

Bloomberg (Sept. 15, 2020)

U.S. Violated Trade Rules With Tariffs on China, WTO Says

By Bryce Baschuk

WTO panel upholds a complaint filed by China over U.S. tariffs

The U.S. imposed levies over intellectual rights violations

The World Trade Organization undercut the main justification for President Donald Trump's trade war against China, saying that American tariffs on Chinese goods violate international rules.

A panel of three WTO trade experts on Tuesday said the U.S. broke global regulations when it imposed tariffs on Chinese goods in 2018. Washington has imposed levies on \$400 billion in Chinese exports.

The panel said in its report “that the United States had not met its burden of demonstrating that the measures are provisionally justified.”

While the ruling bolsters Beijing's claims, Washington can effectively veto the decision by lodging an appeal at any point in the next 60 days. That's because the Trump administration has already paralyzed the WTO's appellate body, a tactic that has rendered toothless the world's foremost arbiter of trade.

The dispute centers on the Trump administration's use of a 1970s-era U.S. trade law to unilaterally launch its commercial conflict against China in 2018.

China claimed the tariffs violated the WTO's most-favored treatment provision because the measures failed to provide the same treatment to all WTO members. China also alleged the duties broke a key dispute-settlement rule that requires countries to first seek recourse from the WTO before imposing retaliatory measures against another country.

[Read More: Trump's Bid to Dismantle Global Trading System Poised for a Win](#)

The U.S. tariffs against China were authorized under Section 301 of the Trade Act of 1974, which empowers the president to levy tariffs and other import restrictions whenever a foreign country imposes unfair trade practices that affect U.S. commerce. The Trump

administration has claimed the tariffs were necessary to confront China's widespread violations of intellectual property rights and forced technology transfer policies.

Though the use of Section 301 isn't unprecedented, the provision largely fell out of favor in the 1990s after the U.S. agreed to first follow the WTO's dispute settlement process before it triggered any retaliatory trade actions.

While the European Union has so far been spared U.S. levies based on the controversial Section 301, the 27-nation bloc may breathe a sigh of relief over Tuesday's WTO verdict. That's because the Trump administration has threatened to use Section 301 to hit European goods with levies in retaliation over the taxation of digital companies in the EU.

See: WTO panel issues report regarding US tariffs on Chinese goods
15 Sept. 2020 "United States — Tariff Measures on Certain Goods from China"
(DS543). [Panel report](#)

From Panel Report

In sum, the Panel concludes that the measures at issue are prima facie inconsistent with **Article I:1**, because the additional duties apply only to products from China The Panel will now assess the United States' argument that any inconsistency of the measures with provisions of the GATT 1994 is justified as necessary to protect US public morals pursuant to Article XX(a) of the GATT 1994. The United States asserts that any inconsistency of the measures at issue with provisions of the GATT 1994 is justified as necessary **to protect US public morals** pursuant to Article XX(a) of the GATT 1994. This is because, according to the United States, China's acts, policies, and practices addressed in the relevant Section 301 Report amount to "state-sanctioned theft and misappropriation of U.S. technology, intellectual property, and commercial secrets which violates the public morals prevailing in the United States.