouble because of her own policy.

#### IV. CONCLUSION

The USA is not a new player in the history of trade wars. She has been involved in many war before and is still aiming to start one of the biggest trade wars by waging a war against China. The protectionism of Donald Trump government has decided on "America first" foreign policy, one of which is the one igniting the trade war. Trump should also been questioned for its responsibility to invite the other countries into a negotiation as obliged by WTO's GATT. Trump's unilateral action has failed this condition and should be demanded for an answer before international law. Trump's America first policy has also led to the USA's withdrawal from some important agreements, including NAFTA, Trans Pacific Partnership, Climate Accord and Iran Nuclear Agreement. None of them would end up with good impact, according to economists.

The writer authors do not find any good record of trade war as mostly it will lead to economic destruction. One of the worst was the Great Depression in 1930, which began with a trade war ignition. The current upcoming trade war will be recorded as one of the biggest, and might disrupt economy global both macro-economically and micro-economically, should WTO did not interfere as China requested.

With regard to the shift of power from the USA to other country, the writer believes it is possible but is still premature to expect it. However, China will regain its throne in free trade if she successfully invite other countries to join force in creating the world of free trade without the USA, while on the other hand, USA might be crippled due to its own policy that disrupts the supplies of needed goods within USA.

#### REFERENCE

##### Books

- [1]. Mardalis, Metode Penelitian Suatu Pendekatan Proposal. (Jakarta: Bumi Aksara, 2009).
- [2]. Mukti Fajar ND and Yulianto Achmad, Dualisme Peneltian Hukum Normatif dan Empiris, (Yogyakarta: Pustaka Belajar, 2010).

##### Documents

- [3]. Article XXVIII bis of the General Agreement on Tariffs and Trade (GATT 1947)

##### Others

- [4]. Glasser, S.B. (2018, June 8). Under Trump, "America First" Really Is Turning Out to Be America Alone. <https://www.newyorker.com/news/letter-from-trumps-washington/under-trump-america-first-really-is-turning-out-to-be-america-alone>
- [5]. Johnson, J. (2018, April 27). What does 'America first' really mean?. [https://www.washingtonpost.com/politics/what-does-america-first-really-mean/2018/04/25/907d2964-46ed-11e8-9072-f6d4bc32f223\\_story.html?utm\\_term=.7bfb36b00044](https://www.washingtonpost.com/politics/what-does-america-first-really-mean/2018/04/25/907d2964-46ed-11e8-9072-f6d4bc32f223_story.html?utm_term=.7bfb36b00044)
- [6]. McGrath, M. (2017, Jun 1). Five effects of US pullout from Paris climate deal. <https://www.bbc.com/news/science-environment-4012070>
- [7]. Mishra, A.R. (2018, July 6)Top 5 infamous trade wars in history. <https://www.livemint.com/Politics/78YKGldxbKUINTFqYEB1OP/Top-5-infamous-trade-wars-in-history.html>
- [8]. Myre, G. (2018, June 8). With 'America First,' Trump Challenges The World Constructed After World War II. <https://www.npr.org/2018/06/18/620939136/how-trump-s-america-first-policy-could-interfere-with-the-truman-doctrine>

*The Usa-China Trade War : Import Restrictions From The International Trade Law*

---

- [9]. Sri Kumar, K. (2018, June 18). History's Not on the Market's Side in a Trade War. <https://www.bloomberg.com/view/articles/2018-06-18/trade-wars-don-t-end-well-for-financial-markets>
- [10]. Wagner, D. (2016, Nov 21). Implications Of The U.S. Withdrawal From The TPP. [https://www.huffingtonpost.com/daniel-wagner/implications-of-the-us-wi\\_b\\_13217208.html](https://www.huffingtonpost.com/daniel-wagner/implications-of-the-us-wi_b_13217208.html)
- [11]. Wolf, C.D. (2017, Dec 11). NAFTA Withdrawal Could Cost 14 Million Jobs. <https://www.insidesources.com/nafta-withdraw-costly/>

Ariawan Gunadi "The Usa-China Trade War : Import Restrictions From The International Trade Law "International Journal of Humanities and Social Science Invention(IJHSSI), vol. 07, no. 10, 2018, pp. 06-14

# The Usa-China Trade War : Import Restrictions From The International Trade Law

## ORIGINALITY REPORT

**%24**  
SIMILARITY INDEX

**%20**  
INTERNET SOURCES

**%3**  
PUBLICATIONS

**%20**  
STUDENT PAPERS

## PRIMARY SOURCES

**1** Submitted to University of the West Indies **%2**  
Student Paper

**2** Submitted to Guildford College **%2**  
Student Paper

**3** indianexpress.com **%1**  
Internet Source

**4** Submitted to Los Osos High School **%1**  
Student Paper

**5** ecampus.wto.org **%1**  
Internet Source

**6** ijhssi.org **%1**  
Internet Source

**7** Submitted to Universitas Diponegoro **%1**  
Student Paper

**8** www.huffingtonpost.com **%1**  
Internet Source

**9** www.ijhssi.org

Internet Source

% 1

10

[legal.un.org](http://legal.un.org)

Internet Source

% 1

11

[www.npr.org](http://www.npr.org)

Internet Source

% 1

12

[www.slideshare.net](http://www.slideshare.net)

Internet Source

% 1

13

Submitted to Laureate Education Inc.

Student Paper

% 1

14

Submitted to Regis University

Student Paper

% 1

15

Submitted to University of Auckland

Student Paper

% 1

16

Submitted to Singapore Management University

Student Paper

% 1

17

Submitted to Girne American University

Student Paper

% 1

18

Submitted to CSU, San Jose State University

Student Paper

% 1

19

Submitted to Griffith College Dublin

Student Paper

% 1

20

[issuu.com](http://issuu.com)

Internet Source

% 1

---

21 Submitted to SolBridge International School of Business % 1  
Student Paper

---

22 [www.eff.org](http://www.eff.org) % 1  
Internet Source

---

23 Submitted to Lander University <% 1  
Student Paper

---

24 Submitted to Carnegie Mellon University <% 1  
Student Paper

---

25 Submitted to Hult International Business School <% 1  
Student Paper

---

26 Submitted to University of Florida <% 1  
Student Paper

---

27 [www.linkedbd.com](http://www.linkedbd.com) <% 1  
Internet Source

---

28 [ijil.ui.ac.id](http://ijil.ui.ac.id) <% 1  
Internet Source

---

29 Submitted to University of Hull <% 1  
Student Paper

---

30 [www.textiletoday.com.bd](http://www.textiletoday.com.bd) <% 1  
Internet Source

---

31 [www.theglobeandmail.com](http://www.theglobeandmail.com) <% 1  
Internet Source

---

32

wtocenter.vn

Internet Source

<% 1

33

Submitted to Becker College

Student Paper

<% 1

34

www.pbcsf.tsinghua.edu.cn

Internet Source

<% 1

35

Submitted to Tarumanagara University

Student Paper

<% 1

36

Submitted to Napier University

Student Paper

<% 1

EXCLUDE QUOTES ON

EXCLUDE BIBLIOGRAPHY ON

EXCLUDE MATCHES < 15 WORDS