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Publishing Staff
Publisher: Leanne Battle
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Cover Art Design: Morgan Morrissette Wright and Sharon D. Ray

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Editorial Office

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Articles and Submissions

Direct editorial inquiries and send material for publication to:

Steven A. Meyerowitz, Editor-in-Chief, Meyerowitz Communications Inc., 26910 Grand Central Parkway, #18R, Floral Park, NY 11005, smeyerowitz@meyerowitzcommunications.com, 631.291.5541.

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The Rise of Deglobalisation: A Threat to Global Health and International Trade in Essential Healthcare Products

Lincoln Tsang*

In this article, the author explains that the recent geopolitical tensions that are convulsing the global economy and significantly disturbing global trade in goods, services, and global collaboration efforts may have an enduring effect of reversing the past 40 years' efforts in economic integration in favour of national protectionism.

Over 40 years ago, Theodore Levitt, a Harvard economist, was credited for coining the term "globalisation" to promote greater integration of economies and liberalisation of trade policies around the world, following his seminal paper published in the *Harvard Business Review* entitled "The Globalization of Markets" (May 1983).

Globalisation through international trade policies and agreements has a huge impact on the pharmaceutical and medical technology industries as they rely on international trade and an interconnected global economy to research, develop, and manufacture critical pharmaceutical and healthcare products as well as new emerging technologies to benefit global citizens.

Recent geopolitical tensions are convulsing the global economy and significantly disturbing global trade in goods and services as well as global collaboration efforts. These recent global events may have an enduring effect of reversing the past 40 years' efforts in economic integration in favour of national protectionism. The rising economic uncertainty caused the International Monetary Fund in late April 2025 to consider slashing growth expectations in the major global economies.

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International Cooperation and Global Harmonisation Endeavours—Removal of Trade Barriers

Legislatures, policymakers, and public health bodies around the world have recognised that no country is entirely self-reliant for the products and equipment it needs to support its health-care systems. Most, including those developed economies, rely on imports. For example, the United States has been reported by the World Trade Organization (WTO) as a major importer of medical products, with imports reaching USD 306 billion in 2022, representing over 19 percent of the world total. Medical products cover pharmaceutical products; medical equipment, including magnetic resonance imaging in detection and clinical diagnosis of diseases; operating tables; orthopaedic equipment; and hospital and laboratory consumables. Developing countries, least-developed countries, and transition economies account for 85 percent of the world's population but only 30 percent of imports and 20 percent of internationally traded health-related products. Medicines in bulk and in formulated forms account for over 60 percent of all trade in health-related products. The European Union and the United States together account for almost 50 percent of all world imports.

International cooperation on public health is inherently multi-dimensional, with a focus on building effective health systems. Toward this goal, the World Health Organization (WHO), the World Intellectual Property Organization, and the WTO have been working closely together, along with other international partners, for over two decades to support global endeavours to improve health outcomes, to promote innovation, and to ensure equitable access to vital medical technologies and essential medicines. These international bodies have viewed that trade law can potentially support the implementation of international standards to remove technical barriers to trade. In delivering her speech at the John Snow Society on 3 October 2023, WTO Director-General Ngozi Okonjo-Iweala considered that keeping medical products and inputs—and foods—moving across borders was a key source of resilience for people and countries around the world.

In order to remove trade barriers, international trade law develops the concept of "equivalence," meaning that one country recognises another's regulatory standards as sufficient, even if not identical, for certain goods and services. Traders will need to

comply with only one set of requirements. In addition, WHO sets international standards and guidelines to promote good practices in the regulatory control of pharmaceuticals, vaccines, and medical devices. These standards are not directly enforced by WHO but are adopted or adapted by countries as part of their own regulations. Similarly, there are common technical standards to promote international trade of food products and animal feeds under the Code Alimentarius.

International Trade Policy Framework—Elimination of Tariffs for Pharmaceuticals

WTO provides the framework for establishing and enforcing rules for international trade, aimed at creating a fair and predictable trading system. But it does not promote untrammeled trade. In fact, it consciously preserves governments' right to regulate, with extra policy space for measures necessary to protect human, animal, and plant health. That said, non-discrimination in international trade relations is the bedrock of the WTO rules—and this is implemented through the principles of national treatment and most-favoured nation (MFN). These trade principles are set out in all WTO agreements, including the General Agreement on Tariffs and Trade (GATT) in relation to trade in goods, the General Agreement on Trade in Services in relation to trade in services, and the TRIPS agreement (Trade-Related Aspects of Intellectual Property Rights) in relation to intellectual property. The fundamental principle of pacta sunt servanda in international law seeking to ensure the stability, predictability, and enforceability of such international cooperation requires such binding agreements to be faithfully fulfilled by the parties involved.

Tariffs or custom duties, as traditional trade policy instruments, are one of the key influential factors for international trades. Tariffs on imported goods are preferred by WTO rules as a traditional trade policy instrument to quantitative restrictions such as quotas, which are generally prohibited. This is because tariffs are relatively transparent and unlike quotas do not impose rigid restrictions on volumes of imports. WTO members have, however, agreed to certain maximum levels for their respective tariffs on all or most imported products. These maximum levels are commonly known as tariff bindings and vary according to each country and product.

They are the result of decades of tariff negotiations that have gradually led to tariff bindings on more products, which create a more predictable and stable trading environment.

Tariffs and non-tariff measures can have a considerable impact on the price of imported pharmaceuticals and medical technologies as much as distribution costs at the domestic level. Since the mid-1990s, signatories to an international sectoral agreement have agreed to eliminate permanently tariffs and other duties and charges on a large number of pharmaceutical products and substances—defined by the Harmonized System codes, International Nonproprietary Names, and Chemical Abstract Service codes. Canada, the European Union, Japan, Macao (China), Norway, Switzerland, the United Kingdom, and the United States, among others, are parties to this international agreement. Tariff elimination has also applied to certain types of medical equipment, such as radioactive isotopes, composite diagnostic reagents, and orthopaedic appliances. These international trading parties have committed to implement the trade outcomes on an MFN basis to avoid discriminatory measures against their trading partners, and most importantly, to improve market access.

Threat of Deglobalisation and Market Fragmentation

Since the financial crisis of 2008, there has been a backlash against globalisation and seamless cross-border trades of goods and services in many regions, with moves to protect and bolster national economies. The COVID-19 pandemic and the most recent geopolitical events have threatened to reconfigure the global landscape in international cooperation and have put considerable strain on the supply chain, which has increasingly relied on multiple geographical sources—critical to research and development as well as production of consumer goods and essential medical products. Trade tensions may seriously result in a gradual shift toward a more fragmented and multipolar world.

In the life sciences sector, there has been a rise of countries adopting localisation barriers against foreign pharmaceutical and medical technology companies, by favouring local manufacturers. In order to meet the objectives of universal health coverage and equitable access, there has been increasing demand for enhanced

access to affordable essential medicines, which are those that satisfy the priority healthcare needs of the population because of their public health relevance, evidence on efficacy and safety, and comparative cost-effectiveness. The list of essential medicines is growing in terms of both numbers and therapeutic categories. As described below, there have been some important legal challenges at the WTO in relation to localisation policies that certain WTO members have adopted. These challenges have highlighted the issue of access to essential medicines and biological medicines that will continue to be at the forefront of international debates.

There are four major categories of localisation barriers that are susceptible to challenge under WTO rules, as will be explained later:

1. Local content requirements,
2. Local production as a condition of market access,
3. Forced offsets, and
4. Forced intellectual property (IP) or technology transfer.

These trade measures place geographical restrictions on the location of economic activity.

In this context, on 14 January 2025, the European Commission (EC) published its findings of the first investigation that was initiated under the EU's International Procurement Instrument (IPI) Regulation (C/2024/2973). The EC concluded in its report, COM (2025 5), that China unfairly treated EU medical devices and suppliers in its public procurement based on the "Buy China Policy," resulting in a serious and recurrent impairment of access of EU economic operators, goods, and services to China's procurement market for medical devices.

In addition, measures arising from the "centralised volume-based procurement" for medical devices have the aim of supporting domestically produced products. With the reported findings, the EC entered into consultations with China, which did not contest the existence of the alleged measures and practices favouring public procurement contracts for medical devices manufactured in China and impose specific procedures for the procurement of imported medical devices. The EC was not satisfied that China had proposed any specific corrective action to remedy the impairment of access. Accordingly, the EC will consider whether it would be in the EU's interests to adopt an IP measure limiting the access of businesses, goods, or services originating in China to the EU public

procurement or concession markets by means of an implementing act. An IPI measure may be designed as a score adjustment to tenders submitted by non-EU country bidders or exclude tenders completely and applies to all public procurement procedures above a threshold of €5 million for goods and services. An IPI usually expires after five years but may be extended for a further five years.

Since January 2025, the new U.S. administration has started with some significant trade policy changes to achieve the U.S.'s economic and trade-related objectives. An executive order (the Reciprocal Tariffs Executive Order) of 2 April 2025 considers the need to impose a sweeping package of tariffs unless the tariff and non-tariff barriers are equalised. The tariffs consist of two parts: a reciprocal tariff of 10 percent at baseline on all U.S. trading partners, which was to be effective on 5 April 2025, and additional higher reciprocal tariffs, ranging from 11 percent to 50 percent, which were to be imposed on nearly 60 countries identified as having the largest trade deficits with the United States, effective on 9 April 2025. While these tariffs have been paused and the lawfulness of the tariffs has been the subject of court proceedings in the United States, the trade uncertainty and its economic impact are noticeably palpable.

Annex II to the executive order excludes certain named medicines or categories of medicines as well as key ingredients used in drug formulation from the reciprocal tariffs. However, it is not apparent that the exclusion applies to medical devices and medical technologies while semiconductor devices and semiconductor-based transducers are excluded. Tariff relief for pharmaceuticals could be short-lived as the executive order contemplates the so-called Section 232 investigation to be applied to pharmaceuticals alongside lumber, semiconductors, and other sectors. Sector-specific import duties could be on the horizon following such an investigation, given the declared Trump policy to strengthen the U.S.'s pharmaceutical manufacturing capacity through local "re-industrialisation" efforts to avoid relying on imported medicines.

Section 232 of the Trade Expansion Act 1962 confers on the U.S. president the authority to impose restrictions on imports. This authority is exercised upon the recommendation from the Secretary of Commerce after an investigation that the product under investigation is being imported into the United States in such quantities or under such circumstances as to threaten to impair national security. The Section 232 investigation into pharmaceuticals is contemplated

to be broad-ranging to cover imports of pharmaceutical finished products, pharmaceutical active ingredients, key starting materials, and product derivatives. Both generic and non-generic pharmaceuticals are within the scope of the investigation.

The European Union and the other U.S. allies have already introduced a series of countermeasures. Trade measures and countermeasures were imposed by the European Union (in 2018 and 2020, respectively) during the first Trump administration, primarily in response to the U.S. tariffs on European steel and aluminium exports. These EU countermeasures were structured into two sets of measures, each affecting different product categories. The EU measures and countermeasures introduced in 2018 and 2020 were subsequently suspended to give the United States and the European Union the opportunity to work out a longer-term solution. In response to the new U.S. trade measures on European goods of 12 March 2025, on the same day, the EC defended European interests in response through two sets of countermeasures—namely, the reimposition of the suspended 2018 and 2020 rebalancing measures, and the imposition of a new package of additional measures.

The EU's trade countermeasures were initiated by the EC according to the EU Enforcement Regulation 2014. This EU law instrument enables the European Union to suspend concessions or other obligations under international trade agreements with the intention of rebalancing concessions or other obligations in trade relations with third countries when the treatment accorded to goods from the European Union is altered to such an extent that it affects the EU's interests.

This rebalancing of concessions or other obligations is permissible under international trade law. Specifically, a member of the WTO can apply a safeguard measure or seek an extension of a safeguard measure based on objective criteria in order to suspend tariff concessions and to impose new or increased customs duties. These objective criteria are couched in terms of ensuring effectiveness in inducing compliance of third countries with international trade rules, among others.

On 9 April 2025, EU member states voted in favour of the EC's proposal. Following the approval by the EU member states, the EC was to adopt an implementing act for countermeasures to enter into force and custom duties were to start as of 15 April 2025. In light of the U.S.'s 90-day pause on certain of the new tariffs, these proposed EU countermeasures have been similarly suspended for

90 days to allow the U.S. authorities and the EC to continue negotiations on trade-related issues.

In addition to the retaliatory tariffs, on 4 April 2025, China filed a complaint to the WTO in respect of the U.S. reciprocal tariff measures that impose additional duties on products from all its trading partners, including China. China has complained that the U.S. tariff measures "appear" to be inconsistent with the U.S.'s obligations under the GATT and the Agreement on Subsidies and Countervailing Measures. China's complaint will engage the dispute settlement system.

Similarly, on 5 March 2025, Canada requested WTO dispute consultations with the United States regarding new tariff measures applied by the United States on goods originating in Canada. Canada claims the announced additional U.S. ad valorem duties of 25 percent on all non-energy goods and 10 percent on energy goods originating in Canada are inconsistent with various GATT provisions as well as the WTO's Trade Facilitation Agreement. On 13 March 2025, Canada requested WTO dispute consultations with the United States regarding the imposition by the United States of import duties on certain steel and aluminium products from Canada.

The executive order of 20 January 2025 entitled "Withdrawing the United States from the World" gave notice to WHO of the intention of the United States to withdraw from the WHO, citing grounds related to the WHO's mishandling of the COVID-19 pandemic and other global health crises, its failure to adopt urgently needed reforms, and its inability to demonstrate independence from the inappropriate political influence of WHO member states. The U.S.'s withdrawal will likely put a significant dent on the WHO given that the United States has been the biggest financial contributor to the WHO's global health initiatives, circa USD 960 million. Moreover, the scientific contributions of the United States, especially those from the U.S. Food and Drug Administration and Centers for Disease Control and Prevention, have been viewed as considerable.

WTO Dispute Resolution Mechanisms

The WTO jurisprudence establishes the fundamental principle that seeks to avoid unjustified protectionism in the application of

internal measures and to ensure equality of competitive conditions between imported and like domestic products.

Resolving trade disputes is one of the core activities of the WTO. A dispute arises when a member government believes another member government is in breach of an agreement or a commitment that it has made in the WTO. Dispute settlement is the central pillar of the multilateral trading system to protect the stability of the global economy and to ensure the effectiveness of the rule system for enforcing the rules. The process seeks to settle disputes and not to pass judgment through consultations.

The preferred objective of the Dispute Settlement Understanding (DSU) is for the member states concerned to settle the dispute between themselves in a manner that is consistent with the WTO Agreement according to the framework principally set out in Articles 3 and 4 of the DSU. Accordingly, bilateral consultations between the parties are the first stage of formal dispute settlement. They give the parties an opportunity to discuss the matter and to find a satisfactory solution without resorting to litigation. Only after such mandatory consultations have failed to produce a satisfactory solution within 60 days may the complainant request adjudication by a panel. Even when consultations have failed to resolve the dispute, it always remains possible for the parties to find a mutually agreed solution at any later stage of the proceedings.

A majority of disputes so far held before the WTO for resolution have not proceeded. This shows that consultations are often an effective means of dispute resolution in the WTO and that the instruments of adjudication and enforcement in the dispute settlement system are by no means always necessary. There are a number of WTO cases relevant to the life sciences sector for the purpose of illustration.

For example, in 1996, the United States brought a complaint against Pakistan, claiming that Pakistan was in breach of the agreements in TRIPS—which covers trade-related aspects of IP rights between all WTO members—that sought to protect inventions covered by subsisting patents. The claim was based on the fact that Pakistan did not have patent protection for pharmaceutical and agricultural products, a system to permit the filing of applications for patents on these products, or a system to grant exclusive marketing rights in such products. This case was settled by a mutually agreed solution.

Two complaints were filed against India in July 1996 and against Canada in December 1997 by what was at that time the European Communities. The grounds of these claims were similar to those of the U.S.'s claim against Pakistan: that India and Canada had failed to establish a mechanism that adequately preserved novelty and priority in relation to applications for pharmaceutical product patents and relating to patent protection for pharmaceutical products. Both India and Canada had rulings made against them, and they agreed to revise their local laws and policies to bring them in alignment with international norms. Two cases were brought by India and Brazil in 2010 against the European Union concerning seizure of generic drugs in transit. Canada, Ecuador, China, and Japan requested to join the dispute consultations.

In 2022, the WTO ruled against Turkey (as the respondent), following an initial complaint filed by the European Union on 2 April 2019. The ruling is the first WTO appeal arbitration award under Article 25 of the WTO DSU and the first WTO appeal ruling by the appellate body. This case arose from the EU's request to seek consultations with Turkey regarding various measures concerning the production, importation, and marketing of pharmaceutical products. The European Union claimed that these local measures were in breach of GATT, which prohibits imported products being treated less favourably than the like locally manufactured products, and the complaint was based on three principal grounds related to the measures:

1. Requiring foreign producers to commit to localise in Turkey as a condition for positive pricing and reimbursement,
2. Importation ban of like localised products, and
3. Favouring priority pricing and reimbursement reviews for the locally produced pharmaceutical products to imported products.

The WTO rejected Turkey's defence and ruled in favour of the European Union that Turkey's localisation measures were discriminatory with the effect of forcing foreign producers to move their production to Turkey for those pharmaceuticals to be eligible for reimbursement under Turkish social security schemes.

Specifically, the WTO upheld the EU's claim that the localisation requirement is incompatible with Article III:4 of the GATT because it is designed to create a financial incentive for consumers

to select domestically produced pharmaceutical products over imported products.

The WTO agreed with the European Union and considered that Turkey could not prioritise reimbursement reviews and marketing applications of domestic pharmaceutical products over foreign ones. The WTO ruled that such local policies are not based on public health grounds.

Conclusions

International trade policy has a significant impact on global health through the flow of knowledge, goods, and services that have collectively brought about meaningful solutions to the effective management of public health crises. Over the past 50 years, there has been an alarming increase in the emergence of new infectious agents into human populations, such as Ebola, SARS, Zika, and COVID-19. Known parasites and bacterial and fungal pathogens are reemerging due to significant changes to the ecosystem, which may lead to the development of synergistic epidemics. Global cooperation in infectious disease surveillance has served a vitally important public health function to monitor, prevent, and control infectious disease worldwide.

Trade, and international cooperation on trade policy, are indispensable, while at times insufficient, to achieve global health equity and better pandemic preparedness. The WTO Director-General has emphasised that the interplay between innovation, access, concentration, and distribution is complex. A wide range of tools—seeking to address manufacturing investment with the necessary human resources and skill sets, regulatory convergence, procurement policies, and financing—will need to be deployed in a coherent manner to achieve health equity and build future resilience in global health. These endeavours require long-term planning, particularly in this technically complex sector involving multiple internal and external stakeholders located in geographically diverse regions.

Many economists have articulated that one of the most immediate effects of economic uncertainty is financial instability, which may affect investment decisions for growth. Geopolitical friction is the new frontier that has contributed to the faltering of economic growth and higher forecast volatilities. What is certain in light of

the recent trade disputes is the likely increase in the costs of goods and hence an increase in price spikes and the potential disruption of the supply chains of materials and goods necessary for research and development and manufacturing. They could bring about serious and lasting supply shortages of life-saving medical products as well as considerable harm to international collaborations necessary for engendering health innovations and global health.

Note

* The author, a partner and head of European Life Sciences at the law firm Ropes & Gray LLP, may be contacted at lincoln.tsang@ropesgray.com.