

This copy is for your personal, non-commercial use only. To order presentation-ready copies for distribution to your colleagues, clients or customers visit <https://www.djreprints.com>.

<https://www.wsj.com/articles/u-s-china-talks-ignore-global-trade-rules-11558123934>

OPINION | LETTERS

U.S.-China Talks Ignore Global Trade Rules

The whole point of international trade law is that one country should not have the right to define what constitutes trade cheating.

May 17, 2019 4:12 pm ET



President Donald Trump on May 10.

PHOTO: ANDREW HARRER/BLOOMBERG NEWS

Your May 11 editorial “[The China Trade Impasse](#)” omits an important word and value that should be central to America’s trade fight with China: law. I refer to international trade law as codified in the rules of the World Trade Organization, which were co-authored and championed by previous U.S. administrations.

If you’re right that China engages in “trade cheating,” it’s because China has violated WTO law. Yet the Trump administration has brought only three WTO cases against China, even though China has the most extensive legal obligations of any WTO member country as a result of

the numerous unique commitments China made when it joined the WTO in 2001. The whole point of international trade law is that one country should not have the right to define what constitutes trade cheating. For intellectual-property theft, extensive WTO rules exist.

The problem with the U.S.-China trade negotiations is that if the Trump administration's numerous allegations against the Chinese government are valid, such misbehavior adversely impacts all advanced economies, not just the U.S. Yet the bilateral nature of the talks allows U.S. negotiators to make ad hoc demands that could benefit U.S. interests (or special interests) to the detriment of other countries. Moreover, the lack of third parties in the room makes it hard to know whether the negotiations on either side are being carried out in good faith.

Your editorial correctly explains how the Trump administration's tariffs on China can be bad for both nations' economies. Yet an equally important problem is that the administration's tactic of imposing frontier justice on China violates basic international rules against unilateral tariffs and evading the jurisdiction of WTO dispute settlement.

Should U.S. negotiators succeed in getting China to agree to "reform its policies and markets to let foreign companies compete fairly without regulatory predation or theft," then, as the editorial says, there needs to be a "process for mediating disputes." The WTO already has a good system for enforcing its own law. Unfortunately, the Trump administration is seeking to tear that system down by refusing to allow the WTO to replace appellate judges when their terms end.

For any new conflicts between the U.S. and China outside the scope of WTO law, the two nations should establish a bilateral process for adjudication, such as international arbitration. If the Trump administration is seeking a dispute process in which it alone can decide whether China cheats or engages in unfair treatment, then China should just say no. Such refusal would be in China's own domestic interest, and also in its global interest to preserve the once strong but now fragile world economic order.

Prof. Steve Charnovitz

George Washington Law School

Washington

Copyright © 2021 Dow Jones & Company, Inc. All Rights Reserved

This copy is for your personal, non-commercial use only. To order presentation-ready copies for distribution to your colleagues, clients or customers visit <https://www.djreprints.com>.