The Return of Mercantilism and Trade Competition Between Nations: The Value Implications and Historical Inertia of U.S. Import Ban Measures

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Abstract: In recent years, the United States has increasingly emphasized the role of import bans in the execution of its trade policy, strengthening the enforcement of bans on specific products and countries. In this context, it is important to consider the value implications of U.S. import ban measures and whether their widespread implementation has historical continuity. An analysis of the value of U.S. import bans reveals that they reflect mercantilist values and inter-nation competition, aiming to protect domestic industries and related products from foreign competition while imposing trade sanctions on specific rival countries. Furthermore, an examination of the historical implementation of U.S. import bans shows their presence throughout key periods, including the American War of Independence, both World Wars, the Cold War between the U.S. and the Soviet Union, and the current era of multilateralism. Thus, U.S. import bans, as part of its longstanding trade policy, continue to persist, and their expansion in the current context is merely a repetition of history. The measures themselves will not disappear entirely, regardless of future changes in U.S. trade policy.

Keywords: Import Ban; Mercantilism; National Competition; Applicable Items

1. Introduction

In the development of international trade, import trade has played a vital role in the economic growth of nations, supplementing the variety of products in domestic markets and meeting consumer demands. In today's international society, imports are commonly defined as the transfer of goods or services from one country (the exporter) to another (the importer). Therefore, the scope of imports includes not only tangible goods but also intangible items such as intellectual property, services, and data.

U.S. import bans are trade policy enforcement measures that prohibit the entry of specific products into the country. The ban system originated in the English Court of Equity as a form of relief, where a court would order a person to do or refrain from doing something. In U.S. law, injunctions are divided into temporary restraining orders, preliminary injunctions, and permanent injunctions, with differences in duration and procedure. Moreover, injunctions carry enforcement power, and violations may result in fines or criminal penalties. A semantic analysis of "injunction" reveals its characteristics of compulsion and sanction. While U.S. import bans evolved from equity law injunctions, they differ in several ways. In terms of implementation, U.S. import bans are usually formulated by government agencies and enforced by the U.S. Customs and Border Protection (CBP), unlike court-issued injunctions in equity law. Although U.S. import bans can be categorized as either temporary or permanent, in practice, once these bans are imposed, they are difficult to lift. This is because import bans are often used as tools of protectionism, aligning with Vilfredo Pareto's argument that "protectionist measures provide significant benefits to a few while imposing minor losses on many consumers." As a result, the implementation of import bans is relatively easy and low-cost, with temporary bans often extended indefinitely, effectively becoming permanent.

The term "injunction" is inherently linked to state control and compulsion. U.S. import bans, as trade restriction measures, are enforced under domestic laws, international conventions, and free trade agreements to prohibit the importation of certain products based on their category or country of origin. From the beginning, these bans have been closely associated with trade sanctions.

In recent years, U.S. trade policy has shifted toward protectionism, with a focus on "America First" and protecting domestic industries. As a result, the U.S. has frequently imposed import bans on the comparative advantage products of its "rival" countries, with the dual objectives of safeguarding its own industries and curbing the economic development of other nations. Moreover, advancements in technology and transportation have strengthened trade links between countries, promoting the globalization of supply chains. In this context, U.S. import bans have evolved from targeting specific countries or products to encompassing upstream and downstream products in the supply chain that are linked to the target country. For example, following the outbreak of the Russia-Ukraine conflict, the U.S. imposed import bans on Russian seafood products, which had a competitive edge in exports, specifically targeting products originating from Russia.[1] This action resulted in a decline in other countries' imports of Russian seafood, negatively affecting Russia's export structure and destabilizing the international supply chain. Additionally, the U.S. has imposed large-scale import bans on products originating from Xinjiang, China, citing human rights concerns. These bans have impacted many countries in the supply chain, including China, Indonesia, Thailand, and Myanmar.

It is evident that in today's fractured global landscape, the U.S. has revived its use of import bans as a weapon to undermine other economies and restrain the development of its rivals. These bans now go beyond traditional economic and domestic industry protection considerations, incorporating elements of trade sanctions and inter-nation competition. Therefore, it is necessary to provide a theoretical framework and analysis of the value implications of import bans, as well as trace their historical evolution, to understand how they have developed into effective tools of trade sanctions for the U.S. today.

2. The Mercantilism and Inter-State Competition Connotations of the U.S. Import Ban

2.1 The Mercantilist Implications of U.S. Import Bans

The value implications of U.S. import bans are rooted in the concept of mercantilism. As early as the 17th and 18th centuries, the idea of mercantilism emerged and developed, based on the belief that a nation seeking to gain a trade advantage must export more than it imports.[2] Guided by this principle, the U.S. has long balanced its imports and exports through tariffs, quotas, government subsidies, and import bans, with the goal of achieving an overall trade surplus. It must be acknowledged that the mercantilist system, which emphasizes the accumulation of wealth, trade protection, and industrial support, has proven useful for emerging nations to successfully catch up in a competitive environment, making it relevant to developing countries.[3] However, it is also important to recognize that regulations imposed on products in the pursuit of trade surpluses are not necessarily beneficial to a country’s development. In reality, only a few countries maintain trade surpluses, and most economists believe that the automatic assumption that trade deficits harm a country's economy is misguided.[4]

Despite the continuous criticism of mercantilism within the economic community, this does not imply that developed countries have completely abandoned mercantilist principles in formulating trade policies. A review of U.S. economic history and the development of its trade policies reveals that when the U.S. was relatively weak, it generally relied on mercantilist ideas to balance trade and accumulate capital. Once it gained competitive or comparative advantages in the international trade landscape, its trade policy considerations shifted from mercantilism to free trade in order to continuously expand its economic engagements abroad. However, when the U.S. encounters competitors of similar stature in the course of economic development, it tends to revert to mercantilist principles and seek "asymmetric" trade policies against these rivals.

In recent years, the U.S. has experienced a decline in its control over the international economy, which has prevented its proclaimed "free trade" from achieving the expected economic outcomes. Additionally, the large-scale export of products from developing countries such as China, India, and Mexico has led to an increasing recognition within the U.S. that foreign imports pose a serious threat to its industrial system, as domestically produced goods lack the price and quality advantages of foreign imports.[5] These factors have ultimately driven the U.S. to revive its mercantilist and protectionist policies, leading to the emergence of "new mercantilism" characterized by non-tariff trade barriers as the main trade restriction measures within the current multilateral trade framework, aimed at promoting the return of American manufacturing and boosting domestic economic growth.

For instance, the U.S. frequently implements import bans under the pretexts of "protecting national security" and "supporting domestic industrial development." Trump even proposed a four-year plan during the 2024 U.S. election campaign to gradually stop importing essential goods from China, including electronics, steel, and pharmaceuticals.[6] Although this plan is part of his policy to reshore manufacturing, aiming to promote "reindustrialization" in sectors threatened by imports and garner support from voters in traditional industrial regions like the Rust Belt,[7] the likelihood of effective implementation remains low. Nevertheless, it reflects the U.S. government's intention to protect domestic industries and impose unfair trade policies on competitors under mercantilist principles. From the perspective of the U.S. government, excessive imports of Chinese products have contributed to the decline of American manufacturing, leading Trump to advocate for banning or limiting imports from China to foster domestic industrial growth.

In addition to the mercantilist and protectionist principles of balancing imports and exports and imposing unfair trade policies on competitors, another key aspect of U.S. import bans lies in the regulation of "risky products" under the framework of free trade. Adam Smith, in his discussion of free trade, identified several exceptions to the rule. For example, Smith argued that it is essential to protect industries related to national defense and famously stated that "defense is of much more importance than opulence." This concept of the "defense exception," as proposed during Smith's time, has been absorbed and evolved by the U.S. to develop free trade exception policies concerning products that pose a threat to national security, public health, or market order.

For instance, in response to the Fukushima nuclear disaster in Japan, the U.S. Food and Drug Administration (FDA) issued an "import alert" from 2011 to 2021, banning the import of certain Japanese products. This ban remained in effect until 2021 when it was determined that the products no longer posed a risk, and the import restrictions were lifted.[8] On the other hand, if a product is found to violate intellectual property rights or disrupt market order, the U.S. may also implement an import ban. In October 2023, the U.S. International Trade Commission (ITC) issued a report concluding that Apple Watch infringed on the patents of the medical monitoring technology company Masimo, leading to a ban on the import of certain Apple Watch models into the U.S.

Thus, U.S. import bans serve the function of blocking risky products, effectively minimizing their impact on the American public.

2.2 Inter-country competition implications of import bans

In addition to the implications of reshoring manufacturing and balancing imports and exports under mercantilism and protectionism, U.S. import bans have inherently carried the values of interstate confrontation and competition since their inception. As import bans are a part of trade embargoes, they often play a crucial role in trade wars between countries. A review of the history of U.S. import bans reveals that large-scale bans typically arise in the context of interstate competition and conflict. For instance, starting in the 18th century, the U.S. prohibited the import of British goods to counteract British trade policies imposed on the American colonies. Additionally, during the Cold War, the U.S. imposed trade embargoes on the Soviet Union, significantly restricting the import of Soviet products in an effort to force the Soviet Union to alter its import-export structure. These examples illustrate that import bans have, from their inception, embodied notions of confrontation and competition, often serving as tools in trade disputes between nations.

Currently, the intensifying geopolitical conflicts have profoundly impacted global economic and trade relations, challenging both international trade itself and the rules-based system it relies on.[9] Geoeconomic relations inherently exhibit strong antagonistic features, where dominant nations, leveraging their discursive power and economic status, selectively target their rivals, utilizing unilateral economic sanctions based on discriminatory domestic legislation to maintain their global economic dominance. International law, with its dual functions of cooperation and conflict,[10] has long been interpreted by the positivist school as emphasizing the importance of cooperation between states, while often overlooking the competition that may arise in economic and political arenas among sovereign nations. Indeed, interstate cooperation plays a crucial role in specific areas like environmental protection, public health, and species conservation, and the concept of a "community with a shared future for mankind" has elevated the theoretical framework of international cooperation. However, in the field of international trade, the diverse and often conflicting national interests of sovereign states can easily transform into strategic confrontations. Dani Rodrik has even pointed out that nation-states are one of the primary sources of the disintegration of global economic integration.[11] This assertion is not mere alarmism—recent actions by the U.S., such as its withdrawal from multilateral agreements, "decoupling" from key global supply chains, and its focus on developing regional trade agreements, reflect dissatisfaction with the current international economic order and an attempt to establish a new economic regime that serves its own interests. Critical international law scholars, through a historical and linguistic analysis, emphasize the conflictual nature of international law, without denying its value in fostering cooperation. Their perspective diverges significantly from the positivist school of thought, which argues that shared interests among states naturally lead to cooperation within the international community. In contrast, the critical school sees international law as a tool for sovereign powers to defend their interests and values. Sovereign states, driven by their political interests, can choose cooperation or competition as circumstances dictate. This viewpoint helps explain why the U.S., while intensifying competition with rivals such as China and Russia and imposing trade sanctions on these countries, simultaneously strengthens regional cooperation by signing agreements like the USMCA (United States-Mexico-Canada Agreement).

Under the concept of national competition and confrontation, the United States has intensified the systematic implementation of import bans against its competitors. For example, the U.S. has developed a systematic import ban regime against Russia. During the Cold War, the U.S. imposed large-scale trade embargoes on the Soviet Union to hinder its economic development. Since 2012, the U.S. has further strengthened its systematic legislative efforts to impose trade sanctions on Russia.[1] In its 2017 National Security Strategy, the U.S. identified Russia as a challenger to its power, influence, and interests, claiming that Russia’s actions undermined U.S. security and prosperity.[12] Following the outbreak of the Russia-Ukraine conflict, the U.S. further intensified its sanctions against Russia, targeting individuals and entities across political, trade, and financial domains. In the realm of trade, since 2022, the U.S. has introduced specialized legislation for sanctions against Russia, including the Suspending Normal Trade Relations with Russia and Belarus Act, the Prohibition on Imports of Russian Oil Act, and the Prohibiting Russian Uranium Imports Act, two of which directly address import bans. Furthermore, the U.S. has implemented various executive orders to directly restrict products in which Russia holds a comparative export advantage, reflecting the targeted and systematic nature of these import bans.

Similarly, the large-scale U.S. import bans on China also reflect the competitive dynamics between nations. These bans and export control measures, aimed at curbing

China’s economic growth, stem from the "China Threat Theory" propagated during Donald Trump's presidency. In its 2017 National Security Strategy, the U.S. also labeled China as a "competitor" and imposed extensive import bans on Chinese products under the pretext of human rights issues, affecting industries such as manufacturing and fisheries. The Biden administration has not abandoned viewing China as a competitor; instead, it has continued the strategy of containing China’s development initiated under Trump and has coordinated with allied countries to impose sanctions and bans on China. A prominent example is the 2022 National Security Strategy, which explicitly identifies China as the "only competitor" to the U.S., asserting that the coming decade will be a decisive period for U.S.-China competition.[13] Against this backdrop, the U.S. has intensified the enforcement of import bans on Chinese products. In addition to smearing China's human rights record in its annual Human Rights Reports, the U.S. has enacted legislation like the Uyghur Forced Labor Prevention Act (UFLPA), which specifically targets China’s Xinjiang region. These laws impose indiscriminate import bans on products originating from Xinjiang, with the aim of cutting off the circulation of Xinjiang products within the global supply chain.

3. Externally applicable items of the U.S. import ban

The scope of U.S. import bans is extensive. According to the U.S. Customs and Border Protection (CBP) guidelines on prohibited and restricted items, any products that may endanger U.S. public safety, worker interests, children, domestic flora and fauna, or harm U.S. national interests are prohibited from being imported into the country.[14] Therefore, the U.S. government has significant autonomy in determining which items fall under import restrictions. It can independently assess whether a particular product poses a threat to "U.S. national interests" and make decisions on whether to ban its import.

On one hand, the U.S.'s autonomy in deciding import bans has indeed served to protect national interests. For instance, the prohibition on importing drugs, weapons, ammunition, explosives, and war tools is aimed at ensuring societal stability, while restrictions on the import of wildlife, plants, and soil are designed to effectively protect the domestic ecological environment. These controlled items are widely recognized by the international community as products that should not be freely traded. As a result, U.S. import ban measures targeting such items typically do not provoke controversy.

On the other hand, some of the items targeted by import bans are not universally recognized by the international community as prohibited for trade; instead, they reflect the U.S.'s own policies and social values regarding certain products. For example, Section 307 of the U.S. Tariff Act of 1930 explicitly bans the importation of products made with forced labor.[15] However, the U.S.'s specific definition of "forced labor" differs significantly from that of many developing countries, and the question of whether trade can be linked to human rights protection has not reached a consensus in the international community. Consequently, the U.S. unilaterally imposes import bans based on its own standards of "forced labor," which appears to contradict the principles of international comity.

Additionally, in 2022, the U.S. announced a suspension of avocado imports from Mexico due to security concerns. This decision, made in response to issues like drug cartel violence in Mexico, violates the General Agreement on Tariffs and Trade (GATT) stipulation for the general elimination of quantitative restrictions and is difficult to justify under the security exception clause. Notably, the U.S. is Mexico's largest avocado export market, with about 81% of Mexico's avocado products ultimately being exported there.[16] Therefore, the U.S. import ban on Mexican avocados has had a profoundly negative impact on Mexico's economy. Given that Mexico cannot quickly find another trading partner of equivalent volume to mitigate the effects of the U.S. import ban, it must adjust many of its domestic issues according to U.S. values to continue exporting avocados to the U.S.

It is important to note that U.S. import bans encompass not only tangible goods manufactured in other countries but also technology, software, and protections for intellectual property. For instance, Section 337 of the U.S. Tariff Act of 1930 authorizes the U.S. International Trade Commission to prohibit the importation of products that infringe on U.S. intellectual property rights.[17] Furthermore, the U.S. has attempted to issue bans on Chinese-developed software such as WeChat and TikTok on the grounds of "national security," prohibiting any entities or individuals under U.S. jurisdiction from engaging in transactions with these software companies. As a result, bans on software like TikTok can also be classified under the category of import restrictions.

4. Long-term trade policy: the historical inertia of U.S. import ban measures

Throughout the history of U.S. trade policy, import ban measures have not been confined to any specific historical period; rather, they serve as a powerful tool for enforcing trade policy across American history. It's noteworthy that the scope, objectives, and methods of import bans have varied across different historical periods. The history of U.S. import bans can be divided into four phases: the origins of loose import bans from the North American colonies to the pre-World War I era, the application of import bans during both World Wars and the Cold War, the transformation of import bans under the WTO framework, and the adjustments of import bans in the context of rising trade protectionism. Each of these four phases reflects differing implications for import ban measures. In the origins phase of import bans, their application was marked by clear political bias and confrontational dynamics between nations. During the two World Wars and the Cold War, the implementation of import bans was primarily aimed at sanctioning target countries, showcasing conflictual characteristics. In the transformation phase, the focus of import bans shifted towards protecting domestic industries under the concept of trade liberalization. In the context of rising trade protectionism, adjustments to import bans demonstrate targeted strikes against specific countries or products. Therefore, it is essential to analyze the specific applications and evolution of U.S. import ban measures across these four periods to clarify the dynamics of their development.

4.1 The Origin and Concentration of U.S. Import Ban Measures

The origins of U.S. import ban measures can be traced back to the North American colonial period. At that time, although the United States did not have a unified government and was a British colony, it first adopted import bans as a means of resisting British rule. Notably, import bans, as part of the U.S. trade regulation legal system, were initially not established by public authorities. Instead, the emergence of U.S. import bans was characterized by a strong element of spontaneity. Specifically, a series of unfair trade practices imposed by Britain on the North American colonies led merchants to spontaneously organize alliances to prohibit the importation of specific British products as a demonstration of their dissatisfaction with British trade policies. This pattern of emergence is similar to that of maritime law. In the realm of maritime law, the cross-regional nature of maritime transportation made merchants more eager for unified trading rules. As a result, maritime law gradually took shape through the development of individual merchant laws, general rules, and customary laws.[18] Similarly, import ban measures were established and developed through the loose import ban alliances among merchants during the North American colonial period and the subsequent unification of U.S. import ban regulations.

4.1.1 Loose import restrictions for the UK

While the academic community generally identifies the origin of the United States' import and export bans with the Embargo Act of 1807, it is essential to examine the spontaneous nature of these measures and consider the early origins rooted in the colonial merchants' alliance against British import restrictions.

In 1764, North American colonial merchants first employed a stop-import strategy to resist British rule. At that time, the British government, seeking to strengthen its control over North America and generate more revenue, enacted the Sugar Act, the first law specifically designed to raise funds for the Crown from the colonies. This act increased tariffs on non-British goods imported into the colonies. The implementation of the Sugar Act raised the cost of importing foreign products for North American merchants, prompting protests against it. In August 1764, fifty merchants in Boston agreed to stop importing British luxury goods. By the end of 1764, the movement to halt imports from Britain had grown, with many merchants across the colonies beginning to refuse British products.

It is noteworthy that while these sporadic individual resistance actions did not significantly impact British trade, they demonstrated that American colonists attempted to adopt import bans as a means to counter British trade policies. This can be regarded as the early origin of U.S. import ban measures.

In 1765, the British Parliament passed the Stamp Act, which imposed taxes on various public documents and printed materials, including legal documents, newspapers, and land deeds, to fund the military stationed in North America.[19] This new form of taxation faced intense protests in the colonies. In response to the negative impacts of the Act, colonial representatives spontaneously organized the Stamp Act Congress, aiming to achieve a unified action plan to halt the implementation of the law.

Through deliberations, the colonies agreed to impose a ban on imports as a means of applying commercial pressure on Britain to repeal the Stamp Act. This led to a widespread movement in the American colonies to boycott British goods. The initiators of the import ban were again merchants, but the scope of participation significantly expanded compared to the previous protests against the Sugar Act. In October 1765, two hundred merchant leaders in New York pledged to cease importing British products starting in January 1766, subsequently receiving support and imitation from merchants in Boston and other cities.[3]

The spontaneous import ban by American merchants lasted several months, but its economic impact on Britain was challenging to determine, especially since it coincided with an economic downturn in Britain itself. While the economic effects were uncertain, the political repercussions were significant. In 1766, the colonial merchants' boycott of British products led to a decline in British exports to the colonies, prompting British merchants to exert pressure on Parliament, ultimately resulting in the repeal of the Stamp Act in March 1766.[20]

During the merchants' resistance against British imports, they took advantage of the situation to significantly reduce the inventory they had accumulated during the economic downturn. However, this revealed a flaw in the merchant-led import boycott: the actions were driven by self-interest, highlighting the complexities of such resistance movements.

In 1767, British Chancellor of the Exchequer Charles Townshend proposed appointing customs commissioners in the port cities of the American colonies to enforce tariff laws and collect import taxes more effectively. The introduction of the Townshend Acts once again triggered a boycott of British imports in the American colonies. However, unlike previous protests initiated by merchants, this boycott was planned and led by colonial civic leaders, which required significant time to persuade merchants to participate in the boycott.

The merchants' underlying motivation for agreeing to the import ban was still to address their own issue of surplus inventory.[3] Once their economic interests were satisfied, their enthusiasm for the boycott waned. Additionally, Britain, in response to the colonial boycott, mitigated the economic pressure by strengthening its exports to other countries.

This scenario demonstrates that privately-led import bans lacked sustainability as a policy measure. In the absence of a global supply chain during the 18th century, one nation's import ban on another was relatively easy to circumvent, as the target country could counteract the impact by expanding its exports to other markets. This further highlights the limitations of private actors leading import bans, as such measures were not robust enough to significantly alter economic relations between nations.

The American colonies once again implemented an import ban against Britain due to the passage of the Tea Act in 1773. This act, which allowed the British East India Company to sell tea directly to the colonies, bypassing colonial merchants, sparked outrage among American colonists, culminating in the infamous Boston Tea Party. Following this event, Britain enacted a series of punitive laws, known as the Coercive Acts, in an attempt to reassert control over the colonies. In response, the American colonies convened the First Continental Congress in 1774, where they called for a collective import ban against Britain, aiming to pressure the British government into repealing its coercive laws. The conflict between Britain and the colonies escalated from this point, leading to a breakdown in relations and eventually sparking the American Revolutionary War. This sequence of events demonstrated how the colonists viewed import bans as a powerful tool to resist British rule, culminating in their fight for independence. The bans played a significant role in unifying the colonies against Britain and contributed to the eventual outbreak of war.[21]

Through the four self-organized import bans by American colonial merchants against Britain, it became clear that whenever Britain enacted a law, American merchants resisted by halting imports, eventually forcing British policymakers to repeal the law. This demonstrates the strong political intent behind import bans, where they were used as tools to pressure other nations into changing their trade policies. This political function was inherited by later import ban measures. However, the import ban model adopted by the American colonies led the colonists to believe that such measures could successfully alter British trade policies.[3] In reality, this conclusion focused only on surface-level outcomes and overlooked other influencing factors. First, the American colonies failed to consider the impact of Britain's own economic downturn on its trade policy changes. As previously mentioned, the three major colonial import bans against Britain coincided with periods of British economic recession. Therefore, the effect of the import bans in prompting changes to British trade policies was difficult to assess due to the involvement of these additional variables. Moreover, the American colonies overestimated Britain's trade dependency on them. In 1765, only 15% of British exports were directed to the American colonies.[22] Since the international supply chain had not yet reached the level of interdependence seen in later periods, Britain could easily reroute goods initially meant for the colonies to other countries, thus mitigating the adverse effects of the colonial import bans on its trade.

Regarding the implementation of import bans, the lack of a centralized authority to effectively manage trade across the states significantly weakened the effectiveness of such measures. Each state had the power to regulate its own trade, leading to inconsistent enforcement of import bans. For example, if one state declared an import ban on British goods but another state refused to follow suit, continuing to allow British goods to enter, Britain could simply redirect its shipments to ports in the cooperative states, thus bypassing the ban. This undermined the essential purpose of the import ban, rendering it ineffective.The inefficiency of this loose regulatory structure and lack of enforcement power was one of the key factors that led the United States, after its founding, to revise the Articles of Confederation. Strengthening the role of the federal government, particularly by centralizing the authority to formulate trade policies, became essential. By transferring the power to regulate trade to the federal government, the U.S. was able to create a more coherent and enforceable system for import bans and broader trade regulations.

4.1.2 The transition of national control over import ban measures

The federal control of U.S. import bans began with the Constitutional Convention of 1787, which aimed to address the weaknesses of the Articles of Confederation, particularly the lack of central governmental power. After months of negotiations, the U.S. Constitution was officially approved in 1787 and came into effect in 1789.[23] During the drafting of the Constitution, Alexander Hamilton strongly emphasized the necessity of granting the federal government the authority to manage trade. Hamilton argued that if the states could collectively implement bans, it would compel foreign nations to compete for the privilege of accessing the U.S. market. He believed that such bans could effectively prevent certain nations' goods from entering the U.S., giving America a strategic advantage in trade negotiations. This would allow the U.S. to exert pressure on other countries, pushing them to modify their trade policies or grant the U.S. more favorable trade terms.[24] Therefore, from the outset of its constitutional design, U.S. import ban measures were imbued with political and diplomatic functions, serving as tools to compel foreign policy changes or secure trade benefits. These functions, which were underutilized under the earlier confederation system, gained greater potential under the strengthened federal structure.

The enactment of the U.S. Constitution in 1787 fundamentally transformed the fragmented trade policies that had previously allowed each state to manage its own trade affairs. The Constitution granted Congress the power "to regulate commerce with foreign nations, among the several states, and with the Indian tribes."[25] This authority enabled Congress to impose tariffs, import bans, and other trade regulatory measures, marking a significant shift from state-level trade management to a unified, national approach. This change reflected the broader historical transition in the U.S. from decentralized trade regulation to a more cohesive federal system, centralizing control over import restrictions and other trade policies.

After the U.S. Constitution took effect in 1787, the United States continued to impose several import bans on Britain. For instance, in June 1793, the British government issued Orders in Council allowing its navy to seize any foodstuffs bound for France or its colonies, aiming to disrupt U.S. trade with France.[3] In response to Britain's disregard for U.S. neutrality, the seizure of American ships, and the forced recruitment of American sailors, the U.S. implemented partial import restrictions in 1805, banning certain British goods from entering the country. In 1807, the U.S. passed the Embargo Act, which prohibited all American exports and forbade ships with goods from leaving the U.S. or entering foreign ports.[26] The primary goal of this embargo was to avoid the seizure of American ships and pressure Britain and France to change their shipping policies. Although the stated purpose was to protect American goods and sailors, the underlying aim was to influence the war between Britain and France, compelling both countries to revise their policies toward the U.S. However, this trade embargo had limited impact on Britain, which mitigated the negative effects by exporting goods to Latin America and importing from Spain and other nations. Meanwhile, the U.S. economy suffered more severely from the embargo, as it effectively cut off international trade. The American market was forced to rely on domestic production, which led to the rapid growth of some small businesses but did not offset the significant damage to the U.S. industrial and manufacturing sectors. Faced with an economic downturn and increasing public pressure, the U.S. repealed the embargo in March 1808. Although the embargo had some positive effects on domestic production, it ultimately caused more harm to the U.S. economy than to Britain's.

It is worth noting that although Congress repealed the embargo measures in 1809, import restrictions, including import bans, were retained. In 1810, Congress passed the Macon's Bill No. 2, resuming trade with both Britain and France. However, this bill contained a clause for a potential import ban: if either Britain or France ceased intercepting U.S. ships, the United States would impose an import ban on the other nation.[27] After France signaled its intention to change its trade policy and refrain from seizing U.S. ships, the U.S. reintroduced import bans on Britain in 1811. Although France did not fulfill its commitment, the U.S. maintained the import ban on Britain until Congress passed a resolution to repeal the ban in 1814. From 1814 until the outbreak of World War

I, the U.S. gradually shifted its trade regulation approach, moving from import bans to tariffs as a way to regulate international trade and influence other nations' trade policies.

4.2 Changes in U.S. import bans during the World Wars and the Cold War

4.2.1 Import bans between the two world wars

During the two World Wars, the United States implemented import bans on a larger scale. With the dual backing of legislative authority from Congress and executive power from the President, the enforceability and operability of these import bans were significantly enhanced. Import bans during the wars can be categorized based on their objectives: those aimed at sanctions and those intended to protect domestic production or ensure national security.

Import bans aimed at sanctions are exemplified by the enactment of the Trading with the Enemy Act of 1917 and the subsequent implementation of product bans. In 1917, the U.S. Congress passed the Trading with the Enemy Act, which mandated a trade embargo against the "Axis Powers" and sought to undermine Germany's economy while severing its economic ties with other countries. Section 11 of the Trading with the Enemy Act granted the President the authority to issue proclamations to control the import of goods into the United States.[28]

To ensure the effective implementation of the Trading with the Enemy Act, President Woodrow Wilson signed Executive Order 2729-A on October 12, 1917, establishing the War Trade Board to control all U.S. import and export activities.[29] Notably, the provisions granting presidential powers in the Trading with the Enemy Act were incorporated into the International Emergency Economic Powers Act (IEEPA) in 1977. To prevent the abuse of presidential power, the IEEPA includes restrictive provisions regarding the declaration of a "national emergency," explicitly stating that Congress can terminate such a state of emergency. However, since the IEEPA came into effect, Congress has never terminated a presidentially declared "national emergency" and has, on several occasions, directed the President to use the IEEPA to impose sanctions on other countries. In addition to establishing the War Trade Board to manage import and export activities, the U.S. President also issued specific executive orders to prohibit the import of products from particular countries during the World Wars. On November 28, 1917, Wilson issued an executive order specifying that the basis for the prohibited imports came from Section 11 of the Trading with the Enemy Act, emphasizing the necessity of import bans to effectively control domestic and international demand for certain products. This order prohibited the import of specific items unless permitted by the War Trade Board.[30] On February 14, 1918, Wilson further refined the items subject to import bans and the targeted countries, prohibiting the import of weapons, transportation devices or tools, machinery, and printed materials from Germany, Italy, the United Kingdom, France, Japan, and Spain under the justification of public safety.[31] Thus, during World War I, the United States established a steadily operating system for its import bans, based on domestic legislation, with executive orders determining specific items and targeted countries, enforced by U.S. government departments through specific regulations and permit issuance. This system still bears a high degree of similarity to the current operational framework of U.S. import bans.

In addition to its sanctioning purposes, the United States also implemented import bans on specific products to protect domestic production and national security, exemplified by the Prohibition era from 1920 to 1933. The import bans on alcoholic beverages during Prohibition were established through amendments to the U.S. Constitution. On January 16, 1919, the Eighteenth Amendment to the U.S. Constitution was ratified, stating that "after one year from the ratification of this article, the manufacture, sale, or transportation of intoxicating liquors... for beverage purposes within the United States and the importation thereof into the United States... is hereby prohibited."[32] In fact, prior to the Eighteenth Amendment taking effect, the prohibition movement in the U.S. was already gaining momentum. Advocates of prohibition argued that it would reduce a variety of health and social issues affecting the populace. Furthermore, in the context of World War I, import bans on beer were imbued with nationalistic sentiment; prohibiting German beer imports was seen as a way to prevent Germany from acquiring funds through trade and thereby diminishing its capacity to wage war. However, Prohibition did not only persist during the world wars. After World War I, the prohibition laws remained in effect, reflecting an implicit aim to ensure food rationing. The war had threatened the food security of many nations, and in this context, the U.S. sought to reduce the conversion of domestic grains into alcoholic beverages to safeguard its own food supply. It was not until the ratification of the Twenty-First Amendment in 1933 that the Prohibition regime was officially repealed.

The import bans imposed by the United States on various goods during the two World Wars were not isolated instances. In fact, due to the wars and the downturn of the global economic system, sovereign states increasingly resorted to import restrictions to stimulate their own economic development. This rise in trade barriers led to imitation by other countries, resulting in the widespread implementation of import restrictions. According to a report by the League of Nations in 1933, within 16 months following September 1, 1931, 32 countries had adopted measures such as import quotas, import bans, licensing systems, and similar quantitative restrictions.3 However, these measures, aimed at raising market entry barriers, did not achieve the intended goal of stimulating domestic economies. As a result, developed countries began to lower trade barriers and promote free trade after World War II, engaging in negotiations that yielded significant outcomes. For example, in 1942, the United States and the United Kingdom formed a special committee to reduce trade barriers, releasing a preliminary report in 1943 that included proposals to eliminate discriminatory trade practices, abolish import quotas and bans, and reduce tariffs. This indicated the intention of developed countries like the U.S. to reshape the global economy and foster free trade in the post-war era. The lifting of import bans was influenced by two key factors: firstly, the reciprocity trade policy advocated by the U.S. after World War II, and secondly, the decline in export capacity of many countries due to the war, which resulted in relatively low levels of U.S. imports. Consequently, imported products did not significantly impact domestic producers. It is noteworthy that after World War II, developed countries began to lead multilateral trade negotiations under the banner of free trade, with the General Agreement on Tariffs and Trade (GATT) including provisions for the "general elimination of quantitative restrictions."[33] However, during reciprocal trade negotiations, countries sought legal grounds in international law for potential future import bans. For instance, apart from allowing nations to impose trade restrictions based on security and public morals,[34] the U.S. was granted exemption from fulfilling GATT obligations in the agricultural sector in 1955. Many countries soon followed suit, effectively leading to the exclusion of agricultural policies from GATT rules, which created operational space for the U.S. to implement import bans in the agricultural domain.

4.2.2 Import bans during the Cold War

Since the introduction of the "Truman Doctrine" in 1947, the United States has implemented economic sanctions against the Soviet Union for over forty years to suppress its economic development and cut off its economic ties with other countries. During this period, economic sanctions typically focused on trade, which was regulated primarily through imports and exports. Therefore, the trade sanctions imposed by the U.S. during the Cold War were mainly restrictions on imports and exports targeting the Soviet Union and its allied nations.

In the field of export controls, the U.S. Department of Commerce announced restrictions on the export of certain products to the Soviet Union and its Eastern European allies in March 1948. Additionally, the U.S. Congress specified export restrictions to the Soviet Union in the Export Control Act of 1949, aimed at preventing the shipment of weapons and strategic materials to the USSR. After the outbreak of the Korean War in 1950, the U.S. extended its export control policies and strengthened sanctions against the Soviet Union and related countries through the Mutual Defense Assistance Control Act of 1951. This act prohibited the provision of assistance to any country that did not embargo strategic materials to the Soviet Union and its influence countries.[35] However, the effectiveness of this act was limited by pressure from U.S. allies and the granting of exemptions, failing to achieve the intended effect of isolating the Soviet Union.[36] Furthermore, the U.S. imposed strict export control measures on countries like North Korea, China, and Vietnam that had relations with the Soviet Union. Notably, although the U.S. maintained a trade embargo against China for several decades, which was not lifted until the Nixon administration in 1969, the embargo had a relatively minimal impact on China's economy. China effectively mitigated the effects of the U.S. trade embargo by importing substitute products from other countries.

In the area of import controls, the United States both revoked the most favored nation status for the Soviet Union and significantly increased tariffs on all Soviet products.[37] Simultaneously, the U.S. implemented import bans prohibiting the entry of specific Soviet goods. For instance, the Trade Agreements Extension Act of June 16, 1951, specifically mandated in Section 5 that the U.S. president should take necessary measures to suspend, revoke, or prevent the import of products from the Soviet Union and its satellite states. Section 11 explicitly prohibited the importation of furs from animals such as foxes, minks, and muskrats from the Soviet Union and China.[38] In 1974, Congress passed the Trade Act, which included Section 301, outlining responses to the trade policies of specific countries and restricting the import of foreign products.[39] This provision primarily targeted the Soviet Union and Eastern European nations, resulting in a low likelihood of increased Soviet exports to the U.S. during its enforcement. This demonstrates that congressional legislation played a crucial role in the implementation of import bans during the U.S.-Soviet Cold War era.[40] Since the end of the Cold War, any large-scale import bans against specific products or countries have been reinforced by Congress through its trade management and legislative functions. Notably, while the U.S. imposed strict import restrictions on Soviet and allied products during the Cold War, it did not achieve a complete trade embargo. For example, compared to the strict export controls that led to U.S. exports to Eastern Europe dropping nearly to zero from 1950 to 1956, the import bans only effectively restricted specific products and did not fully block imports from Eastern European countries. In fact, the average quarterly import value of products from Eastern European nations during the Cold War was close to $2 million.[41] Furthermore, during the late Cold War, the U.S. imposed stringent import and export restrictions on the Soviet Union to undermine its economy. However, from 1985 to 1991, the trade values of imported Soviet products were $408 million, $558 million, $424 million, $585 million, $709 million, $1.058 billion, and $801 million, respectively.[42] This indicates that even during periods of strict import bans, the U.S. continued to import certain Soviet products to compensate for domestic shortages.

The series of import and export trade restrictions imposed by the United States on the Soviet Union during the Cold War ultimately had negative repercussions for the U.S. itself. First, starting in the 1950s, the U.S. began to experience significant budget deficits. Its refusal to engage in trade with the Soviet Union meant that this fiscal deficit issue could not be fully addressed through trade relations. Second, due to strategic considerations and its own resource reserves, the U.S. became dependent on imports of minerals such as nickel, zinc, tin, chromium, and manganese. After the U.S. imposed trade restrictions on Soviet products, the Soviet Union sharply reduced its exports of manganese and chromium ores to the U.S. as a countermeasure against American sanctions, resulting in energy shortages in the domestic mineral sector. Third, the U.S. grain embargo against the Soviet Union led to an oversupply of agricultural products within the country. In response, the U.S. government was compelled to broaden export channels for agricultural goods and modify the types of crops being planted to alleviate the surplus of domestic agricultural products.

4.3 Changes in U.S. import ban measures under the multilateral trading system

Unlike the numerous import restrictions imposed by the U.S. during the Cold War to sanction the Soviet Union and protect domestic producers from foreign competition, the U.S. rekindled its commitment to free trade principles in the 1990s. This shift advocated for the elimination of trade barriers between countries, deepening economic ties, and promoting orderly international division of labor. The U.S. free trade ideology undoubtedly aimed to further integrate the country into the global economic system and solidify its economic hegemony. Guided by these principles, the U.S. played a leading role in signing the North American Free Trade Agreement (NAFTA), enhancing economic cooperation with neighboring countries such as Canada and Mexico. Furthermore, the U.S. participated in the Uruguay Round negotiations, which culminated in the establishment of the WTO, thereby strengthening international trade cooperation and advancing the development of multilateralism. Additionally, in 2000, the U.S. established permanent normal trade relations with China,[43] eliminating the annual review process that had hampered economic cooperation since 1980 and creating favorable conditions for trade relations between the two countries.

During the flourishing period of multilateral trade, the reduction of U.S. import bans can be seen as a historical inevitability. First, the onset of a unipolar era rendered large-scale import bans unnecessary for the U.S. As previously mentioned, import bans are often characterized by strong national antagonism and conflict, typically arising in the context of trade disputes and wars. However, the fall of the Berlin Wall marked the beginning of the U.S. unipolar era, in which the country held the capacity to dominate the global economy, making it difficult for other nations to compete with its economic scale. Consequently, the U.S., in its advantageous position, vigorously promoted the ideology of free trade and reduced the implementation of trade barriers, including import bans. A notable example is the U.S. approach to Russia and China; instead of using trade embargoes, it sought to integrate these nations into a new multilateral trade framework underpinned by an international economic order led by the U.S. The neoliberal economic policies championed by the U.S. undoubtedly facilitated the global promotion of the American economic model while simultaneously diminishing the need for large-scale import bans.[44]

Second, the establishment of the WTO and the negotiation of various free trade agreements have objectively reduced the likelihood of the U.S. imposing import bans. The end of the U.S.-Soviet Cold War brought a "peace dividend" to industrialized nations, while many developing countries also supported open markets and free trade policies.[45] In 1995, the WTO was established, with the U.S. playing a significant role in its formation. At that time, U.S. research indicated that the full implementation of the WTO could increase the nation’s GDP by $125 to $250 billion.[46] Furthermore, the WTO would help expand the scale of U.S. manufacturing, agriculture, and services. Under this framework, the U.S. became less inclined to implement import restrictions, as import bans would lead to a lack of imported goods, negatively impacting domestic consumers' access to diverse products. Additionally, other import restrictions could drive up prices for goods and services, ultimately placing a burden on consumers. In 1990, U.S. private sector statistics indicated that trade protectionism resulted in annual losses of about $70 billion for consumers.[47] The establishment of the WTO clearly helped reduce trade barriers and had a positive impact on consumers. Moreover, import bans and other import restrictions could hinder the development of the U.S. manufacturing sector and employment. An increase in imported products not only enriches consumer choices but also positively influences employment conditions in the U.S. For instance, a rise in imports would boost the demand for workers at U.S. port terminals, truck drivers, and subsequent product sales positions, creating numerous job opportunities for Americans. These employment benefits are not achievable during periods of strict import bans.

Lastly, the offshoring of American manufacturing under the multilateral trade system has compelled the United States to import specific products produced by other countries, limiting its ability to freely impose import bans. Free trade theory generally posits that it is beneficial at the national level, as countries produce and export goods or services in which they hold a relatively high comparative advantage, while importing products or services that are difficult to obtain domestically or are less efficiently produced. Guided by this principle, the United States has shifted some of its manufacturing to developing countries such as China and Mexico. This shift has lowered trade barriers for the U.S. and created some domestic employment opportunities, while simultaneously fostering domestic growth in high-value industries like software and healthcare. However, the resulting structural changes in the economy have also objectively deepened the U.S.'s reliance on imports of certain products.

4.4 The expansion of U.S. import ban measures under the background of trade protectionism

During the WTO period, the United States increasingly relied on the multilateral trade dispute resolution mechanism to handle trade friction with other countries. Since the establishment of the WTO dispute resolution mechanism, the U.S. has participated in 124 cases as a complainant, 159 cases as a respondent, and 178 cases as a third party.[48] This indicates a recognition of the WTO dispute resolution mechanism by the U.S. However, since the Trump administration, U.S. trade policy has shifted, primarily reflecting a return to protectionism and the expansion of unilateral sanctions. In this context, the U.S. has abandoned the multilateral dispute resolution mechanism of the WTO for handling trade disputes and has instead reverted to domestic legislation as a basis for its actions, utilizing broad unilateral economic sanctions as a tool for enforcing trade policy. This has led to a resurgence of systematic import bans and an intensification of measures against "rival" countries.

4.4.1 The return of U.S. protectionism

U.S. trade protectionism primarily manifests through the imposition of high tariffs on imported products and the establishment of elevated non-tariff trade barriers, aimed at hindering the influx of foreign goods into the U.S. and reducing the impact of imports on domestic industries. For instance, during the 19th-century Civil War, Northern states widely implemented protectionist measures to safeguard their industrial base, while Southern states generally supported free trade to boost exports of their advantageous products, like cotton. This divergence in trade ideologies contributed to the outbreak of the Civil War. After World War II, the U.S. promoted the development of the GATT system and advocated for trade liberalization, moving away from protectionist policies. However, with the election of Donald Trump as President in 2016, there was a resurgence of protectionist sentiments through his "America First" trade policy. His administration sought to promote U.S. re-industrialization by limiting imports from other countries and ensuring America's dominant position in the global arena. Under the banner of trade protectionism, the Trump administration withdrew from numerous international agreements and regional trade accords, such as the Iran nuclear deal and the Trans-Pacific Partnership, while also initiating a trade war with China to achieve strategic objectives, including reducing imports from China and curbing its economic growth.

During the Trump administration, U.S. trade protectionist policies did not emerge overnight; instead, they were influenced by a combination of factors. Typically, major powers advocate for reducing trade restrictions and promoting free trade only when they hold a significant advantage in production capacity and capability.[49] The rise of nationalism and the return of protectionism largely reflect the frustrations of the American populace regarding government economic performance. Since the late 1990s, actual wage growth in the U.S. has stagnated, and income inequality has been on the rise since 1979.[3] This situation led many Americans to question whether the free trade and globalization policies pursued were beneficial for the country's economic development. As a result, trade protectionism resurfaced as a potential solution to protect domestic industries and promote economic growth. Moreover, changes in international circumstances, such as the COVID-19 pandemic, U.S.-China trade tensions, and the Russia-Ukraine conflict, contributed to a 1.5% decline in total U.S. trade in 2023. In the context of geopolitical conflicts, the U.S. shifted its top three trade partners to the European Union, Canada, and Mexico,[50] highlighting a regional shift in its trade relationships and an ideological filtering of cooperating nations. Through trade protectionism, the U.S. aims to promote domestic manufacturing, enhance the competitiveness of its local industries, and strengthen its economic position. On one hand, the U.S. seeks to stabilize imports and exports by collaborating regionally with allies to lower trade barriers and reduce trade friction. On the other hand, it has intensified economic sanctions, including large-scale import bans and export controls, against countries such as China and Russia. According to the U.S. Treasury's 2021 "Sanctions Assessment Report," economic sanctions have become one of the primary tools for addressing threats to national security and economic interests.[51] Consequently, the combination of economic sanctions and trade protectionism serves a practical purpose: to compel other countries to alter their domestic trade policies while reducing U.S. dependency on products from competitive nations.

4.4.2 Widespread implementation of import ban measures

Since former U.S. President Woodrow Wilson's famous statement in 1919 that "a country that is resisted is a country that is about to surrender," the United States has used Wilson's sanctioning philosophy as a diplomatic tool over the following decades,[52] frequently implementing economic sanctions to promote its policy objectives worldwide. Analyzing the scale of import bans imposed during the Obama, Trump, and Biden administrations from 2009 to the present reveals that, in the context of trade protectionism, these import bans serve a weaponized purpose aimed at undermining the economies of targeted nations, reinforcing their role as part of U.S. trade sanctions.

During the Obama administration, import bans did not play a prominent role in the U.S. foreign trade policy framework. Instead, the U.S. focused more on the development of multilateral trade systems and free trade agreements. For instance, the Obama administration sought to advance negotiations for the Trans-Pacific Partnership (TPP), aiming to promote U.S. economic growth through increased exports while also expanding imports and providing job opportunities through regional trade cooperation to address the real challenges faced by domestic businesses and labor.[53] Although the U.S. ultimately did not ratify the TPP, it reflected that the overall foreign trade policy during the Obama administration still emphasized multilateral cooperation and the reduction of trade barriers. As a result, the Obama administration did not implement large-scale import bans but rather used them as trade restrictions in areas such as national security, human rights, and the environment. In terms of national security, Obama incorporated data security into national security considerations, expanding protections for data privacy to include not only government data security but also the safety of personal data during transmission.[54] Although the expansion of national security under the Obama administration did not involve specific bans or sanctions justified by "data security," the vague interpretation of the concept of data security, combined with the lack of a comprehensive domestic legal regulatory framework, led to the possibility of generalized implementation of "data security." In fact, the series of bans issued by Trump targeting TikTok and WeChat stemmed from the expanded considerations of "data security" during the Obama administration.

In the realm of environmental protection, the Obama administration strengthened restrictions on products that harm the environment, with the enforcement of the Lacey Act serving as a prime example. The Lacey Act prohibits the importation of illegally sourced timber, wildlife, and other products,[55] and the Obama administration intensified the enforcement of this act, emphasizing the importance of sustainable trade in products like timber and seafood. In terms of food safety, Obama signed the Food Safety Modernization Act (FSMA) in 2011, which granted the FDA the authority to inspect and prevent the import of contaminated or unsafe food from other countries.[56] It is worth noting that although the Obama administration increased its focus on data security, food safety, and environmental protection, it did not implement large-scale import bans on these grounds. Overall, its trade policy remained centered on multilateral trade cooperation, with significant import bans primarily existing in the context of trade sanctions against specific countries.[2]

During the Trump administration, the "America First" and trade protectionism ideologies made import bans a key tool of U.S. foreign trade policy, aimed at protecting the domestic economy and countering foreign competitors. The resurgence of import bans targeting specific countries was prominently illustrated by Trump's large-scale import restrictions on Chinese products. First, in 2018, Trump initiated a trade war with China, imposing high tariffs on Chinese goods valued at hundreds of billions of dollars. Although tariff measures themselves do not fall under the category of import bans, high tariffs often effectively act as de facto import bans by making it more challenging for Chinese products to enter the U.S. market. Second, Trump implemented several import bans on Chinese technology products and services under the pretext of "data security," with administrative orders against TikTok and WeChat serving as notable examples. It is important to note that the approach of imposing bans on prominent Chinese technology companies, initiated during Trump's tenure, has continued under the Biden administration. However, Biden moved away from the executive order model used by Trump, instead codifying restrictions on products or services from Chinese tech companies through state legislation and Congressional actions, resulting in a more negative impact on these companies. Finally, during the Trump administration, the U.S. began to focus on using "human rights" as a justification for import bans on Chinese products. Since 2019, the U.S. has frequently implemented Withhold Release Orders (WROs) against products from Xinjiang, citing "forced labor" as a reason to prohibit the import of products with competitive export advantages produced in that region. From 2019 to 2022, U.S. Customs and Border Protection (CBP) issued 12 WROs, affecting a wide range of products from Xinjiang, including cotton, tomatoes, and polysilicon, along with downstream products.[57]

During the Biden administration, the large-scale implementation of import bans further developed, primarily reflected in the establishment of legislative foundations and the interconnectedness of ban policies between countries. In terms of legislative foundations, Congress enacted various discriminatory laws to ensure the effective implementation of import bans targeting different countries and products. For example, in 2021, Congress passed the Uyghur Forced Labor Prevention Act, which established a "rebuttable presumption" rule, prohibiting the import of all products originating from Xinjiang, China, into the United States.[58] The introduction of the UFLPA allowed the United States to overcome the challenges of issuing import bans on products one by one during the WROs period, enabling a complete halt on imports of products from Xinjiang, China. Furthermore, following the outbreak of the Russia-Ukraine conflict, the U.S. intensified its economic sanctions against Russia. In 2022 and 2024, Congress passed the Ending Imports of Russian Oil Act and the Prohibiting Imports of Russian Uranium Act, respectively, to impose import bans on products such as oil and low-enriched uranium that had comparative export advantages for Russia. This illustrates that during the Biden administration, the U.S. shifted from issuing administrative orders to enacting discriminatory laws regarding import bans, enhancing the continuity and stability of these measures. In terms of the interconnectedness of ban policies between countries, unlike the unilateral trade sanctions emphasized during the Trump administration, Biden's approach focuses on collaboration with allied countries to implement coordinated import bans based on existing unilateral measures. This further strengthens the impact of the bans on international supply chains. For example, the U.S. has coordinated with Canada, Australia, and Mexico to jointly prohibit the import of "forced labor" products, specifically targeting those produced in Xinjiang, China. Additionally, since the Russia-Ukraine conflict began, due to the European Union's high dependence on Russian oil, the U.S. and the EU have implemented policy coordination to jointly ban imports of oil products originating from Russia. This aims to intensify the impact on Russia's oil products and economic system while expanding U.S. oil exports to EU countries, thereby capturing a share of the oil market previously held by Russia.

It is evident that in recent years, the shift in U.S. trade policy and the widespread implementation of import bans are not directly related to changes in the ruling party. Instead, import bans have become tools for the U.S. to promote manufacturing reshore, reduce dependence on foreign products, and target competitors in the context of trade protectionism. Therefore, the expansion of import bans in the U.S. is unlikely to stop in the near future.

5. Conclusion

Through a narrative analysis of the value implications, applicable items, and historical development of U.S. import bans, it is evident that the broad implementation of these measures under the context of trade protectionism is historically inevitable. Import bans have become one of the effective tools for the U.S. in executing economic sanctions against other countries. In the realm of international trade, the U.S. primarily influences other countries through import and export sanctions. In the export sector, the U.S. has increasingly emphasized export controls on high-tech products in recent years to curb China's access to such items. On the import side, against the backdrop of trade protectionism, the U.S. has expanded its implementation of import bans. This expansion aims to promote the reshoring of domestic manufacturing, stabilize economic development, and reduce reliance on foreign products. Additionally, by imposing import bans on products originating from specific countries, the U.S. seeks to disrupt the supply chains of those products, aligning with its strategic goals of curbing the development of competitors. Therefore, U.S. import bans are unlikely to diminish in the short term; instead, their implementation will likely become more pronounced. In light of this, countries that are considered U.S. competitors, such as China and Russia, should consider how to develop targeted responses to mitigate the international trade pressures arising from U.S. import bans.

Reference

[1] E.O. 14114 of Dec 22, 2023.

[2] Bruce R. Fox, Navigating the Brave New World of International Trade Agreements, 11 INT'l. IN-House Counsel J. 1 (2018).

[3] Irwin, D. A. (2017). Clashing over Commerce: A History of U.S. Trade Policy. University of Chicago Press.

[4] Chicago Booth Kent A. Clark Center for Global Markets, Trade Balances, https://www.kentclarkcenter.org/surveys/trade-balances/.

[5] Janice Marturano, U.S. Legislative Import Relief Options: A Comparison of Procedures, 13 N.Y.U. J. INT'l L. & POL. 1049 (1981).

[6] Associated Press News, Trump’s plans if he returns to the White House include deportation raids, tariffs and mass firings, https://apnews.com/article/trump-policies-agenda-election-2024-second-term-d656d8f08629a8da14a65c4075545e0f.

[7] Joel B. Dirlam & Hans Mueller, Import Restraints and Reindustrialization: The Case of the U.S. Steel Industry, 14 CASE W. RES. J. INT'l L. 419 (1982).

[8] U.S. Food and Drug Administration, FDA Response to the

Fukushima Daiichi Nuclear Power Facility Incident, https://www.fda.gov/news-events/public-health-focus/fda-response-fukushima-daiichi-nuclear-power-facility-incident.

[9] Liu Jingdong, "The Crisis of International Rule of Law in the Evolution of Global Economic and Trade Relations and Its Response," China Legal Science, no. 3 (2023): 285–286.

[10] Li Ming, "Cooperation and Struggle: The Dual Functions of International Law," Local Legislation Studies, no. 4 (2022): 88.

[11] Dani Rodrik (2018). Straight Talk on Trade: Ideas for a Sane World Economy. Princeton University Press.

[12] The White House, National Security Strategy of the United States of America, https://trumpwhitehouse.archives.gov/wp-content/uploads/2017/12/NSS-Final-12-18-2017-0905-2.pdf.

[13] The White House, National Security Strategy, https://www.whitehouse.gov/wp-content/uploads/2022/10/Biden-Harris-Administrations-National-Security-Strategy-10.2022.pdf.

[14] U.S. Customs and Border Protection, Prohibited and Restricted Items. https://www.cbp.gov/travel/us-citizens/know-before-you-go/prohibited-and-restricted-items.

[15] 19 U.S.C. § 1307.

[16] USDA Foreign Agriculture Service, Mexico: Avocado Annual, https://fas.usda.gov/data/mexico-avocado-annual-7.

[17] 19 U.S.C. § 1337.

[18] Cao Xingguo. "The Origins and Evolution of Maritime Law from the Perspective of Spontaneous Order and Its Path for China." Hebei Law Science, no. 12, 2016, p. 149.

[19] UK Parliament, The Stamp Act and the American colonies 1763-67, https://www.parliament.uk/about/living-heritage/evolutionofparliament/legislativescrutiny/parliament-and-empire/parliament-and-the-american-colonies-before-1765/the-stamp-act-and-the-american-colonies-1763-67/.

[20] Gilder Lehram Institute of American History, The Stamp Act 1765, https://www.gilderlehrman.org/history-resources/spotlight-primary-source/stamp-act-1765, lase visited:2024-09-15.

[21] History, Tea Act, https://www.history.com/topics/american-revolution/tea-act, last visited: 2022-09-15.

[22] B. R. Mitchell, British Historical Statistics, New York: Cambridge University Press, 1988, p.494.

[23] United States Department of State Office of the Historian, Constitutional Convention and Ratification, 1787-1789, https://history.state.gov/milestones/1784-1800/convention-and-ratification.

[24] Harold C. Syrett, Jacob E. Cooke, The Papers of Alexander Hamilton, Vol. 4, January 1787 - May 1788, United States of America: Columbia University Press, 1962, p.340.

[25] U.S. Const. Article 1, §8.

[26] He Yongjiang, Special Study on U.S. Trade Policy, Nankai University Press, 2019 edition, p. 10.

[27] United States Department of State Office of the Historian, Napoleonic Wars and the United States, 1803–1815, https://history.state.gov/milestones/1801-1829/napoleonic-wars.

[28] 50 U.S.C. § 4311.

[29] United States Department of State Office of the Historian, Executive Order No. 2729–A, October 12, 1917, https://history.state.gov/historicaldocuments/frus1917Supp02v02/d380.

[30] United States Department of State Office of the Historian, Public Statement Issued December 1, 1917, by the War Trade Board, in Connection with the President's Proclamation of November 28, 1917, Prohibiting Certain Imports Except under License, https://history.state.gov/historicaldocuments/frus1917Supp02v02/d125.

[31] United States Department of State Office of the Historian, Proclamation No. 1429, February 14, 1918, Regarding Imports in Time of War, https://history.state.gov/historicaldocuments/frus1918Supp01v02/d42.

[32] U. S. Const. amend. XVIII.

[33] General Agreement on Tariffs and Trade, Article 11.

[34] General Agreement on Tariffs and Trade, Article 20, 21.

[35] H.R.4550 – 82nd Congress (1951-1952): Mutual Defense Assistance Control Act of 1951, H.R.4550, 82nd Cong. (1951), https://www.congress.gov/bill/82nd-congress/house-bill/4550.

[36] Encyclopedia of American Foreign Policy, Embargoes and Sanctions - Cold war sanctions, https://www.americanforeignrelations.com/E-N/Embargoes-and-Sanctions-Cold-war-sanctions.html.

[37] Vaclav E. Mares, United States Trade and the Soviet Bloc, History, Vol. 43, No. 252 (1962).

[38] United States Department of State Office of the Historian, The Trade Agreements Extension Act of June 16, 1951, https://history.state.gov/historicaldocuments/frus1951v01/comp12subch3.

[39] H.R.10710 – 93rd Congress (1973-1974): Trade Act of 1974, H.R. 10710, 93rd Cong. (1974), https://www.congress.gov/bill/93rd-congress/house-bill/10710.

[40] Alan P. Dobson, The Changing Goals of the U.S. Cold War Strategic Embargo, Journal of Cold War Studies, Vol. 12, No. 1 (2010).

[41] United States of America Department of Commerce, Export Control Sixty-second Quarterly Report, https://www.cia.gov/readingroom/docs/CIA-RDP80B01676R002800100001-2.pdf.

[42] United States Census Bureau, Trade in Goods with USSR, https://www.census.gov/foreign-trade/balance/c4610.html.

[43] U.S. Department of States, China: WTO Accession and Permanent Normal Trade Relations (PNTR), https://1997-2001.state.gov/regions/eap/fs-china_pntr-wto_000524.html.

[44] Carnegie Endowment for International Peace, Time to Reset the U.S. Trade Agenda, https://carnegieendowment.org/research/2024/05/time-to-reset-the-us-trade-agenda?lang=en.

[45] Yang Zhimin, "The 'Resurgence' of Economic Unilateralism and Responses: Analyzing the Evolution of Trade Relations Between Latin American Countries and the United States," Latin American Studies, 2019, no. 4, p. 64.

[46] U.S. Department of States, America and the World Trade Organization, https://1997-2001.state.gov/issues/economic/991029_fsustr_wtobkg.html.

[47] U.S. Department of States, America and the World Trade Organization, https://1997-2001.state.gov/issues/economic/991029_fsustr_wtobkg.html.

[48] World Trade Organization, Disputes by member, https://www.wto.org/english/tratop_e/dispu_e/dispu_by_country_e.htm.

[49] Chen Weiguang and Ming Yuanpeng, "The Logic of Great Power Behavior in World Trade," Modern International Relations, no. 2, 2020, p. 40.

[50] Congress Research Service Report, U.S. Trade Policy: Background and Current Issues, https://crsreports.congress.gov/product/pdf/IF/IF10156.

[51] U.S. Department of The Treasury, The Treasury 2021 Sanctions Review, https://home.treasury.gov/system/files/136/Treasury-2021-sanctions-review.pdf.

[52] The Washington Post, The Snake Oil of Diplomacy, https://www.washingtonpost.com/archive/opinions/1998/07/12/the-snake-oil-of-diplomacy/82c26d84-9ad7-49bb-8439-187e1090bd90/.

[53] Office of the United States Trade Representative, Overview of the Trans Pacific Partnership, https://ustr.gov/tpp/overview-of-the-TPP.

[54] ALICIA FAISON, "TikTok Might Stop: Why the IEEPA Cannot Regulate Personal Data Privacy and the Need for a Comprehensive Solution", Duke Journal of Constitutional Law and Public Policy Sidebar, 115 (2021).

[55] 18 U.S.C. 42.

[56] 124 Stat. 3885.

[57] U.S. Customs and Border Protection, Withhold Release Orders and Findings List, https://www.cbp.gov/trade/forced-labor/withhold-release-orders-and-findings.

[58] H.R.6256 – 117th Congress (2021-2022): To ensure that goods made with forced labor in the Xinjiang Uyghur Autonomous Region of the People's Republic of China do not enter the United States market, and for other purposes, H.R.6256, 117th Cong. (2021), https://www.congress.gov/bill/117th-congress/house-bill/6256.

1 For instance, a series of U.S. legislative measures targeting Russia include direct sanctions on Russian entities and individuals across various sectors, such as personal visas, financial investments, and trade flows. These include the 2012 Magnitsky Rule of Law Accountability Act, the 2014 Support for the Sovereignty, Integrity, Democracy, and Economic Stability of Ukraine Act and the Ukraine Freedom Support Act, the 2017 Countering America's Adversaries Through Sanctions Act (CAATSA), the 2019 Protecting Europe's Energy Security Act, the 2022 Prohibition on Imports of Russian Oil Act and the Suspending Normal Trade Relations with Russia and Belarus Act, the 2024 Prohibiting Russian Uranium Imports Act, and provisions

in the Further Consolidated Appropriations Act. These laws incorporate direct sanctions against Russian individuals and entities.

2 For example, the United States imposed extensive economic sanctions on Iran under the 2010 Comprehensive Sanctions, Accountability, and Divestment Act, which included import bans. Additionally, the long-standing trade embargo against North Korea also encompassed systematic import bans.