Economic Boycotts and WTO Law

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Abstract

The paper evaluates whether the motivation of national security is a reasonable excuse to restrict free trade and furthermore – assuming *arguendo* a good faith *bona fide* threat exists – whether boycotts even constitute effective tools to advance national security. Countries have their legal arguments that they can use to justify the boycott or to invalidate it. The use of the national security exception in international economic law must be evaluated on the bottom-line question of effectiveness. The boycott has always proven ineffective and is now increasingly counter-productive due to transformative regional and global developments. Free trade and efficient markets combined with the ability of talented individuals to work without discrimination and restriction are the hallmarks of vibrant economies and stability – true national security. While the establishment of the boycott may at one time serve a perceived national security goal, there is no longer such a need. Economic boycotts undermine the WTO's commitment to free trade and prosperity which ultimately harms all parties and their national security and harms the greater global interest in international stability for all parties.

I. Introduction

Free trade is a core component of the global governance architecture and recent decades have witnessed the legalization of international economic law.[1] The institutions that govern international economic relations today such as the World Trade Organization (WTO) grew out of an understanding that peace cannot flourish in a world with trade barriers.[2] Thousands of bilateral investment agreements and free trade agreements have been executed all intending to depoliticize economic relations and WTO rules preclude discriminatory trade conduct. However, international economic law recognizes the right of states to invoke policies and trade barriers such as boycotts[3] on the basis of national security[4] and the inter-connection between trade and national security is not new.[5]

The underlying motivation of boycotts is national security. However, national security concepts have changed and consist of concerns like funding terrorism, developing and threatening nations with weapons of mass destructions, and cyber-security – none of which point to any national security concerns. Moreover, and significantly, national security is not only military preparedness; national security encompasses a wide range of important bulwarks in defense of the good of the nation such as peace, prosperity, stability and freedom.[6] Thus, ironically, maintaining the boycott may in fact harm the national security of all parties involved.

Given the sweeping regional and international changes and the importance of trade as a pillar of the global governance architecture, the timing of this issue is particularly germane. The interaction between national security and free trade has become an increasingly significant global issue in our internationalized world since invoking the national security exception inherently involves both law and politics.[7] Indeed some have argued that since trade is so important to

global security, the domestic concerns of each nation should no longer automatically and overwhelmingly trump trade obligations in unfettered fashion.[8]

The use of the national security exception must be evaluated on the bottom-line question of effectiveness.[9] Moreover, continuing the boycott undermines the WTO's commitment to free trade and prosperity[10] which ultimately harms the boycotters and *their* national security.[11] Furthermore, the boycott also harms the greater global interest in international stability which is a major positive outcome of free trade.

II. Reasons to Rescind Economic Boycotts

A. The Benefits of Stopping Boycotts

Parallel to the lack of effectiveness, are the likely rewards of formally eliminating the boycott. International economic law and in particular trade law are based upon economic benefits accruing to the trading partners.[12] Moreover, as specific to public sector contracting, international trade law focuses on the promise of ensuring the best value for the world's citizens. The notion of efficient and productive market forces is central to the international trade architecture.[13] Therefore, measures undertaken to undercut trade such as boycotts inherently conflict with efficient and productive markets. Moreover, principles of non-discrimination and transparency are vested into international agreements and form central norms of international law.[14] The boycott is incongruent with these principles.

Free and efficient markets combined with the ability of talented individuals to work and trade without restrictions is the hallmark of the U.S. economy.[15] One of the proximate causes of the unrivalled economic strength enjoyed by the U.S. is the mantra of open markets and employers' acceptance of the best employees no matter what their religious, ethnic or racial affiliation. Indeed, discrimination in employment and government contracting is specifically illegal under U.S. federal law.[16]

Moreover, U.S. businesses and educational institutions hire the best individuals for the position regardless of ethnicity, racial background or religious affiliation. This cross-cultural diversity brings substantial benefits and greatly enhances U.S. businesses and wealth creation. The U.S. Supreme Court has acknowledged the link noting that diversity is an increasingly important component to effective business by bringing new talent and ideas into the economy. In ruling on diversity in education, the Court noted diversity in education strengthens these institutions and by extension - the state as well business – thereby bringing inter-connected competitive advantages to the national economy.[17] The virtues of opening up sectors to diverse applicants are an increasingly important advantage in a world without borders.

Therefore, the boycott – which by definition is the antithesis of diversity – is harmful to the economic development and diversification of all countries involved. In line with the failure of the boycott to achieve the goal of economic isolation, the rescinding of the boycott may in fact bring great benefit to the entire region by injecting new thinking, capital, technology transfer and employing talented individuals. Additionally, by allowing cross-cultural exchanges, the ability to foster stable relations is enhanced.

But at a minimum, the boycott dramatically reduces trade contravening the primary purpose of encouraging free trade – fostering overall economic gain. Enhanced trade brings substantial benefits. A positive correlation exists between trade and FDI which benefits developing nations. Trade is an important catalyst of economic growth. Trade promotes more efficient and effective production of goods and services and higher standards of living.[18] For instance, free trade leads to greater national wealth and was a key factor fueling China's meteoric rise.[19] Accordingly, the boycotters own economic performance and thus the prosperity of their citizenry may be adversely impacted by restricting trade.

In contrast, embracing free trade and rescinding boycotts does bring real economic benefits to all states involved.

B. Economic boycotts in the Context of International Economic Law

Boycotts are the most malicious trade barriers damaging efficient trade.[20] Moreover, boycotts are the antithesis the objectives of GATT – the promotion of cooperative and peaceful relationships. Peace and prosperity through trade was the basic objective of the GATT.[21] Countries must build a world in which they use cooperation to pursue their mutual interests. Countries should recognize that they do better as trade partners, not rivals, which would create both peace and prosperity.

The issue economic boycotts have been intertwined with the GATT/WTO since its inception. The national security exception is found in the WTO agreements which preclude nations from taking actions counter to free and open trade unless the conduct's motivation is to protect national security interests.

> [n]othing in this Agreement shall be construed (a) to require any contracting party to furnish any information the disclosure of which it considers contrary to its essential security interests; or (b) to prevent any contracting party from taking any action which it considers necessary for the protection of its essential security interests (i) relating to fissionable materials or the materials from which they are derived; (ii) relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment; (iii) taken in time of war or other emergency in international relations; or to prevent any contracting party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.[22]

This inherent sovereign right to the imposition of economic measures such as bans or boycotts to protect national security is the raison d'etre of the boycott. However, what is "national security" and is it applicable in this context?

> National security is the idea that a state must keep its property safe in order to protect its citizens. This is a concept that a government, along with its law-making bodies (e.g., parliament(s), should protect the state and its citizens against all kinds of 'national' crises

> through a variety of power projections. Projections of power may manifest itself in such ways as political power, diplomacy, economic power, military might, and so on.[23]

The national security exception has rarely been invoked or interpreted and the meaning of national security in the context of trade obligations is unclear.[24] The invocation of the national security exception is the subject of broad questioning particularly the subjective self-judging aspect[25] but also to the substantive extent and contours of the exception as well.[26] Since the national security provision is exceptional inasmuch as the invocation is subjective (unlike other exceptions) and is amorphous,[27] some have noted that the exception is subject to abuse.[28]

Some have argued that the national security exception needs to be revised to reflect a globalized world. [29] One approach is to presume that the national security exception is subject to certain norms as are other provisions requiring the nation invoking the exception to adhere to concepts of reasonableness.

> At the same time, however, implicit in clauses (i), (ii), and (iii), and in the words "necessary," "protection," and "essential security interests," *must be the concept of a credible threat from these dangers.* Simply "crying wolf" will not do, because Article XXI could not have been designed to protect a hyper-sensitive government any more than many standards of care in tort law do not protect the hyper-sensitive plaintiff. Rather, the test should be an objective one, namely, whether a "reasonable" government faced with the same circumstances would invoke Article XXI. *In sum, it is the implicit concept of a credible threat judged from the objective standpoint of a reasonable, similarly-situated government, coupled with the articulation of specific types of dangers that track one or more of the three clauses*, and not []'s unduly restrictive self-defense argument, that can be a restraint on "cowboy behavior."[30]

Drawing on investment treaty law, one could comparatively note that arbitration tribunals have consistently interpreted national security concepts such as “exigent circumstances” or “national emergency” as enabling a host state to override a treaty guarantee *only if an security essential interest was in severe danger and the state’s action was vital to defending the interest*.[31]

It also seems reasonable to require that in evaluating boycotts:

> that the principle of good faith under Article 31 of the Vienna Convention on the Law of Treaties, a customary international law often read in line with the WTO Agreements, is an appropriate standard applicable to Security Exceptions as well.[32]

Indeed, good faith has been suggested as an important factor in determining whether national security is a reasonable cause for a boycott.[33] Furthermore, the good faith argument is also embodied in the international law concept of *abus de droit*.[34]

Accordingly, in evaluating a draconian restriction such as a boycott, the key is balancing the legitimate need of defending national security with the global interest in encouraging free trade and preventing the harassment of another nation. This would militate in favor of evaluating boycotts from the perspective of whether the need is compelling (a good faith objectively) and whether the conduct is reasonable in proportion to the threat to national security.

Several precedents relating to trade boycotts exist.[35] The most notable trade boycotts include for instance the Falklands conflict between Argentina and the United Kingdom. The European Economic Community (EEC) imposed trade sanctions on Argentina.[36] The matter was brought before the GATT Council- not a GATT dispute panel- which was unable to make a decision on the merits of the trade sanctions.

In another instance, in the U.S.- Nicaragua case, the GATT panel decided that trade boycotts ran counter to basic aims of the GATT, namely to foster non- discriminatory and open trade policies, to further the development of the less developed contracting parties and to reduce uncertainty in trade relations.[37] Thus, there must a balancing act between the security interests of countries and the wider goal of open trade.

In another instance, the U.S. enacted the Helm-Burton Act which prohibited the importation of Cuban goods into the U.S. Section 110.a of Helms-Burton Act prohibits the entry into the U.S., not only of Cuban sugar or rum, but also of goods of other countries which are made in part of Cuban sugar or rum.[38] The EC filed a complaint with the WTO challenging the secondary boycott provisions of Helms-Burton Act. The U.S. maintained that the boycott passed on national security grounds.[39] After trade skirmishes between the U.S. and the EC, the matter was settled before the first submissions were due with the panel.[40] It seems that the U.S. and EC were not keen to deal with the boycott in question as a WTO issue.

While the establishment of economic boycotts may at one time have served a perceived national security goal, there is no longer such a need – let alone a compelling one. At a minimum, the boycotters should examine whether the motivation of national security is relevant in 2019 to protect their national security. Moreover, inasmuch as international economic law does not view "trade itself" as the sole benefit of free trade but rather views the beneficial effects of trade on employment and income as proximate causes of stability and peace, the boycott may constitute a contravention of these core principles.

C. Promotion of Stability and Global Peace and Security

Separate from wealth creation, free trade brings the significant benefits of regional peace and stability and diplomatic resolution of disagreements.[41] Peace is the dividend that develops when free trade reins[42] because free trade makes nations busy, more prosperous with financial interests at risk should conflict arise.

The importance of trade in promoting peace is well-recognized and therefore actions which counter trading are prohibited. Trade regulation is an important component of foreign policy. To bring about peaceful and prosperous relations is an end in itself. Peace and security was absolutely central at the time that the General Agreement on Tariffs and Trade (GATT) was founded. It was not a peripheral issue at all.[43] The compelling benefit of the promotion of nonbelligerent interactions among trading partners constitutes a primary motivation of the WTO.[44]

> T]he WTO also has other purposes that are directly frustrated by the use of boycotts as instruments of foreign relations. Free trade has always been understood to be an

> important method of discouraging war and promoting more amicable relations among nations. John Stuart Mill argued that "the economical advantages of [international] commerce are surpassed in importance" by its effects on international political relations. According to Mill, trade is "the principal guarantee of the peace in the world." Leading contemporary scholars echo this view. Indeed, fostering the conditions for international peace was as much in the minds of GATT's architects as was reaping the benefits of comparative advantage.[45]

A growing literature has confirmed the positive correlations between free trade and the advancement of stability in international relations.[46] Rescinding the boycott would allow for an exchange of tourism, academic exchanges, and substantially expanded availability of goods and services. Without the opportunities to interact, people do not get to know neighbors and remain ensconced in a perception that may not reflect reality. Ironically, therefore, upholding the 70 year old boycott may impede full and peaceful relations and in fact run counter to the boycotting nations' own national security.

Conclusion

Countries should examine whether in 2019 national security is a reasonable excuse to restrict free trade with other countries, and furthermore, whether – assuming *arguendo* a good faith bona fide threat exists – whether the boycott even constitutes an effective tool to advance national security. Countries should also evaluate whether the primary boycott is reasonable and effective or whether the boycott is in fact contrary to their own national security interests (and the greater global interest) in promoting free trade. International trade law has always been about economic development – but also in the context of building a better world. Nations must build a world in which they use cooperation to pursue their mutual interests which would create both peace and prosperity - recognizing that they do better as trade partners, not rivals.

While the establishment of economic boycotts many decades ago may have served a perceived national security goal, there is no longer such a need. There are no military confrontations worldwide. To the contrary, there is a somewhat collaborative relationship including trade, tourism, joint military training and budding diplomatic coordination, between countries. Therefore, with minor exceptions, the primary boycott cannot be justified on national security grounds.

Economic boycotts have never been adjudicated under the WTO. Both sides of the spectrum have their legal arguments that they can use to justify boycott or to invalidate it. WTO jurisprudence does not help advance the argument of either party. The few available GATT precedents are incomplete precedents in this regard and provide no details as to the meaning of the words used and conditions of article XXI. Additionally, it would be a worrisome precedent if the WTO, a trade institution, addressed sensitive issues with political ramifications.

Countries do not benefit from a stagnant economic relationship. The alternative to formally rescinding any boycott is for parties to adopt a pragmatic and business like approach. Parties would continue their relationships on an informal basis and conduct business through third countries or parties. Businesses will continue to transact deals regardless of the political climate

in the region, and help industries countries complement each other albeit secretly or some other indirect ways. There will be progress but following this path is a long journey and substantially limits the potential economic gains and peace dividends that formally rescinding the boycott would produce. Ultimately, however, the boycott will end. This development will ultimately lead to tourism, economic development, and educational and technological cooperation. Irrespective of whether the current policy of informal relations is maintained or whether the process is expedited through ending the boycott, this inextricable destiny will happen.

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[1] Raj Bhala, *Poverty, Islamist Extremism, and the Debacle of Doha Round Counter-Terrorism: Part One of a Trilogy - Agricultural Tariffs and Subsidies*, 9 U. St. Thomas L.J. 5, 15-21 (2011).

[2] See Bashar H. Malkawi, *The WTO, Security and Peace: Are they Compatible, and if so, What is the Framework?* 8 The Journal of World Investment and Trade 303, 305 (2007).

[3] See Julien Chaisse, *Demystifying Public Security Exception and Limitations on Capital Movement: Hard Law, Soft Law and Sovereign Investments in the EU Internal Market*, 37 U. PA. J. INT'L L.583, 599 (2015) (The GATS promotes market liberalization by imposing obligations upon the members, including the EU, while allowing the states to make exceptions, including the national security exception when there is a need for national protection)

[4] See Raj Bahla, *National Security and International Trade Law: What the GATT Says, and What the United States Does*, 19 U. Pa. J. Int'L Econ. L. 263, 316 (1998) (National security and international trade law are inextricably linked. By virtue of GATT Article XXI, the link is written into the constitution of modern international trade law)

[5] National security and international trade law are closely linked, and this link has existed ever since the birth of modern international trade law in 1947. *Id.* at 265.

[6] See Bashar H. Malkawi, *supra* note 8, at 315.

[7] See Tsai-fang Chen, *To Judge the "Self-Juding" Security Exception under the GATT 1994–A Systematic Approach*, 12.2 Asian Journal of WTO & International Health Law and Policy, 311, 315 (2017).

[8] See Ji Yeong Yoo and Dukgeun Ahn, *supra* note 15, at 428 (security objectives no longer absolutely overrule trade policies. In contrast to what could be called security and trade relations under which security concerns prevail over trade interests, matters have evolved to trade and security relations which further require more rational and balanced considerations of trade interests).

[9] See Raj Bahla, *supra* note 12, at 313.

[10] See Raj Bhala, *supra* note 7, at 9 (citing to preamble of General Agreement on Tariffs and Trade).

[11] See Bashar H. Malkawi, *supra* note 8, at 325.

[12] See Bernard Hoekman, Aaditya Matto, and Philip English, *Development, Trade, and the WTO* 11-16 (2002).

[13] See Jagdish Bhagwati, *Political Economy and International Economics* 3-34 (Douglas A. Irwin ed., 1991). See also Ramesh Adhikari and Prema-Chandra Athukorala, *Developing Countries in the World trading System: The Uruguay Round and Beyond* 185-190 (2002).

[14] See Yehuda Z. Blum, *Economic Boycotts in International Law in Will "Justice" Bring Peace?* 182-184 (2016).

[15] See Harry N. Scheiber, *Regulation, Property Rights, and Definition of "The Market": Law and the American Economy*, 41.1 The Journal of Economic History 103, 105(1981). See also Thomas W. Zeiler, *Free Trade, Free World: The Advent of GATT* 3-5 (1999).

[16] See Julie C. Suk, *Discrimination at Will: Job Security Protections and Equal Employment Opportunity in Conflict*, 60.73 Stan. L. Rev 73, 77-78 (2007).

[17] See Grutter V. Bollinger (02-241) 539 U.S. 306, 328 (2003) 288 F.3d 732.

[18] See Preamble of General Agreement on Tariffs and Trade, pmbl., Oct. 30, 1947, 61 Stat. A-11, 55 U.N.T.S. 194 [hereinafter GATT]).

19 See Joel Slawotsky, *The Clash of Architects: Impending Developments and Transformations in International Law*, 3 Chinese Journal of Global Governance 104-107 (2017).

[20] See Roger Alford, *supra* note 14, at 701.

[21] See Julien Chaisse, Assessing the relevance of multilateral trade law to sovereign investments: Sovereign Wealth Funds as "investors" under the General Agreement on Trade in Services, 2015 International Review of Law 1, 8 (2015).

[22] See World Trade Organization, GATT Analytical Index, Article XXI "Security Exceptions", p. 600 available at <http://www.wto.org/english/res_e/booksp_e/gatt_ai_e/art21_e. pdf> (last visited Jan. 6, 2018).

[23] See Julien Chaisse, *Demystifying Public Security Exception and Limitations on Capital Movement: Hard Law, Soft Law and Sovereign Investments in the EU Internal Market*, 37 U. PA. J. INT'L L.583, 596 (2015).

[24] Article XXI of the GATT has rarely been invoked in practice, and no GATT or WTO panel has exercised a meaningful standard of review in a litigation concerning this article. See Sophocles Kithardis, *The unknown territories of the national security exception: The importance and interpretation of art XXI of the GATT*, 21 Australian International Law Journal, 79, 83 (2014).

[25] In the international context this is described as the doctrine of self-judging: whether factual circumstances satisfy the requirements of the security exception is left to the sound discretion of the Member State invoking the exception. See Stephan Schill and Robyn Briese, If the State Considers": Self-Judging Clauses in International Dispute Settlement, 13.1 Max Planck Yearbook of United Nations Law 61, 64-65 (2009). See also Peter Lindsay, *The Ambiguity of GATT Article XXI: Subtle Success or Rampant Failure?* 52 Duke L.J. 1277, 1282 (2003).

[26] See Julien Chaisse, *supra* note 77, at 601 ([T]the WTO has not clarified the scope of the national security exception. [And], there is inadequate case law to illustrate the correct use of the exception, to what extent, and to which service sectors the exception is applicable).

[27] Most authors agree that the phrase 'essential security interest' creates a degree of uncertainty regarding reliance on the exception. The causes of the uncertainty are that the WTO has not provided any clear definition in clarifying the scope of the term "essential security" and also because different states hold different notions regarding the phrase. *Id.*

[28] See Locknie Hsu, *A Decade of Security-Related Developments*, 11 Journal of World Investment and Trade 697, 721 (2010).

[29] Security exceptions have been one of the core elements of international trade law since the genesis of the GATT, but without much needed modification addressing changed economic and political circumstances. See Ji Yeong Yoo and Dukgeun Ahn, *supra* note 15, at 434.

[30] See Raj Bahla, *supra* note 12, at 275.

[31] See Joel Slawotsky, *supra* note 9, at 355.

[32] See Ji Yeong Yoo and Dukgeun Ahn, *supra* note 15, at 435.

[33] See Hannes L. Schloemann & Stefan Ohlhoff, *"Constitutionalization" and Dispute Settlement in the WTO: National Security as an Issue of Competence*, 93 Am. J. Int'L L. 424, 447-448 (1999). See also Dapo Akande and Sope Williams, *International Adjudication on National Security Issues: What Role for the WTO?* 43 Va. J. Int'L L. 365, 390–91 (2003) (suggesting an interpretation of Article XXI that incorporates the principle of *abus de droit* under DSU art. 3.2).

[34] The *abus de droit* concept "refers to a State exercising a right either in a way which impedes the enjoyment by other States of their own rights or for an end different from that for which the right was created, to the injury of another State. See Marion Panizzon, Good Faith in the Jurisprudence of the WTO: The Protection of Legitimate Expectations, Good Faith Interpretation and Fair Dispute Settlement 33-34 (2006).

[35] In 1961, Ghana justified its boycott of Portuguese goods on the basis of the provisions of Article XXI, noting that each contracting party was the sole judge of what was necessary in its essential security interests and, accordingly, there could be no objection to the boycott. In 1975, to justify a global import quota system it had introduced for certain footwear, Sweden stated that this measure was in conformity with the spirit of Article XXI - that a decrease in domestic production of footwear had allegedly become a critical threat to the emergency planning of its economic defense, which was an integral part of the country's security policy. See Multilateral Trade Negotiations, Negotiating Group on GATT Articles, Article XXI, MTN.GNG/NG7/W16, 5-8 (Aug. 18, 1987), available at < https://docs.wto.org/gattdocs/q/UR/GNGNG07/W16.PDF> (last visited Jan. 9, 2018)..

[36] See Roberts E. Hudec, Enforcing International Trade Law: The Evolution of the Modern GATT Legal System 502-504 (1993).

[37] The U.S. argued successfully that the terms of reference of the GATT Panel that examined the dispute precluded it from examining the validity of the U.S. invocation of Article XXI. See Panel Report, United States - Trade Measures Affecting Nicaragua, 5.1–5.17, L/6053 (Oct. 13, 1986).

[38] See John A. Spanogle, Jr., *Can Helms-Burton be Challenged under WTO*? 27 Stetson L. Rev. 1313, 1320, 1323 (1998).

[39] The U.S. Government's right to make decisions about our own foreign policy and our national security is absolute and cannot be abrogated or interfered with by any foreign entity…He [EC] who lives in a glass house should not throw stones [at the U.S.]". *Interfering with U.S. National Security Interests: The World Trade Organization and The European Union Challenge to the Helms-Burton Law*: Hearing before the House Subcomm. on International Economic Policy and Trade of the Comm. on International Relations, 105th Cong. 1st Sess. 2-3 (1997) (statement of Ileana Ros-Lehtinen, Chair, Subcomm. on International Economic Policy and Trade).

[40] See WTO, United States — The Cuban Liberty and Democratic Solidarity Act, Lapse of the Authority for Establishment of the Panel, WTO Doc. DS38 (Apr. 22, 1998).

[41] See Soloman Polachek and Carlos Seiglie, Trade, Peace and Democracy: An Analysis of Dyadic Dispute 1017, 1025-1028 in Todd Sandler and Keith Hartley (eds), *Handbook of Defence Economics*, Volume 2, (2007). See also Enrico Spolaore and Romain Wacziarg, War and Relatedness, National Bureau of Economic Research Working Paper No.15095, 4-5 (June 2009).

[42] See Timothy Hotze, *Laboring for Peace and Development: Evaluating the United States-Jordan Free Trade Agreement's Effects*, College of Liberal Arts & Social Sciences Theses and Dissertations, DePaul University 34-38 (2017). See also Daniel Griswold, *Trade, Democracy and Peace, The Virtuous Cycle* (April 20, 2007), available at < https://www.cato.org/publications/speeches/trade-democracy-peace-virtuous-cycle > (last visited Dec. 10, 2017).

See also Craig VanGrasstek, The History and Future of the World Trade Organization 7-8, 42 (2013), available at < https://www.wto.org/english/res_e/booksp_e/historywto_e.pdf > (last visited Jan. 12, 2018).

[43] See Michael J. Hahn, *Vital Interests and the Law of GATT: An Analysis of GATT's Security Exception*, 12 Mich. J. Int'l L. 558, 581 (1991). See also Peter M. Gerhart, *The World Trade Organization and Participatory Democracy: The Historical Evidence*, 37.4 Vand. J. Transnat'l L. 897, 908-910, 926 (2004). See also Bruce W.Jentleson, Economic Sanctions and Post-cold war Conflicts: Challenges for Theory and Practice, 123-126 in National Research Council, International Conflict Resolution after the Cold War (2000).

[44] See Jim Chen, *Pax Mercatoria: Globalization as a Second Chance at 'Peace in Our Time*, 24 Fordham Intl L J 217, 225 (2000) (WTO was consciously designed to keep the peace and remain[s] quite effective in this role).

[45] See Eugene Kontorovich, *supra* note 29, at, 300.

[46] Trade agreements can strengthen inter-state relations and a large literature in political science has worked on international trade's role in promoting peace and interstate cooperation. See Gonzalo Villalta Puig and Vinci Chan, *Free Trade as a Force of Political Stability? The Case of Mainland China and Hong Kong*, 49.3 The International Lawyer 299, 332 (2016). See also Patrick J. McDonald, *Peace through Trade or Free Trade?* 48.4 The Journal of Conflict Resolution 547, 458 (2004).