



PROTECTIONISM IN INTERNATIONAL ECONOMIC LAW: CHALLENGES AND PROSPECTS

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Abstract

The research assessed the impact of protectionism in international economic law, underscoring the challenges and gains of protectionism as a policy aimed at protecting domestic industries against foreign competition using tariffs, subsidies, import quotas or other restrictions placed on imports and foreign competitors. However, irrespective of projections of the promoters of globalization, the global system has witnessed a significant rise in protectionism, engineered by government policies aimed at shielding domestic industries from foreign competition, economic nationalism, geopolitical tensions, and the aftermath of the COVID-19 pandemic. All these have fueled this trend as countries grapple with the implications of the policies. The research adopted the doctrinal method of academic research which comprises both primary and secondary sources. The benefits of trade protection in the world of globalization were evaluated and the research found that trade restrictions are harmful to the economies of the trading partners, particularly, as nations are most likely to reciprocate with counter-trade measures which will ultimately lead to a strained international system. It recommended that the World Trade Organization should develop stricter rules that will govern the limits nation-states can engage in practicing protectionist policies in order not to harm global trade and services. The research concluded that excessive protectionism may lead to trade tensions, geopolitical challenges and raise uncertainties about the future of globalization.

Keywords: Protectionism, Self-Reliant, International Economic Law and Reciprocity.

1.0 Introduction

The notion of protectionism is akin to the idea of self-reliant where a sovereign state government enact policies either by way of executive orders or congressional enactment, deliberately restricting international trade to help domestic industries. These policies are usually implemented to improve economic activity within a domestic economy but can also be implemented for safety or quality concerns.¹ A self-reliant economy is one in which a country seeks to fully control its internal economic policies.² It does not eliminate the interaction between a nation and the outside world.³ Modern economic realities of the global system show that no country can exist in isolation. Protectionism or Isolationism⁴ as practiced by the United States of America⁵ in the 19th century, is no longer attainable in the age of globalization.

However, irrespective of projections of the promoters of globalization, the global system has witnessed a significant rise in protectionism, engineered by government policies aimed at shielding domestic industries from foreign competition, economic nationalism, geopolitical tensions, and the

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¹Erika R., 'Protectionism: Examples and Types of Trade Protections', <<https://www.investopedia.com/terms/p/protectionism.asp>>, accessed 17/03/2025.

² Uwakwe, R.C, Foreign Aid In Nigeria's Economic Development: a Legal Critique, A Dissertation Submitted To The Postgraduate School, Faculty Of Law, Imo State University, Owerri, Nigeria, 2024,p1.

³ Nnoli, O., *Self Reliance and Foreign Policy in Tanzania*, (USA, NOK Publishers, 1978), 14.

⁴ Isolationism is a doctrine of trying to isolate one's country from the affairs of other nations by declining to enter into alliances and foreign economic commitments.

⁵ Hereinafter abbreviated and referred to as "USA" or interchangeably as "US".



aftermath of the COVID-19 pandemic have fueled this trend as countries grapple with the implications of the policies.⁶ Protectionism embraces a range of policies designed to restrict international trade, including tariffs, quotas, and subsidies. These measures aim to protect domestic industries from foreign competition, often justified by the need to safeguard jobs and promote national security. However, while protectionism may provide short-term benefits to specific sectors, sometimes it leads to broader economic inefficiencies and negative consequences for consumers and the global economy. Interestingly, the United States, disregarding her huge responsibility in the international economic system in line with her manifest destiny and hegemonic stability underpinnings, has decided to adopt a protectionist policy. Thus, the US government under President Donald Trump has elected to return the US to the era of protectionism, in what some scholars refer to as neo-protectionism.⁷ Trump started this policy during his first time in office, a policy that was continued by his predecessor. As Bob Davis, a veteran economics reporter, stated:

the Biden administration actually “confirmed and deepened” the shift toward protectionism that marked Trump’s first term, reflecting a “broader change in the U.S. economic and political thinking... Biden’s embrace of Trump-era tariffs is emblematic of a broader change in U.S. thinking on trade - and toward China.”⁸

However, presidential dominance over tariff policy was not always the way things were until *Section 301*⁹ gave the President of the US the broad authority to enforce U.S. rights in trade agreements and to retaliate against unfair foreign trade practices that harm U.S. firms. President Trump hinged on the above to issue executive orders controlling trade between the US and major international partners like China, Canada, Mexico amongst others. Trump's recent trade policies were essentially influenced by the relative success of his previous trade policies which his predecessor Joe Biden inherited and continued with. Trump used tariffs as a tool, targeting washing machines, solar panels and crucially, steel and aluminium, key materials in an already pricey housing market. But Trump's tariff threats this time around, according to some observers are more wide-ranging and potentially damaging.¹⁰

In the light of the above, this research will examine the challenges and prospects of protectionism in International Economic Law.

2. Definition of Key Terms

2.1 Protectionism

Protectionism is the policy of protecting domestic industries against foreign competition using tariffs, subsidies, import quotas or other restrictions or handicaps placed on the imports of foreign competitors.¹¹ Protectionism is the practice of following protectionist trade policies. A protectionist trade policy allows the government of a country to promote domestic producers, and thereby boost the domestic production of goods and services by imposing tariffs or otherwise limiting foreign goods and services in the marketplace.¹² Protectionist policies also allow the government to protect developing domestic industries from established foreign competitors. There are different forms of

⁶ International Trade Council, ‘The-Rise-of-Protectionism in 2024 and Beyond’, <https://tradecouncil.org/wp-content/uploads/2024/12/The-Rise-of-Protectionism-in-2024-and-Beyond.pdf>, accessed 18/03/2025.

⁷ Chloe Hadavas, ‘What Makes Trump’s Tariffs Different This Time Around?’, <<https://foreignpolicy.com/2025/02/16/trump-tariffs-trade-war-policy-us-protectionism-history/>>, accessed 18/03/2025.

⁸ *Ibid*

⁹ Trade Act of 1974.

¹⁰ D Chemtob, ‘How Will Tariffs Impact You? Here’s What To Know About Trump’s Plans’, <<https://www.forbes.com/sites/daniellechemtob/2025/02/12/how-will-tariffs-impact-you-heres-what-to-know-about-trumps-plans/>> accessed 18/03/2025.

¹¹ Britannica Money ‘Protectionism’ <<https://www.britannica.com/money/protectionism>> accessed on 3rd of March, 2025

¹² CFI, ‘Protectionism’ <<https://corporatefinanceinstitute.com/resources/economics/protectionism/>> accessed 3rd March 2025



protectionism which may include increase in tariffs for foreign goods, quotas, subsidies or standardization. The opposite of protectionism is free trade. Free trade means removing barriers so that goods and services can move freely between countries where there are no high tariffs, quotas, or restrictions. The goal is to create a more open market where countries focus on what they produce best.¹³ An economy usually adopts protectionist policies to encourage domestic investment in a specific industry. For instance, tariffs on the import of shoes would encourage domestic producers to invest more resources in shoe production.¹⁴

2.2 Self-Reliant

Self-reliance signifies a nation's prioritization of domestic production and reduced dependence on international trade and services. It is driven by the belief that a country's economic well-being is best served by controlling its resources and fostering internal growth, even if it means sacrificing some of the benefits of globalization. This is not the same thing as isolationism; rather, it is a strategic approach to balancing national interests with global engagement. Although, superficially similar, self-reliance and protectionism diverge significantly; one focuses on domestic capacity, the other on shielding domestic markets. The simplistic, often nationalistic, framing of such economic policies ignores complex global realities.

2.3 International Economic Law

International Economic Law¹⁵ refers to the body of legal principles that regulate economic transactions and interactions among states, international institutions, and private entities. It encompasses multiple disciplines, including trade law, investment law, monetary law, and development law. Given the increasing globalization of economic activities, IEL plays a crucial role in ensuring stability, fairness, and predictability in global commerce. International economic law is a dynamic and evolving field of international law that governs the regulation and conduct of states, international organizations, and private entities in the global economic landscape. This field is not just a collection of rules but a complex, multifaceted discipline that influences global economic relations.¹⁶ It shapes how states interact in the realms of trade, finance, and development, and sets the legal framework for international business operations. The foundational principles of international economic law can be traced back to classical economic theories, such as those proposed by Adam Smith in his work "The Wealth of Nations"¹⁷ and Karl Marx's critique of political economy in "Das Kapital"¹⁸. These principles have had a profound impact on modern economic law, shaping concepts such as comparative advantage, non-discrimination, and the regulation of international trade.

2.4 Reciprocity

Reciprocity in law refers to a principle of private international law that governs relations between states.¹⁹ When one country imposes trade barriers, others are likely to retaliate, leading to a cycle of escalating tariffs and restrictions that can severely impact global trade. Example: The U.S.-China trade war, starting in 2018, saw both nations imposing multiple rounds of tariffs on each other's

¹³ B Thompson, 'Protectionism in Global Trade', <<https://incodocs.com/blog/protectionism-in-trade/>>, accessed on 18/03/2025.

¹⁴ CFI, 'Protectionism', *op.cit.*

¹⁵ Hereinafter abbreviated and referred to as "IEL"

¹⁶ Herdegen M, *Principles of International Economic Law*, Oxford University Press, (2016), <<https://global.oup.com/academic/product/principles-of-international-economic-law-9780198897835?cc=ca&lang=en>> Accessed 22/3/2025

¹⁷ Smith, Adam, *The Wealth of Nations* (1776).

¹⁸ Marx, Karl, *Das Kapital*, (1867).

¹⁹ Lexology, 'Reciprocity', <<https://www.lexology.com/library/detail.aspx?g=96f89629-d509-4dda-924a-a24e0c0c8623>>, Accessed on 22/3/2015.



goods, disrupting global supply chains and slowing global economic growth. Reciprocity generally involves returning like behavior. In Robert Axelrod's terminology, reciprocity is a tit-for-tat strategy.²⁰ Such strategy permits cooperation in a state of nature, when no authority for enforcement of agreements exists.²¹ The notion of reciprocity is at the core of not just international relations but international economic law as nations tend to do business and trade with nations that are fair to them and are willing to reciprocate their kind.

3. The History of Protectionism

When looking at the news, one might think the trade tensions between China and the US are a purely contemporary issue. However, if one studies history, it becomes evident that protectionism has been present for centuries. The most recent arguments, those of unfair trade, are only a variation of the age-old argument that protectionism saves domestic industries from the threat of foreign competition.²²

Protectionism has been used in trade for hundreds of years by kingdoms, empires and societies before the emergence of modern statehood in 1648. Early forms of protectionism were known as mercantilism. This policy aimed to build wealth by controlling trade and limiting imports. It became popular in the 16th and 17th centuries. However, protectionism became a big issue during the Great Depression in the 1930s. It is important to know that the authority of government to challenge to protect its economic domain was initially challenged by Adam Smith in his 'Invisible Hand Theory' as a cornerstone concept in the field of economics, specifically within the framework of Classical Economics. Adam Smith, in his book "The Wealth of Nations", published in 1776 challenged government involvement in business. The theory revolves around the idea that an individual's pursuit of self-interest ultimately leads to the betterment of society as a whole.²³ This is without any control or intervention by the government. In 1929 the world economy went into a 'great depression' as a result of the lack of government control, however, another economist of British origin, John Maynard Keynes espoused the theory that broadly states that government intervention is needed to help economies emerge out of recession.²⁴ Thus, Keynesian Economic Theory opened the floodgate of assortments of government regulations and control. Thus, The United States passed the Smoot-Hawley Tariff Act in 1930.²⁵ This law placed high taxes on many imported goods. It was meant to protect American businesses. Instead, it made the economic crisis worse. Many countries reacted by adding their tariffs on U.S. goods. As a result, global trade dropped sharply. This period showed how protectionism can harm economies when it's overused.

The US protectionist policies started from the Monroe Doctrine. Monroe Doctrine,²⁶ a notion enunciated by Pres. James Monroe in his annual message to Congress declaring that the Old World and New World had different systems and must remain distinct spheres. Monroe made four basic points: the United States would not interfere in the internal affairs of or the wars between European powers; the United States recognized and would not interfere with existing colonies and

²⁰ See ROBERT AXELROD, *The Evolution of Cooperation* 20 (1984). Axelrod demonstrates the superiority of a cooperative strategy, when parties undertake repeated interactions, over a strategy that would seemingly be rational in a Prisoners' Dilemma situation, cited in Francesco Paris, 'The Role of Reciprocity in International Law' <<https://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=1509&context=cilj>> Accessed 22/3/2025.

²¹ Francesco Paris, 'The Role of Reciprocity in International Law'

<<https://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=1509&context=cilj>> Accessed 22/3/2025.

²² Foundation for Economic Education, 'Protectionism's Long and Infamous History',

<<https://fee.org/articles/protectionisms-long-and-infamous-history/>> Accessed 22/3/2025.

²³ Leo Evans, *Understanding the Invisible Hand Theory in Economics*,

<<https://www.principlesofeconomics.net/classical-economics-invisible-hand-theory/>>, accessed 05/3/2025.

²⁴ Tim Vipond, *Keynesian Economic Theory*,

<<https://corporatefinanceinstitute.com/resources/economics/keynesian-economic-theory/>>, accessed 05/2/2025.

²⁵ *Op cit*, note 13.

²⁶ (December 2, 1823).



dependencies in the Western Hemisphere; the Western Hemisphere was closed to future colonization and any attempt by a European power to oppress or control any nation in the Western Hemisphere would be viewed as a hostile act against the United States.²⁷

4. Types of Protectionism

Protectionist policies come in different forms, including:

- 1. Tariffs:** The taxes or duties imposed on imports are known as tariffs. Tariffs increase the price of imported goods in the domestic market, which, consequently, reduces the demand for them.
- 2. Quotas:** Quotas are restrictions on the volume of imports for a particular good or service over a period of time. Quotas are known as a “non-tariff trade barrier.” A constraint on the supply causes an increase in the prices of imported goods, reducing the demand in the domestic market.
- 3. Subsidies:** Subsidies are negative taxes or tax credits that are given to domestic producers by the government. They create a discrepancy between the price faced by consumers and the price faced by producers.
- 4. Standardization:** The government of a country may require all foreign products to adhere to certain guidelines. For instance, the Nigeria Government may demand that all imported shoes include a certain proportion of leather. Standardization measures tend to reduce foreign products in the market.

5. Reasons for Protectionism²⁸

An economy usually adopts protectionist policies to encourage domestic investment in a specific industry. For instance, tariffs on the foreign import of shoes would encourage domestic producers to invest more resources in shoe production²⁹. In addition, nascent domestic shoe producers would not be at risk from established foreign shoe producers. Although domestic producers are better off, domestic consumers are worse off as a result of protectionist policies, as they may have to pay higher prices for somewhat inferior goods or services. Protectionist policies, therefore, tend to be very popular with businesses and very unpopular with consumers. Five common arguments in support of protectionism are: National security, Counter acting dumping and foreign subsidies, The infant industry argument, protecting domestic jobs, Improving the trade deficit, reduce dependence on imports.³⁰ and Raises tax revenue.

6. Challenges/ Negative Impacts of Protectionism

1. Misallocation of Resources

Trade protection disrupts the principle of comparative advantage, leading to inefficient resource allocation. Global welfare is reduced as protectionism shifts production away from more efficient foreign producers to less efficient foreign producers to less efficient domestic producers.³¹ Example: The U.S. sugar industry is heavily protected, leading to domestic prices that are significantly higher than the world market. This protection benefits a small number of producers at the expense of consumers and other industries. By preventing market forces from operating freely, protectionist measures reduce overall economic efficiency.

²⁷ Britannica, *Monroe Doctrine: American history*, <<https://www.britannica.com/event/Monroe-Doctrine>>, accessed 18/03/2025.

²⁸ Seneca, ‘Arguments for Protectionism’, <<https://senecalearning.com/en-GB/revision-notes/a-level/economics/edexcel/a/7-2-3-arguments-for-protectionism>> accessed 3rd March,2025

²⁹ CFI, ‘Protectionism’ <<https://corporatefinanceinstitute.com/resources/economics/protectionism/>> accessed 3rd March,2025

³⁰ Seneca, ‘Arguments for Protectionism’, <<https://senecalearning.com/en-GB/revision-notes/a-level/economics/edexcel/a/7-2-3-arguments-for-protectionism>> accessed 3rd March,2025

³¹ IB, Economics, ‘Trade Protection: Arguments for and against Trade Protection’ <<https://www.tutor2u.net/economics/reference/ib-economics-trade-protection-arguments-for-and-against>> accessed 22/3/2025.



2. Risk of Retaliation and Trade Wars

When one country imposes trade barriers, others are likely to retaliate, leading to a cycle of escalating tariffs and restrictions that can severely impact global trade. Example: The U.S.-China trade war, starting in 2018, saw both nations imposing multiple rounds of tariffs on each other's goods, disrupting global supply chains and slowing global economic growth. Trade wars can harm both consumers and producers, leading to a no-win situation where economic growth is stifled globally.

3. Potential for Corruption

Protectionist policies can create opportunities for corruption, as businesses may seek to influence policy to gain protection from competition. Example, in some developing countries, import licenses and quotas have been associated with bribery and corruption, where businesses pay to secure favorable treatment. Such practices erode trust in the economic system and lead to unfair advantages for well-connected firms.

4. Higher Consumer Prices

One of the most immediate consequences of protectionism is the increase in consumer prices. Tariffs and import restrictions lead to higher costs for imported goods, which are often passed on to consumers. For example, the tariffs imposed by the U.S. on Chinese goods have resulted in higher prices for electronics, clothing, and household items, disproportionately affecting low- and middle-income households.³²

5. Reduced Economic Growth

Protectionist policies can stifle economic growth by limiting competition and innovation. When domestic industries are shielded from foreign competition, there is less incentive to improve efficiency and invest in new technologies. This can lead to stagnation in productivity and a decline in the overall competitiveness of the economy. Moreover, protectionism can disrupt global supply chains, leading to inefficiencies and increased costs for businesses that rely on international trade.³³ Most economies commonly adopt protectionist policies to encourage domestic investment in a specific industry or sector. For instance, tariffs on the import of shoes would encourage domestic producers to invest more resources in shoe production.³⁴ Therefore, nascent domestic shoe producers would not be at risk from established foreign shoe producers. Although domestic producers are better off, domestic consumers are worse off as a result of protectionist policies, as they may have to pay higher prices for somewhat inferior goods or services. Protectionist policies, in most instances, tend to be very popular with businesses and very unpopular with consumers.

6. Strained International Relations

The rise of protectionism has also strained global relations, as countries engage in retaliatory measures that can escalate into trade wars. The ongoing trade tensions between the U.S. and China serve as a prime example, with both countries imposing tariffs on each other's goods, leading to uncertainty and volatility in global markets. Such tensions can hinder diplomatic relations and cooperation on other critical issues, such as climate change and global security.³⁵ It also dislodges traditional regional partners who share historical ties not just in the economic but social cultural partnerships. The ongoing trade war between the US and Canada is a ready example, the US and Canada are North American regional partners that have had healthy relations spanning hundreds of years. Therefore, a trade face-off will not harm just the economy of both States but the citizens of both nations that have continued to intermarry and exchange cultural values.

³² Freight Waves, *The Impact of U.S. Tariffs on Global Supply Chains*, (Freight Waves, 2024), 78

³³ Holland & Knight, *The Rise of Protectionism: Implications for Global Trade*, (Holland & Knight, 2024), 89

³⁴ CFI, 'Protectionism' <<https://corporatefinanceinstitute.com/resources/economics/protectionism/>> accessed 3rd March 2025

³⁵ Seyfarth Shaw, *Protectionism and Its Impact on Global Trade Dynamics*, (Seyfarth Shaw LLP, 2024)



7. Inefficiencies in Domestic Industries

Protectionism can create inefficiencies within domestic industries by reducing competition. When companies are shielded from foreign competitors, they may become complacent and less responsive to consumer needs. This can result in lower-quality products and services, ultimately harming consumers and the economy as a whole. Additionally, industries that rely on imported inputs may face higher costs, further exacerbating inefficiencies.³⁶

8. Long-Term Economic Fragmentation

As protectionist policies become more entrenched, the risk of long-term economic fragmentation increases. Countries may become increasingly isolated from global markets, leading to a decline in international trade and investment. This fragmentation can hinder economic growth and development, particularly in emerging markets that rely on access to global supply chains. The potential for a fragmented global economy raises concerns about the future of multilateral trade agreements and international cooperation. Risks creating trade wars that harm global relationships.

7. Prospects of Protectionism in International Economic Law

1. Protects Local Industries from Foreign Competition

One of the major reasons why nations enact protectionist policies is to protect local industries from the wave of foreign products and to reduce foreign competition. Around 80% of toys imported to the U.S. come from China, the Toy Association trade group told Forbes, and around 37% of all footwear imports—totaling \$9.5 billion—to the U.S. in 2023 came from China, according to the U.S. International Trade Commission. And for millions of price-conscious shoppers who rely on low-cost Chinese retailers like Temu and Shein, the tariffs will also close a little-known loophole that allows merchandise under \$800 to enter the U.S. without being taxed. Many electronic devices like iPhones are assembled in China, a core concern for Apple investors as its stock fell 3% the day before the tariffs went into effect, and despite his relationship with President Donald Trump, Elon Musk was the biggest, immediate loser amid the stock market's tariff reaction early last week, as investors expect the tariffs to impact Tesla's business and profitability.³⁷

2. Job Protection and Support for Growing Industries

Protectionism helps keep jobs safe, especially in major key industries. Domestic industries lose sales and jobs due to foreign competition. Examples of industries affected by foreign competition include the steel, textile, and automobile industries. The argument is that to protect these industries and to prevent layoffs, trade restrictions need to be imposed. Protectionism also supports new and growing industries that need time to develop. It is a way of encouraging local production and emerging entrepreneurs to grow against the forces of foreign production experts.

3. Strengthens National Security by Keeping Control of Vital Sectors

If a product is used in the manufacturing of military goods or other security sensitive products, it may not be wise to import it from another country. A domestic industry needs to be protected through trade restrictions to make sure that it continues to supply enough of the product and not become dependent on other countries.

4. Prevents unfair trade practices (dumping)

When a country dumps its products in a foreign country, it sells them at below cost. Dumping is done to eliminate competition in a foreign country and to establish a monopoly position. For example, if

³⁶ European Commission, (2024), *Trade Policy Review: EU Member States and Protectionism*, [European Commission]

³⁷ Danielle Chemtob, *How Will Tariffs Impact You? Here's What To Know About Trump's Plans*, <https://www.forbes.com/sites/daniellechemtob/2025/02/12/how-will-tariffs-impact-you-heres-what-to-know-about-trumps-plans/> accessed 18/03/2025.



a Japanese company sells microchips in the United States at below cost to eliminate competition in the U.S. it is considered dumping. Sometimes foreign governments subsidize their domestic firms to encourage dumping. To retaliate against dumping and unfair foreign subsidies, the argument is that tariffs, quotas, and other trade restrictions need to be implemented.

8. Conclusion

The implementation of various trade protections such as tariffs, and quotas is an attempt by certain nations to safeguard their industries and promote domestic production. While protectionism can offer limited benefits by protecting jobs and industries, it also has significant setbacks that should be carefully considered. Protectionism can lead to higher prices for consumers due to the increased cost of imported goods. It can hinder innovation and technological advancements by reducing competition and limiting access to global markets. Protectionist measures may lead to trade wars that harm all parties involved as nations are most likely to reciprocate whenever restrictions are made on their goods and services. Therefore, while evaluating the effects of protectionism, it is crucial to weigh both the gains and demerits and at the same time, consider the specific circumstances of each country.

9. Recommendations

There is an urgent need for the World Trade Organization to develop rules that will govern the limits national states can engage in practicing protectionist policies in order not to harm global trade. A situation where a president of a country will through an executive order cancel all the trade engagements with other countries is absolutely not in line with the WTO mandate. Again, nation states, must begin to develop regional alliances and trade blocs wherein trade treaties are crafted by experts to avoid situations where the internal policies of one state will affect the collective decisions of the body. In that case, a comparative advantage principle must be implemented wherein responsibilities are shared according to state competencies.