Trade Multilateralism and National Security: Antinomies in the History of the International Trade Organization

Mona Pinchis-Paulsen

Jean Monnet Center, New York University

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Abstract

Since 2016, the Trump Administration has taken several unilateral actions that defy the multilateral trading system that the US helped create after World War II. In particular, a "tariff war" began when the Trump Administration used a US trade law, known as Section 232 of the Trade Expansion Act of 1962, to impose billions of tariffs on imports of steel and aluminium from US trading partners and allies, such as Canada and the European Union. Nine countries have commenced dispute settlement proceedings under the World Trade Organization (WTO), challenging the US tariffs as WTO-illegal and unjustified on national security grounds. In response, the US has argued that the WTO rules contain a national security exception that is "self-judging" and non-justiciable, meaning that the US invocation of national security is not susceptible to review by WTO dispute settlement.

With extensive archival research and an assessment of primary sources, this paper considers the argument that the national security exception of the General Agreement on Tariffs and Trade (GATT) is both "self-judging" and non-justiciable. The paper focuses on the construction of the proposed predecessor to the WTO – the International Trade Organization (ITO). The paper emphasizes a series of internal US government debates that went on in Geneva, Switzerland, during the second preparatory committee meeting prior to the final UN conference on trade and employment in the Summer of 1947. Through an examination of internal US delegation meeting minutes, the paper reveals how US officials viewed trade multilateralism as a constitutive element of US foreign policy. It further shows that the US delegation demonstrated vigorous opposition towards language that entrenched unilateral interpretation of the national security exception, believing such language was a sure way to destroy the ITO.