

The Consistency of the Recent US Unilateral Tariff Measures with the GATT Security Exception

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Abstract: Ever since Donald Trump's return to the US presidency in January 2025, the state's unilateral trade restrictions justified on the grounds of an expanding notion of "national security" have intensified. In July, the US again imposed additional tariffs on Brazil and India, citing human rights and energy trade with Russia as justifications. At the WTO, the US constantly invoked the security exception of GATT in disputes raised by its additional tariff measures, rejecting the jurisdiction of the Dispute Settlement Body (DSB). However, the text of WTO agreements and previous dispute settlement precedents affirm that the DSB has undisputed jurisdiction over disputes invoking the security exception clause. Furthermore, the reasons advanced by the US for imposing additional tariffs on its trade partners do not fall within the scope of "essential security interests" defined by Article XXI of the GATT, amounting instead to an abuse of the security exception. Reactions from other states to such unilateral US tariff measures have been mixed: some countries have chosen to compromise and negotiate settlements with the US, while a smaller number have initiated consultations at the WTO, and the relevant disputes have yet to be adjudicated. In light of the growing trend of weaponized trade policies, all countries should actively articulate their opposition in order to safeguard their own developmental interests. Furthermore, the revision of the GATT security exception could be incorporated into the WTO reform agenda, improving the exception rule by incorporating language such as "to be interpreted in good faith" and consolidating consensus among WTO Members during the reform process.

Keywords: GATT, Security Exception, Generalization of National Security, WTO Reform

Since Trump's re-inauguration as US President on January 20, 2025, the expansion of national security rationales in the field of international trade has intensified and taken on new characteristics. The Trump Administration has employed national security as a shield to justify its trade policies, imposing a series of unilateral tariff measures on the grounds of economic development, trade deficit, public health, and human rights. In the ensuing disputes, the

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US relied constantly on the General Agreement on Tariffs and Trade (GATT) security exception as a defense. However, these unilateral tariffs do not fall within the conditions for lawful recourse to security exceptions, indicating that the US has abused the GATT security exception provisions. With regard to Washington's numerous unilateral measures, Members have responded with mixed reactions: some have reached consensus through direct negotiations with the US, while others have opted to pursue consultations within the World Trade Organization (WTO) framework. Amidst the continuous US practice of overly expanding the scope of national security, a collective response is needed. States need to work together to unequivocally oppose the instrumentalization and weaponization of national security in trade and economic affairs. Furthermore, the incorporation of targeted revisions to the security exception provision within the broader agenda of WTO reform is not merely a matter of textual refinement, but a structural necessity for the long-term stability of the multilateral trading system. By clarifying the boundaries of permissible state conduct and embedding interpretative principles such as good faith, such reforms would contribute to curbing the risk of abuse, ensuring that the invocation of national security does not become a *carte blanche* for protectionist measures. In turn, this process would facilitate the building of consensus among WTO Members, enhance mutual trust, and ultimately improve the legitimacy, predictability, and effectiveness of the security exception regime.

I. THE UNITED STATES' RECENT PRACTICE OF OVER-SECURITIZATION OF TRADE POLICY

Following Donald Trump's return to the presidency in 2025, he swiftly resorted to the International Emergency Economic Powers Act (IEEPA) as the principal legal basis for a series of unilateral tariff measures, including the imposition of so-called "reciprocal tariffs" and fentanyl tariffs. From July 30, 2025 onwards, the US once again invoked the IEEPA to justify additional tariffs on Brazil and India, this time citing concerns about human rights and the need to reinforce sanctions against Russia.

A closer examination, however, reveals that these measures are

overwhelmingly driven by trade and economic considerations rather than genuine security threats. By declaring a national emergency, the Administration constructed an appearance of legality, thereby clothing what are essentially protectionist initiatives with the outward appearance of compliance with international law. In doing so, the US has instrumentalized the concept of national security, transforming it into a convenient legal façade for policies that are more accurately described as unilateral and protectionist in nature. Such practices not only blur the line between legitimate security measures and disguised restrictions on trade but also risk undermining the credibility of the multilateral trading system as a whole.

A. Fentanyl Tariffs Imposed on China, Canada, and Mexico

According to official records, on February 1, 2025, President Donald Trump signed Executive Orders No. 14193, No. 14194, and No. 14195, introducing what were termed “fentanyl tariffs” on imports from Canada, Mexico, and China. As specified in the measures, a 10% tariff was levied on Canadian energy and energy resources, while all other Canadian goods were subject to a 25% tariff. Mexican products were uniformly subjected to a 25% tariff across all sectors, whereas imports from China were subjected to a 10% tariff. Subsequently, in July 2025, Trump further signed another executive order entitled the “Amendment to Duties to Address the Flow of Illicit Drugs across Our Northern Border”, raising the 25% fentanyl tariff on Canada to 35% with effect from August 1, 2025. As stated in these executive orders, the rationale for these “fentanyl tariffs” lies in the alleged failure of the three states to adequately prevent the flow of fentanyl and other illicit drugs into the US, as well as Canada and Mexico’s failure to effectively halt illegal immigration from flowing into the US. In response, the Trump Administration declared a national emergency in the US and invoked the IEEPA to impose fentanyl tariffs on the three countries. The Order stated that North America has been engaged in dialogue on the public health impacts of illicit drugs since 2016, but the illegal drugs flowing into the US have not been resolved to date, which has been acknowledged by Canadian officials. The executive order also acknowledged that, although China had strengthened its export controls on fentanyl during Trump’s first term, illegal drugs continued to influx into the US, which was

described as contributing to a public health crisis.¹

B. Imposing “Reciprocal Tariffs” on Countries for Long-term Trade Deficits

In April 2025, Trump issued Executive Order 14257, entitled “Regulating Imports with a Reciprocal Tariff to Rectify Trade Practices that Contribute to Large and Persistent Annual United States Goods Trade Deficits”. Acting pursuant to the IEEPA, the Order declared a state of national emergency and introduced reciprocal tariffs applicable to virtually all of the US’ trading partners. In the following months, the US repeatedly adjusted and maintained its policy of reciprocal tariffs through subsequent regulatory measures and administrative updates. The implementation and a series of adjustments gave rise to formal disputes including the *United States — Additional Tariff Measures on Goods from China* (DS633) and *United States — Additional Import Duties on Goods from Canada* (DS634), both of which challenged the lawfulness of the US reciprocal tariff regime. The US, in response, invoked the GATT security exception clause, asserting that the imposition of such tariffs was a matter of national security and therefore beyond the jurisdiction of the DSB.² According to the terms of Executive Order No. 14257 and subsequent statements by the White House, the rationale for the reciprocal tariffs was the Administration’s determination that the “large and persistent” US annual trade deficits constitute an unusual and extraordinary threat to the national security and economy of the US. These deficits have hollowed out the country’s manufacturing base; inhibited its ability to scale advanced domestic manufacturing capacity;

1 The White House, Imposing Duties to Address the Situation at Our Southern Border, <https://www.whitehouse.gov/presidential-actions/2025/02/imposing-duties-to-address-the-situation-at-our-southern-border/> (Last Visited on January 18, 2026); The White House, Imposing Duties to Address the Synthetic Opioid Supply Chain in the People’s Republic of China, <https://www.whitehouse.gov/presidential-actions/2025/02/imposing-duties-to-address-the-synthetic-opioid-supply-chain-in-the-peoples-republic-of-china/> (Last Visited on January 18, 2026); The White House, Imposing Duties to Address the Flow of Illicit Drugs Across Our National Border, <https://www.whitehouse.gov/presidential-actions/2025/02/imposing-duties-to-address-the-flow-of-illicit-drugs-across-our-national-border/> (Last Visited on January 18, 2026).

2 WTO, *United States – Additional Tariff Measures on Goods from China*, https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds633_e.htm (Last Visited on January 18, 2026); WTO, *United States – Additional Import Duties on Goods from Canada*, https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds634_e.htm (Last Visited on January 18, 2026).

undermined critical supply chains; and rendered the US defense-industrial base dependent on foreign adversaries. Domestic productivity is the cornerstone of a country's national and economic security. The White House states that imposing reciprocal tariffs on all trading partners will help rebalance trade, restore US national and economic security, and advance industrial sectors.

C. Treating Brazilian Domestic Affairs as a Human Rights Issue and Imposing Tariffs on Brazil

On July 30, 2025, Trump signed an executive order titled “Addressing Threats to the United States by the Government of Brazil”. Acting pursuant to the IEEPA, the Order declared that additional tariffs of 40% would be imposed on the majority of goods imported from Brazil. In accordance with the Order, four kinds of recent actions taken by the Brazilian government threatened the national security, foreign policy, and economy of the US, violated and infringed on the free expression rights, fundamental human rights, as well as the interest the US has in protecting its citizens and companies. The four kinds of actions were specified as follows: first, compelling US online platforms to censor the accounts or content of Americans; second, blocking the ability of Americans to raise money on their platforms; third, changing the American content moderation policies, enforcement practices, or algorithms in ways that may result in the censorship of the accounts and content of Americans; fourth, requiring online platforms to provide the user data of accounts belonging to Americans, facilitating the targeting of political critics in the US.

The Order cited only one concrete example in support of the above claims, namely the trial of former President Jair Bolsonaro before the Supreme Federal Court of Brazil. The US rejected the legitimacy of the Brazilian government's allegations and described the ruling as an abuse of judicial authority. The Order justified the imposition of tariffs as a means of advancing US foreign policy, promoting American values, and safeguarding US sovereignty and security. On August 6, Brazil submitted a request for consultations with the US at the DSB, contesting the US measure. Brazil argued that the reliance of the US on domestic judicial proceedings in Brazil as a justification for trade restrictions lacked a valid basis under multilateral trade rules.

D. Tariffs on India in Connection with US Sanctions against Russia

On August 6, 2025, Trump signed an executive order titled “Addressing Threats to the United States by the Government of the Russian Federation”. Acting under the authority of the IEEPA and other relevant provisions of US domestic law, the Order declared that an additional 25% tariff would be levied on all applicable goods imported from India, which was effective as of August 27, 2025. The stated rationale behind this tariff was that India had allegedly continued to engage, directly or indirectly, in the importation of Russian oil, thereby undermining the effectiveness of US sanctions against Russia. According to the US government, these activities undermined the effectiveness of sanctions imposed by the US and its allies against Russia. In particular, Washington contended that India’s actions weakened the intended economic isolation of Russia, thereby diluting the impact of the sanctions regime and allowing Russia to generate revenues that could be channeled towards sustaining its military operations. The executive order formally characterized the tariff as a necessary response to what was described as the “ongoing threat posed by the Russian Federation to the national security and foreign policy of the US”. The imposition of the tariff was justified on the grounds that increasing the costs of trade would reduce the economic incentives for third countries to continue engaging in commercial transactions that could indirectly benefit the Russian economy. By raising the overall financial burden of such transactions, the US aimed to deter India, and by extension, other trading partners, from facilitating Russia’s access to energy markets.

From the perspective of the US Administration, the measure was designed to achieve two interrelated objectives. First, it was intended to reinforce the credibility and effectiveness of the broader sanctions regime imposed on Russia by the US and its allies. Second, it sought to apply additional economic pressure on Russia by constraining the avenues through which Moscow could sustain its revenue streams, particularly in the energy sector. The White House further asserted that the measure aligns with the long-term strategic goal of the US, namely to compel Russia to reconsider its continued military operations by curtailing the economic benefits it derives from international trade in oil and related products.

II. CONSISTENCY OF THE US UNILATERAL TARIFFS WITH THE GATT SECURITY EXCEPTION

The Trump Administration repeatedly relies on the IEEPA to impose unilateral tariffs on its trading partners, prompting several WTO Members, including China, Canada, and Brazil, to file consultations against the US within the WTO DSB framework. In response to these consultation requests, the US has invoked the security exception under Article XXI of the GATT as its principal defense. It argued that the tariffs imposed under the IEEPA were measures taken to protect its national security, thereby asserting that the resulting disputes fell outside the jurisdiction of the DSB. Article XXI of the GATT, commonly referred to as the security exception, provides that the contracting party shall determine independently whether to disclose information it considers contrary to its essential security interests, and to take actions in protection of its essential security interests. Such measures shall be related to fissionable materials or the materials from which they are derived, arms and military supplies, or be taken in time of war or other emergency in international relations.³

Since the aforementioned tariff measures are not encompassed in subparagraph (a), which concerns only the non-disclosure of sensitive information, the subsequent discussion will focus on two issues. The first is about the jurisdiction of the WTO dispute settlement system over disputes arising from the invocation of Article XXI. This issue has been constantly contested in several previous disputes, but an increasing body of precedent indicates that the DSB has in fact retained the authority to review invocations of the security exception. The second concerns the substantive question of whether the unilateral tariffs imposed by the US can reasonably be characterized as measures “necessary for the protection of essential security interests” within the meaning of subparagraphs (b) and (c), and more specifically, whether they fall within one of the four categories enumerated therein. This two-stage inquiry — jurisdictional competence followed by substantive assessment — will form the analytical framework for evaluating the extent to which the unilateral tariffs of the US are reconcilable with the security exception provisions under the GATT.

³ GATT 1994, Article XXI.

A. The Jurisdiction of the WTO DSB over Security Exception Claims

In the disputes initiated by China and Canada concerning the imposition of reciprocal tariffs and fentanyl tariffs, the US invoked the GATT security exception with the primary objective of excluding the DSB's jurisdiction over the disputes. In other words, Washington contended that once a measure is justified as relating to "essential security interests", the DSB loses competence to adjudicate the matter. As a matter of fact, this position of the Trump Administration represents a continuation of the international policy approach adopted by its predecessor, the Biden Administration. On December 11, 2024, the US submitted a communication to the WTO asserting that "judgments on matters of essential security are to be left to governments, and not adjudicators".

However, relevant provisions of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) point in the opposite direction. Article 1 of the DSU explicitly stipulates that the DSU shall apply to disputes brought pursuant to the consultation and dispute settlement provisions of the covered agreements, which include the GATT 1994. Article 23 of the DSU further provides that WTO Members shall have recourse to, and abide by, the rules and procedures when seeking redress for a violation under the covered agreements. Neither of these provisions excludes jurisdiction over disputes involving security exceptions. Therefore, disputes involving GATT security exceptions remain subject to the DSU rules, meaning that the DSB has retained jurisdiction to examine the claims involving Article XXI of the GATT.

This conclusion is also supported by precedents. A number of high-profile cases have addressed the scope of Article XXI. For instance, in *Russia — Measures Concerning Traffic in Transit* (DS512), the Panel rejected the argument that security exceptions were wholly "self-judging" and held that the DSB could review the invocation of Article XXI to determine whether the conditions of "emergency in international relations" were met. Likewise, in the *United States — Origin Marking Requirement* (DS597), concerning measures applied to goods originating from Hong Kong (China), the Panel assessed the reliance of the US on Article XXI. A similar process of reasoning was also adopted in the series of disputes concerning the Section 232 tariffs imposed by the US on steel and aluminum imports, where multiple panels considered that

the tariff in dispute fell outside the scope of Article XXI(b). Such precedents collectively demonstrate that, in practice, the DSB has consistently assumed jurisdiction over disputes in which security exceptions are invoked.

The interpretative framework for international law provided by the Vienna Convention on the Law of Treaties (VCLT) is also a crucial reference. Article 31 of the VCLT requires that treaties be interpreted in good faith and in the light of their object and purpose. The drafting history of the GATT security exception suggests that the security exception clause was designed primarily to reassure contracting parties that adherence to the Agreement would not unduly compromise their ability to protect essential national interests, so that the Agreement will be acceptable to potential signatory states.⁴ Arguing that the security exception grants WTO Members complete autonomy in deciding whether to apply it is equivalent to recognizing a universal right of states to unlimited self-protection, allowing members to independently decide whether to fulfill other obligations under the GATT framework. This contradicts the purpose and primary intent of the GATT. Accepting that states have absolute self-judging power over security exceptions would undermine the mandatory character of any legal system to which it applies, for it would render compliance with the law conditional; there are hardly any acts of international lawlessness that could not be plausibly excused under such an approach.⁵

Accordingly, both textual interpretation and dispute settlement precedents indicate that the DSB does have jurisdiction over disputes citing Article XXI, and that security exceptions cannot be regarded as an unlimited shield insulating members from legal scrutiny.

B. Consistency of US Unilateral Tariffs with the GATT Security Exception

Although Article XXI of the GATT does not provide an explicit definition of what constitutes “essential security interests”, the text of subparagraphs (b) and (c) of the article outlines the limited circumstances under which the security

⁴ Michael J. Hahn, *Vital Interests and the Law of GATT: An Analysis of GATT's Security Exception*, *Michigan Journal of International Law*, Vol. 12, 1991, p. 565.

⁵ Oren Gross and Fionnuala Ni Aolain, *Law in Times of Crisis: Emergency Powers in Theory and Practice*, Cambridge University Press, 2009, p. 643.

exception may be invoked. Accordingly, the following analysis will assess the consistency of the US unilateral tariff measures with each of the enumerated kinds of actions under these subparagraphs.

To begin with, subparagraph (c) of Article XXI permits measures “taken in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security”. The plain meaning of this provision, read in conjunction with Article 48 of the UN Charter, requires that such measures be authorized in advance by a resolution of the United Nations Security Council. In the present context, none of the unilateral tariff measures adopted by the US — whether the fentanyl tariffs, the reciprocal tariffs, or the additional duties recently imposed on Brazil and India — were taken pursuant to any Security Council mandate. They therefore fall outside the scope of Article XXI(c).

Secondly, with respect to subparagraphs (b)(i) and (b)(ii), the tariffs in question bear no relation to transactions in the field of fissionable materials, nor do they concern armaments, munitions, or other goods supplied directly or indirectly for the purposes of military establishments. On this basis, the United States’ invocation of the security exception cannot be justified under either of these provisions as well.

Therefore, the core of the dispute lies in whether the reasons cited by the US for its unilateral measures — including references to public health crisis, irregular migration, human rights concerns, and persistent trade deficits — may legitimately be characterized as measures taken “in time of war or other emergency in international relations” within the meaning of Article XXI(b)(iii) of the GATT.

Subparagraph (iii) of Article XXI(b) requires that measures citing a security exception as a defense should be taken “in time of war or other emergency in international relations”. From a textual and structural perspective, the two categories, “war” and “other emergency in international relations”, should have a similar degree of severity. It follows that the threshold of severity for an “emergency in international relations” must be comparable to that of an actual state of war.

In the Panel report of *Russia — Measures Concerning Traffic in Transit* (DS512), the Panel clarified the interpretative contours of this provision. The

Panel stressed that “it is normal to expect that Members will ... encounter political or economic conflicts with other Members or states. While such conflicts could sometimes be considered urgent or serious in a political sense, they will not be ‘emergencies in international relations’ within the meaning of subparagraph (iii) unless they give rise to defense and military interests, or maintenance of law and public order interests”.⁶

As regards the allocation of burden of proof, a member invoking the security exception bears the responsibility of demonstrating that the measures adopted are necessary to protect its essential security interests, and that there exists a genuine and plausible nexus between the contested measures and the interests purportedly at stake. In practice, the less resemblance the situation possesses to an armed conflict or fundamental breakdown of domestic law and public order, the heavier the evidentiary burden upon the invoking member to establish that its essential security interests are indeed implicated.⁷

The legal basis advanced by the US for the so-called “fentanyl tariffs” rested on the allegation that China, Canada, and Mexico had failed to prevent the inflow of fentanyl and other illicit drugs into the US, and, in the case of Canada and Mexico, had additionally failed to halt illegal immigration across the southern and northern borders. However, when examined against the requirements of GATT Article XXI(b)(iii), several deficiencies become apparent.

Firstly, at the time these tariffs were imposed, the US did not provide evidence in the executive orders that the challenges of illicit drug trafficking or irregular migration had resulted in a breakdown of law and public order within its territory. No case or data was contained in the orders, nor was there anything made as to the severity, immediacy, or systemic character of the alleged threats. Furthermore, the orders did not mention how such influx and migration have influenced the international relations among the US and the other three states. Thus, the US fell short of the evidentiary standard expected when invoking a state of “emergency in international relations”.

⁶ WTO, *Russia – Measures Concerning Traffic in Transit*, WT/DS512/R, Adopted on April 5, 2019, paras. 7.71–7.75.

⁷ Chengjin Xu, *A Critical Analysis of Panel’s Interpretation of Article XXI of GATT and China’s Approach to Reforming the Security Exception*, *Information Security and Communications Privacy*, Vol. 7, 2019, p. 38.

Secondly, the executive orders themselves acknowledged that dialogue on the issue of the fentanyl influx had already taken place among the relevant states since at least 2016, and that China had in fact strengthened export control measures. Against this background, it is difficult to construe the continuing inflow of drugs and immigrants as an “international conflict” comparable in gravity to armed conflicts.

Thirdly, while the US Administration labelled the inflow of fentanyl as a “public health crisis”, yet it did not substantiate how the smuggling of drugs had generated disorder or instability across the US on a scale that would engage its “essential security interests”.

Fourthly, the WTO jurisprudence indicates that a member invoking the security exception must show that the contested measure is necessary to safeguard essential security interests, and that there is a “sufficient nexus” between the action taken and the member’s essential security interests.⁸ Unilateral tariff measures, as trade restrictions, bear only a vague connection to the suppression of drug trafficking or the prevention of irregular migration. The US in the meantime did not attempt to demonstrate that the imposition of tariffs was the least restrictive or necessary means of addressing these problems. Consequently, the so-called fentanyl tariffs cannot be brought within the scope of Article XXI(b)(iii).

Similarly, the justification for the reciprocal tariffs was the existence of persistent trade deficits between the US and its trading partners. This reasoning departs markedly from the typical “emergency in international relations” envisaged by Article XXI(b)(iii), namely armed conflict or a breakdown of law and public order. The relevant executive orders provided no evidence as to the urgency and severity of long-standing trade imbalances, not to mention how such imbalances constituted an “emergency in international relations”. Trade deficits, as a macroeconomic phenomenon, are not a conflict between states, and certainly not an existential threat to public order. Historically, the US Administrations have rarely linked trade deficits to national security,⁹

⁸ *Supra* n. 6, para. 7.43.

⁹ CRS, Trade Deficits and US Trade Policy, <https://www.everycrsreport.com/reports/R45243.html?utm> (Last Visited on January 18, 2026).

while such deficits have lasted for a rather long period. The reciprocal tariffs, therefore, do not fall within the provision either.

With respect to Brazil, the US justified the imposition of a 40% tariff surcharge by invoking concerns about alleged political persecution and restrictions on freedom of expression arising from judicial proceedings against former Brazilian president Jair Bolsonaro. However, such proceedings clearly constitute an internal matter of Brazilian judicial and political governance, rather than an international political conflict. Although the executive order ambiguously yet repeatedly claimed concern for Americans, it did not further provide any evidence for such an argument. The only example the order mentioned was the trial of Jair Bolsonaro, who is not an American. Meanwhile, the US did not demonstrate how the trial bore any relationship to its own national security. Even if tensions arose between the two governments as a result, the Panel in *Russia — Measures Concerning Traffic in Transit* (DS512) made it clear that pure political frictions which do not implicate defense, military, or public order concerns cannot be characterized as an “emergency in international relations” under Article XXI(b)(iii).

The same conclusion applies to additional tariffs imposed on India. These were justified on the basis of India’s continued importation and resale of Russian oil, which the US claimed undermined its sanctions regime against Russia. Yet such energy trade cannot be equated with an armed conflict or domestic lawlessness, and sanctions taken by one state are different from an armed conflict. Under WTO jurisprudence, the more remote a situation is from such paradigmatic emergencies, the greater the evidentiary burden upon the member invoking Article XXI of the GATT. The US did not demonstrate how the long-standing oil trade between India and Russia posed an imminent threat to US essential security interests, nor did it establish the existence of a concrete conflict or tension between the US and India. Most importantly, the executive order did not explain how the Russia-Ukraine conflict directly engaged the essential security interests of the US. What appears more evident is that the tariffs are designed as a coercive instrument to compel India to reduce or terminate its energy trade with Russia, thereby strengthening the alliance between the US and India, rather than as a *bona fide* measure to protect US security.

C. Interim Conclusion: The Systemic Abuse of US Security Exception Claims

In conclusion, a comparative assessment of the four unilateral tariff measures adopted by the Trump Administration, namely the fentanyl tariffs, the reciprocal tariffs, the Brazil surcharge, and the India-Russia oil transaction-related tariffs, demonstrates a consistent pattern of overextension in the invocation of GATT Article XXI(b)(iii). The fentanyl tariffs rested on alleged failures by China, Canada, and Mexico to control drug trafficking and illegal immigration, yet the US neither substantiated how these issues generated a nationwide breakdown of law and public order nor demonstrated the requisite urgency. The reciprocal tariffs, justified on the basis of persistent trade deficits, deviated even further from the notion of an “emergency in international relations”, given that trade imbalances constitute long-standing economic phenomena rather than acute security crises. The additional tariffs towards Brazil, imposed in response to domestic judicial proceedings concerning former Brazilian president Jair Bolsonaro, failed to establish any plausible link between Brazil’s internal political-legal processes and US essential security interests, thus falling short of the *Russia — Measures Concerning Traffic in Transit* (DS512) standard. Finally, the tariffs imposed on India, purportedly linked to its continued imports of Russian oil, revealed an attempt to instrumentalize the security exception for foreign policy leverage rather than for the protection of vital security concerns. Taken together, these measures illustrate a systemic misuse of the security exception, where economic protectionism and geopolitical objectives are cloaked in the rhetoric of national security. This practice not only undermines the textual and teleological limits of Article XXI but also poses a broad threat to the stability and credibility of the WTO dispute settlement system.

III. FEASIBLE MEASURES TO ADDRESS US ABUSE OF GATT SECURITY EXCEPTIONS: CONSENSUS-BUILDING AND INSTITUTIONAL REFORM

In response to the Trump Administration’s systematic resort to unilateral tariff measures under the guise of protecting national security interests and

its misinterpretation of the GATT security exception, the reactions of the international community have far been uneven. The European Union and Japan, for instance, have opted to enter into new trade negotiations with the US under the pressure of reciprocal tariffs, thereby seeking to mitigate adverse impacts through compromise. By contrast, states such as China, Canada, and Brazil, which have borne the brunt of US unilateral tariffs, have chosen to initiate dispute settlement proceedings at the WTO. From Trump's first presidential term to his return in 2025, a trend has become evident in US trade policy: a gradual but consistent expansion of the boundaries of "national security" together with an increasingly frequent invocation of the GATT security exception as a legal shield against protectionist measures.

In this context, two distinct yet complementary courses of action can be used as a solution. The first lies in the building of consensus among WTO Members to oppose the abuse of the security exceptions in the WTO agreements. States must clearly articulate their opposition to the weaponization and securitization of trade measures, not only in bilateral engagements but also in multilateral fora. China has repeatedly affirmed that "multilateralism is the inevitable choice for international relations and the fundamental path to effective global governance", and has pledged to uphold what it terms "true multilateralism". At the Meeting of BRICS National Security Advisers and High Representatives on National Security held in Brasilia, China called upon BRICS members to work collectively to defend their right to development and become the most reliable force in safeguarding the legitimate rights and interests of developing countries. It emphasized the need to uphold the multilateral trading system with the WTO at its center and to promote the development of the international order in a more just and reasonable direction. Yet, the broader international response remains fragmented. Only a limited number of WTO Members have filed consultations under the WTO dispute settlement system or adopted countermeasures to the unilateral trade restrictions of the US. This absence of unified opposition has effectively enabled the US to persist with its strategy of weaponizing trade and overextending the notion of national security. To reverse this trend, greater emphasis must be placed on forming a coalition of states willing to take a collective stand. Such coalition-building may occur through the WTO's Trade Policy Review Mechanism,

the regular meetings of the Council for Trade in Goods and the Council for Trade in Services, or through the issuance of joint statements that categorically reject the securitization of trade. These steps are essential for states to preserve their developmental space and to defend the integrity of the multilateral trade regime.

The second course of action lies in institutional reform, specifically the clarification and refinement of the security exception itself. In ongoing debates concerning the WTO reform, the inclusion of targeted revisions to Article XXI of the GATT could serve as a means to curtail the risk of abuse. One possible approach would be to insert an additional subparagraph under Article XXI(b), for example a new item (iv), explicitly requiring that the invocation of the security exception should be exercised in good faith. Such a provision would not only codify the interpretative approach endorsed in cases such as *Russia — Measures Concerning Traffic in Transit* (DS512), but would also serve as a textual reminder that members cannot unilaterally expand the exception to encompass situations such as public health crises, persistent trade deficits, or foreign judicial proceedings that bear no direct relation to essential security interests. By inserting a good faith obligation into the structure of Article XXI of the GATT, WTO Members could create a stronger legal basis for panels and the Appellate Body (once reactivated) to scrutinize whether claims of “emergency in international relations” are truly in accordance with the restriction of the security exception. This would both strengthen the credibility of the exception as a narrow safety valve and help restore balance between the protection of essential security interests and the preservation of members’ substantive trade obligations.

Taken together, these two strategies, consensus-building at the political level and textual refinement at the institutional level, offer a pragmatic way forward. While consensus-building addresses the immediate challenge of restraining unilateralism and mobilizing opposition to the misuse of the security exception, institutional reform ensures that the legal framework is resilient enough to withstand future attempts at securitizing trade disputes. Only through the parallel pursuit of these two dimensions can the multilateral trading system be preserved from the destabilizing effects of the United States’ expansive interpretation of “national security”.

IV. CONCLUSION

The above analysis has shown that the Trump Administration's repeated abuse of national security to justify unilateral tariffs is not simply a temporary departure from WTO rules, but a challenge to the stability and credibility of the multilateral trading system as a whole. By relying on Article XXI of the GATT in situations far removed from genuine threats to essential security interests, the US has blurred the line between the lawful protection of security and the pursuit of protectionist or political aims. If this practice were to become common among members, the binding nature of WTO commitments would be seriously weakened, since every government could avoid the performance of its obligations by invoking essential security concerns, leaving the dispute settlement mechanism without real effect.

This experience highlights two main points. First, the WTO system rests not only on treaty rules, but also on a basic level of trust and shared understanding among members about how those rules should be applied. When that common understanding disappears, the authority of the system is undermined. Second, the misuse of the security exception illustrates the fragile boundary between international trade law and wider questions of peace, security, and public order. Without clear limits, the WTO is exposed to risks that cannot be resolved by panels and the Appellate Body (once reactivated) on a case-by-case basis alone.

The way forward lies in both legal reform and political will. Amending Article XXI of the GATT 1994 should not be seen as taking away the sovereign right of States to defend their security, but rather as providing safeguards to make sure that this right is used in good faith and not as a tool for economic pressure. At the same time, Member States need to recognize that predictable and stable trade relations are themselves part of their national and economic security. In this sense, the choice is not between protecting sovereignty and supporting multilateralism, but between unilateral actions that damage legal certainty and collective rules that allow both trade stability and genuine security concerns to be respected.

In the end, the US practice shows that if the misuse of the security exception is not addressed collectively, the WTO will lose relevance in global

trade governance. Reform of Article XXI of the GATT 1994, combined with renewed consensus on the balance between national security and free trade, is therefore not only desirable but essential for the survival of the rule-based multilateral order.