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A Legal Analysis of the United States' Unilateral Import Tariff Policy on Indonesia's Trade Relations from the Perspective of International Trade Law

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ABSTRACT

The global trading system has increasingly faced challenges arising from unilateral tariff measures adopted by major economies, creating tensions between national trade interests and obligations under international trade law. The United States' reciprocal import tariff policy, which initially imposed a 32% tariff on Indonesian products, raised legal concerns regarding its consistency with the principles of non-discrimination, Most-Favored-Nation (MFN) treatment, and tariff-binding commitments under the World Trade Organization (WTO) framework and the General Agreement on Tariffs and Trade (GATT) 1994. This study aimed to analyze the legal implications of the United States' unilateral import tariff policy toward Indonesia and to examine Indonesia's legal and strategic responses to protecting its export interests. This research employed a normative legal research method using statutory, conceptual, and comparative approaches. The analysis was based on primary legal materials, including the General Agreement on Tariffs and Trade (GATT) 1994, WTO agreements, the Vienna Convention on the Law of Treaties, official government documents, and relevant legal decisions, supported by secondary literature and illustrative data from export-sector stakeholders. The findings indicated that the unilateral tariff policy could conflict with Articles I and II of the GATT 1994 if the differential treatment and additional tariffs were not justified under applicable WTO exceptions. The study also found that Indonesia's diplomatic response through the Agreement on Reciprocal Trade reduced tariff pressures but required careful evaluation regarding its regulatory commitments and implications for national policy interests. This research concluded that Indonesia needed a comprehensive strategy combining WTO dispute settlement mechanisms, bilateral diplomacy, export diversification, and strengthened domestic competitiveness to safeguard its national trade interests within the rules-based international trading system.

INTRODUCTION

Modern international trade law serves not only as a technical framework for regulating international trade but also as a mechanism for maintaining the predictability of economic relations among states. Following World War II, countries sought to establish a trading system that was no longer governed primarily by unilateral protectionist measures. The General Agreement on Tariffs and Trade (GATT) 1947 subsequently evolved into a more institutionalized legal regime with the establishment of the World Trade Organization (WTO) in 1995. Within this framework, the principle of non-discrimination constitutes one of the fundamental pillars limiting a state's authority to treat imported products differently based on their country of origin.

The principle most relevant to tariff measures is the Most-Favored-Nation (MFN) principle set forth in Article I of the GATT 1994. This principle requires that any advantage, favor, privilege, or immunity granted to products originating in one WTO Member be accorded immediately and unconditionally to like products originating in all other WTO Members, a discipline that recent economic modelling shows continues to shape how bilateral and multilateral tariff bargains interact within the GATT/WTO system (Suwanprasert, 2020). In addition, Article II of the GATT 1994 establishes tariff-binding obligations by requiring Members not to impose customs duties in excess of the rates specified in their schedules of concessions. Together, these provisions ensure that trade liberalization is supported not only by policy commitments but also by legal certainty and predictability for traders and trading partners.

Tensions within the multilateral trading system intensified when the United States issued Executive Order 14257 on April 2, 2025, introducing reciprocal tariff measures. The Executive Order declared a national emergency based on the United States' trade deficit and perceived imbalances in its trade relationships with several trading partners. Under the implementing tariff schedule, Indonesia became subject to a reciprocal tariff of 32%, while other countries—including the Philippines, Malaysia, Thailand, and Vietnam—were assigned different tariff rates. This country-specific tariff structure raises important legal questions regarding its consistency with the MFN principle and tariff-binding obligations under the WTO/GATT framework.

For Indonesia, the unilateral imposition of import tariffs has significant strategic and economic implications because the United States is one of the country's principal export markets. Indonesian exports affected by the tariff measures include textiles, footwear, electronics, rubber products, palm oil, and other manufactured goods. The textile and sportswear industries are particularly vulnerable because their competitiveness in international markets depends heavily on production costs and final product prices. A sudden increase in import tariffs may force exporters to increase export prices, reduce profit margins, or lose market competitiveness relative to suppliers from countries benefiting from lower tariff rates. Indonesia has responded primarily through diplomatic engagement rather than retaliatory measures, reflecting the importance of preserving bilateral trade relations while safeguarding its legal interests within the multilateral trading system.

Previous academic research on unilateral tariff measures has generally focused on major trade disputes, particularly the United States–China trade war and its implications for global supply chains, economic growth, and the international political economy (Amiti et al., 2019; Fajgelbaum & Khandelwal, 2022). Scholars of international trade law have argued that tariff disputes among major economies highlight growing challenges to WTO principles, particularly those concerning MFN treatment, tariff commitments, and the interpretation of national security exceptions. Studies by Matsushita et al. (2015), Van den Bossche and Zdouc (2017), and other leading WTO scholars have demonstrated that the WTO legal framework provides mechanisms for balancing state interests with trade liberalization through legally binding obligations. However, much of the existing literature remains concentrated on major economic powers, with comparatively little attention devoted to developing countries such as Indonesia that face unilateral tariff measures without comprehensive preferential trade agreements with the United States.

Several previous studies have also examined the economic consequences of trade protectionism, including the effects of tariff increases on export competitiveness, international supply chains, and domestic industries. However, these studies have primarily approached tariff measures from economic and political perspectives rather than analyzing their legal implications under the WTO/GATT framework. In particular, limited research has examined how unilateral tariff measures imposed by developed countries affect the legal positions, negotiation strategies, and treaty rights of developing countries. Existing scholarship also provides limited analysis of the relationship between unilateral tariff measures, WTO exceptions—including Article XXI concerning national security and Article XIX concerning safeguard measures—and treaty doctrines such as rebus sic stantibus under the Vienna Convention on the Law of Treaties. Consequently, a significant gap remains in the legal assessment of unilateral tariff measures and their implications for Indonesia's trade protection strategies.

The urgency of this research arises from the increasing likelihood that unilateral trade measures will continue to shape global economic relations. The shift from multilateral trade negotiations toward bilateral bargaining arrangements creates significant challenges for developing countries with comparatively weaker negotiating power. Indonesia's experience with the United States' reciprocal tariff policy demonstrates the importance of developing a comprehensive legal strategy that extends beyond diplomatic negotiations by strengthening its position through WTO legal mechanisms. Without a sound legal strategy, developing countries may encounter difficulties in protecting their export interests, maintaining industrial competitiveness, and ensuring that bilateral agreements do not impose disproportionate obligations. Accordingly, examining this issue is essential not only for Indonesia's current trade relations but also for understanding broader developments in contemporary international trade governance.

The novelty of this research lies in its integrated analysis of unilateral tariff measures from the perspective of international trade law by combining WTO/GATT principles, relevant aspects of United States domestic law, bilateral trade negotiations, and Indonesia's export policy strategies. Unlike previous studies, which have primarily analyzed tariff disputes from economic or geopolitical perspectives, this research treats unilateral tariffs principally as a legal issue involving the interpretation and application of international trade obligations. Furthermore, the study provides a focused analysis of Indonesia as a developing country affected by differentiated tariff treatment and evaluates how Indonesia may respond through legal diplomacy, WTO consultation and dispute settlement procedures, regional cooperation, and domestic export mitigation strategies. This approach offers a broader understanding of how international trade law operates when confronted with unilateral measures adopted by economically dominant states.

This research aims to analyze the legal implications of the United States' unilateral import tariff policy toward Indonesia under the WTO/GATT framework and to evaluate whether such measures are consistent with the principles of non-discrimination, tariff-binding commitments, and recognized exceptions under international trade law. The study also examines Indonesia's strategic responses to protecting its export interests, particularly in sectors vulnerable to tariff increases, such as textiles and sportswear. Through this analysis, the research seeks to determine how Indonesia can balance diplomatic engagement with legal protection mechanisms while maintaining its position within the rules-based international trading system.

The contribution of this research is both theoretical and practical. Theoretically, the study contributes to the development of international trade law scholarship by expanding discussions on unilateral tariff measures, WTO obligations, and the challenges confronting developing countries in contemporary trade governance. Practically, it provides policymakers, trade negotiators, exporters, and legal practitioners with insights into strategies for responding to unilateral tariff measures. The findings may assist the Indonesian government in developing stronger legal arguments, enhancing export support mechanisms, diversifying international markets, and evaluating bilateral trade commitments to ensure consistency with national economic interests.

Ultimately, this research strengthens understanding of the relationship between national trade policies and international legal obligations. By examining the United States' reciprocal tariff policy toward Indonesia, the study highlights the importance of maintaining an appropriate balance between national economic interests and the principles of fairness, predictability, and non-discrimination embodied in the WTO legal system. The research is expected to serve as a valuable reference for future studies on trade disputes involving developing countries and to contribute to policy development aimed at protecting national export competitiveness while supporting the sustainability of the global rules-based trading system.

METHOD

This study employed a normative legal research method to examine legal norms, principles, and international legal instruments governing state conduct in international trade. The analysis focused on the coherence of legal norms, the consistency of legal arguments, and the conformity of the United States' tariff policy with applicable international trade law.

The research adopted statutory, conceptual, and comparative approaches. The statutory approach was used to examine the General Agreement on Tariffs and Trade (GATT) 1994, the Agreement on Safeguards, the Vienna Convention on the Law of Treaties 1969, Executive Order 14257, official documents issued by the Office of the United States Trade Representative (USTR), and the Agreement on Reciprocal Trade between Indonesia and the United States. The conceptual approach was applied to analyze the principles of Most-Favored-Nation (MFN) treatment, tariff-binding commitments, safeguard measures, the national security exception, and the doctrine of rebus sic stantibus. The comparative approach was used to compare Indonesia's response with those of other countries and to examine the implications of the United States Supreme Court's tariff-related jurisprudence for the development of tariff policy.

Primary legal materials included the GATT 1994, the Agreement on Safeguards, the Vienna Convention on the Law of Treaties 1969, official documents issued by the White House and the USTR, and the judicial decision in Learning Resources, Inc. v. Trump. Secondary legal materials consisted of books on international trade law, scholarly journal articles, reports published by research institutions, policy analyses, and reputable news sources relevant to recent tariff policy developments. Tertiary legal materials were used to verify legal terminology and international trade concepts.

Interview data obtained from two representatives of companies exporting sportswear products to the United States were used solely as supporting material to provide practical context for the normative analysis. The interviews illustrated the effects of tariff changes on pricing decisions, export strategies, and business competitiveness but did not constitute the primary basis for the legal analysis.

The legal analysis followed the Issue–Rule–Application–Conclusion (IRAC) framework. Each legal issue was identified, the applicable legal rules were examined, those rules were applied to the relevant tariff measures, and a normative legal conclusion was then formulated.

RESULTS AND DISCUSSION

Construction of the United States Reciprocal Tariff Law

Executive Order 14257 builds on the legal construction of reciprocal tariffs by stating that the United States' trade deficit of goods, tariff disparities, non-tariff barriers and trading partner's economic policies constitute an unusual threat to the national security and economy of the United States, a framing that studies of the political economy of trade policy link closely to domestic electoral incentives rather than to strictly economic justifications (Fetzer & Schwarz, 2021). From the standpoint of the domestic law of the United States, the executive order relies on the IEEPA, the National Emergencies Act and other presidential authority. However, from the perspective of the WTO/GATT, the basis of domestic law does not automatically remove international obligations. A country can have an internal legal instrument to act, but it must still be tested against the international commitments it has received.

The construction of reciprocal tariffs also shows a shift in the way the United States interprets reciprocity. In the WTO system, reciprocity is essentially realized through rounds of multilateral negotiations, concession schedules and tariff fixing that apply to all members. In U.S. policy, reciprocity is read as a bilateral correction to the trade deficit and average tariff differences. This difference in reading is important because the WTO does not require each member to apply identical tariffs, but rather demands that each member respect its tariff commitments and not unilaterally discriminate against similar products from other members.

In practice, reciprocal tariffs put Indonesia in a vulnerable position because the 32 percent tariff is a significant increase compared to many previous tariffs on Indonesian products. Some Indonesian export products previously entered the United States at low tariffs or even took advantage of certain preference schemes. Sudden tariff increases change the calculation of prices, contracts and product competitiveness, a pattern consistent with empirical findings that unilateral U.S. tariff hikes since 2018 have passed through almost completely into the prices faced by importers and their trading partners (Fajgelbaum et al., 2020). At the level of business actors, tariff changes also create uncertainty as exporters have to choose between raising prices, bearing part of the tariff burden, delaying shipments or looking for alternative markets.

This kind of unilateral construction raises juridical problems because it does not go through the multilateral mechanisms that characterize the WTO system. If a country considers its trading partner to apply unfair barriers, the WTO provides a forum for consultation and dispute resolution. The state can also use safeguards instruments if they meet the requirements for serious injury and strict procedures. Thus, the act of unilaterally increasing tariffs based on the category of destination countries needs to be strictly tested so as not to shift the rule-based trade system to a power-based trade.

Table 1. Mapping of U.S. Tariff Policy Legal Issues to WTO/GATT Norms

Legal issues	Norma relieves	Test questions	Implications for Indonesia
Rates differ based on country of origin	Article I of the GATT 1994	Are similar products of WTO members treated differently without a valid basis for exception?	It can be the basis for arguments for violations of MFN principles.
Additional rates on top of commitments	Article II of the GATT 1994	Does the actual tariff exceed the bound tariff in the United States concession schedule?	It is necessary to map the HS code of affected Indonesian products.
Economic emergency claims	Article XXI of the GATT 1994	Can domestic economic threats qualify as an emergency in international relations?	The defense of national security cannot be read without limits.
Pretext for security measures	Article XIX GATT dan Agreement on Safeguards	Are there any investigations, serious injuries, causal links and notifications?	Without safeguards procedures, justification becomes weak.

Uji Most-Favoured-Nation dan Tariff Binding

The MFN principle is the main entry point in assessing country-based tariff policies. Article I:1 of the GATT 1994 states that any advantages, reliefs, privileges or immunities granted to products from one country must be granted immediately and unconditionally to similar products of all other WTO members. The important elements are the existence of similar products, the existence of certain tariff advantages or treatment, and the difference in treatment based on the country of origin. If lighter tariffs are granted to some countries through bilateral negotiation schemes while other countries remain subject to higher tariffs without an exemption basis, then the potential for MFN violations becomes strong.

However, MFN analysis should not be simplified simply by looking at the difference in tariff figures. WTO law recognizes several exceptions, for example free trade agreements or customs unions that meet Article XXIV of the GATT, preference schemes for developing countries and certain exceptions that are valid under WTO agreements, although empirical evidence shows that regionalism itself has been associated with falling external protection among both high- and low-tariff members (Crivelli, 2016). Therefore, a precise analysis needs to assess whether the difference in tariffs between the United States and Indonesia and other countries rests on legitimate agreements or solely on the pressure of bilateral negotiations. If the basis of the difference is purely bilateral bargaining to avoid higher tariffs, then the issue of non-discrimination remains open.

Tariff binding has a different logic. Article II of the GATT 1994 does not primarily assess discrimination between countries, but assesses whether the tariffs applied by a country exceed the rate of tariffs that have been fixed. Each WTO member has a schedule of concessions that contains the level of bound tariffs. If the United States adds reciprocal tariffs so that the total tariffs exceed the bound rate on a particular product item, then the issue of Article II violations arises. In the Indonesian context, proof must be carried out based on the tariff post of affected products, especially textiles, clothing, footwear, rubber, palm oil and certain manufactured products.

The difference between MFN and tariff binding is important to avoid misargumentation. Not every automatic tariff increase violates the MFN and not every automatic tariff discrimination violates Article II. Both can occur simultaneously, but the basis of the analysis is different. MFNs test equal treatment between members, while tariff binding tests compliance with committed tariff limits. This article views that the United States' tariff policy has the potential to give rise to both, but the proof must be structured in a stratified and norm-based manner.

The United States' claim that Indonesia applies certain very high tariffs on U.S. products must also be proportionately tested. The maximum tariff on certain products cannot be directly equated with the average Indonesian tariff regime. Official trade sources in the United States said Indonesia's average MFN tariffs are around 8.1 percent, while WTO documents show Indonesia's average applied tariffs are in a comparable range. This shows that the basis for calculating reciprocal rates cannot be accepted simply without methodological verification.

Safeguards, Security Exceptions and State Defense Boundaries

In addition to MFN and tariff binding, U.S. tariff policy also needs to be tested against possible defenses based on national security safeguards and exceptions. Safeguards are regulated in Article XIX of the GATT and the Agreement on Safeguards. This instrument does provide space for the state to temporarily limit imports if there is an increase in imports that cause or threaten serious injury to the domestic industry. However, the use of safeguards must meet procedural and material requirements, such as transparent investigations, proof of serious injury, causal relationships, notification to the WTO, and the application of limited and proportionate measures.

Reciprocal tariff policies based on bilateral trade deficits are not synonymous with safeguards. The trade deficit is not a measure of serious injury as referred to in the Agreement on Safeguards. Serious injury refers to serious losses to domestic industries that produce similar or directly competing goods and it must be proven through relevant economic indicators. Thus, if the U.S. tariff policy is not accompanied by an investigation of safeguards specific to specific sectors and products, defenses based on safeguards are difficult to legally accept.

The United States can also associate tariff policy with national security exceptions. Article XXI of the GATT is often seen as a sensitive provision because it concerns the discretion of states in determining their essential security interests. However, developments in WTO dispute settlement show that this clause is not entirely self-judging. The WTO panel on Russia - Traffic in Transit stated that the panel could still assess whether the claimed circumstances fall within the objective category of Article XXI(b), including whether there is war or other emergency in international relations, thereby rejecting the view that Article XXI is entirely self-judging and confirming that panels retain jurisdiction to review the objective requirements of the exception (Wang, 2019; Crivelli & Pinchis-Paulsen, 2021).

Thus, a domestic economic emergency or a trade deficit cannot necessarily be equated with an emergency in international relations. If the national security exception is used to justify tariffs on almost all trading partners, then the risk of abuse of Article XXI is even greater. Too loose an interpretation can make any protectionist policy labeled as national security, thus emptying the function of MFN norms and tariff binding. This is where legal oversight is important so that exceptions do not turn into general rules.

The decision of Learning Resources, Inc. v. Trump has stepped up criticism of the IEEPA's use as the basis for tariffs in U.S. domestic law. The United States Supreme Court stated that the IEEPA does not give the President explicit authority to impose import tariffs. This ruling does not directly determine whether the policy violates the WTO, but it shows that the domestic legal basis of reciprocal tariffs itself is problematic. For Indonesia, it is relevant to evaluate whether the bilateral concessions granted in the ART still stand on stable legal assumptions.

Table 2. Comparison of Defense Policies and Juridical Weaknesses

Defense	Legal basis	Basic conditions	Disadvantages in the case of reciprocal tariffs
Bilateral Resiprosites	US domestic policy arguments	There is an imbalance that needs to be corrected	The WTO does not require identical tariffs between countries; What is required is non-discrimination and compliance with bound tariffs.
Safeguards	Article XIX GATT dan Agreement on Safeguards	Increased imports, serious injuries, causal links, investigations and notifications	Bilateral trade deficits are not serious injuries and do not replace safeguards procedures.
National security	Article XXI of the GATT 1994	There is a war or emergency in international relations and relations with essential security interests	A domestic economic deficit does not automatically become an emergency in international relations.
Domestic executive authority	IEEPA dan Executive Order 14257	The President has the authority to regulate the response to emergencies	Learning Resources, Inc. v. Trump stated that the IEEPA does not authorize import tariffs.

Impact on Indonesia's Exports and the Sportswear Sector

The impact of reciprocal tariffs on Indonesia is most clearly seen in sectors that depend on the United States market. Textiles, clothing, footwear, electronics, rubber, palm oil and some manufactured products are categories that are sensitive to tariff changes because price competition in the United States market is fierce. UMBRA noted that the 32 percent tariff could have a detrimental impact on Indonesia's domestic industry, especially sectors that previously enjoyed low tariffs or preferential facilities. This impact is not only in the form of a decrease in exporter margins, but also the risk of diverting orders to competing countries, a dynamic documented in studies of retaliatory and reciprocal tariffs showing near-complete pass-through into trade values and prices (Ma et al., 2021).

In the textile and sportswear sector, additional tariffs can change the cost structure directly. This is where the data of PT Seyang Activewear, Arjawinangun Cirebon, informants in this study play a role. Maria S.E., Chair of Export Leadership, which directly oversees the export of textile products and sportswear to the United States, stated that her company's response was to still be able to export products within a safe range but by raising the price of export products to cover the burden of high tariffs so that export operations could continue. If the exporter raises the price to cover the cost of tariffs, the United States buyer can divert the order to a supplier from a country with lower tariffs, a substitution effect that mirrors how unilateral tariff shocks reroute demand along global value chains toward third-country suppliers (Mao & Görg, 2020). If exporters bear the burden of tariffs, profit margins decline and investment ability in quality, technology and compliance standards weakens. Both options put exporters in a difficult position. Interviews with sportswear exporters show that price adjustments are the quickest initial response, but that strategy cannot be a long-term solution if the tariff differential remains high.

From the point of view of international trade law, the practical impact on exporters shows that tariff discrimination is not just an abstract normative issue. Tariff differences can affect contracts, the flow of goods, production strategies and the sustainability of trade relations. The MFN principle is essentially designed to prevent this kind of situation, i.e. a situation when products from one country become less competitive not because of quality or efficiency, but because of different tariff treatment based on country of origin without clear multilateral justification.

The Indonesia-United States agreement in 2026 does provide room for improvement. Reuters reported that tariffs on Indonesian goods were lowered from 32 percent to 19 percent with exceptions for some commodities such as palm oil, coffee, cocoa, rubber and spices. For textiles, the USTR document mentions the existence of a zero-tariff mechanism for certain volumes related to the use of textile inputs from the United States, such as cotton and man-made fiber. This mechanism can help the textile sector, but it also creates new attachments to the U.S. input supply chain.

This attachment needs to be considered because the zero tariff incentive in quota can change the sourcing decisions of the Indonesian textile industry. If the zero tariff depends on the use of certain inputs from the United States, businesses may be encouraged to change the structure of raw materials to meet quota requirements. On the one hand, this opens up opportunities to reduce the burden of tariffs. On the other hand, this can reduce the flexibility of industry players in choosing the most efficient suppliers. Therefore, the government's mitigation policy needs to combine tariff diplomacy with technical assistance, quota information and compliance facilities for exporters.

Indonesia's Diplomatic Response and the Position of the Agreement on Reciprocal Trade

Indonesia's response to reciprocal tariffs shows a pragmatic choice. Indonesia did not immediately take retaliatory action, but took the negotiation route, a pattern consistent with Indonesia's broader practice of engaging constructively with WTO review and compliance mechanisms rather than pursuing confrontational responses (Simbolon & Damayanti, 2023). This choice is understandable because retaliatory action could escalate tensions and worsen the position of the export sector that depends on the United States market. Reuters reported that Indonesia opted for diplomacy and prepared a proposal that included increasing imports of U.S. products as well as easing certain barriers. From a policy perspective, this step shows efforts to maintain the stability of trade relations.

However, from a legal perspective, bilateral diplomacy should not make Indonesia lose the basis of multilateral argumentation. Negotiations can lower tariffs in the short term, but they can also result in broader commitments for Indonesia. The joint statement in 2025 mentions a plan to remove about 99 percent of Indonesia's tariff barriers for U.S. products. This needs to be assessed carefully because the widespread elimination of tariffs could affect industrial policy, the protection of certain sectors and Indonesia's fiscal space. In international treaty law, bilateral agreements born of tariff pressures must be tested in terms of the balance of obligations, benefits and compatibility with national interests.

The Agreement on Reciprocal Trade 2026 lowers reciprocal tariffs for Indonesia to 19 percent and provides exceptions for some commodities. On the other hand, the agreement also contains Indonesia's commitment to overcome non-tariff barriers, accept certain standards and facilitate cooperation in sectors of interest to the United States. This means that the benefits of tariff reductions must be compared with the regulatory consequences of the commitments made. This kind of evaluation is important so that trade policy is not only measured by tariff figures, but also by its impact on regulatory sovereignty.

In the context of WTO law, bilateral agreements do not always resolve MFN issues. If the agreement is not a free trade agreement that meets the requirements of Article XXIV of the GATT, then preferential treatment between countries may still raise questions. On the other hand, if the agreement is constructed as a mechanism for resolving tariff pressures, then the question arises whether other countries that do not obtain similar agreements can claim discriminatory treatment. Therefore, the position of the ART needs to be carefully placed within the WTO architecture.

The United States Supreme Court's ruling in February 2026 adds a layer of complexity. If the legal basis of reciprocal tariffs that is the background of the negotiations is declared invalid domestically, then Indonesia has a reason to re-evaluate the balance of the agreement. However, the evaluation does not automatically mean that Indonesia can cancel the entire agreement. The doctrine of boiling sic stantibus in Article 62 of the Vienna Convention requires strict conditions: a change in circumstances must be fundamental, unforeseen, be the essential basis of agreement and radically change the scope of the obligations that still have to be implemented, conditions that recent doctrinal analysis characterises as deliberately narrow so that the exception functions only as a last-resort safety valve rather than a routine avenue for renegotiation (Ardiansyah et al., 2025).

Thus, the boil sic stantibus should not be positioned as an easy-to-use claim, but as a backup argument to open up a renegotiation or reinterpretation of a particular clause. A more legally safe approach is to review the treaty implementation, assess the clauses that are still relevant after the Learning Resources decision and request written clarification on the sustainability of the agreed tariff exemption. This step is more realistic than directly claiming a unilateral termination of the agreement.

Legal Strategy and Mitigation of Indonesia's Export Policy

Indonesia's strategy needs to be built on two paths at once: the multilateral legal path and the domestic export policy path. The multilateral legal pathway includes WTO consultations, the formation of coalitions with countries that are subjected to similar treatment and the drafting of legal positions based on Articles I, Article II, the Agreement on Safeguards and the limits on the use of Article XXI of the GATT, though such a strategy must also account for the prolonged paralysis of the WTO Appellate Body, which has weakened the enforceability of panel rulings and pushed some members toward ad hoc appeal arrangements (Hameed et al., 2025). WTO consultations do not always have to be directed directly to the dispute panel. In many cases, consultations can be used as an instrument of legal diplomacy to obtain clarification, pressure policy changes or strengthen bargaining positions in bilateral negotiations, an approach reflected in Indonesia's own recent experience defending its export and downstreaming measures before WTO panels and the Appellate Body (Pratama, 2024; Azzahra & Dewi, 2022).

Regional coalitions are also important because ASEAN countries face a relatively similar pattern of tariff pressures. If Indonesia moves on its own, its bargaining position may be limited. However, if the issue is positioned as a threat to the multilateral trading system and the interests of developing countries, then the argument becomes stronger, particularly given ongoing debates over how special and differential treatment provisions should be reframed to deliver real development benefits for countries such as Indonesia (Ukpe & Khorana, 2021). A coalition does not always have to be in the form of a joint lawsuit, but can be in the form of a joint statement, coordination of tariff impact data, harmonization of legal positions and the preparation of negotiation strategies in WTO and ASEAN forums.

On the domestic policy path, market diversification is a mitigation measure that cannot be postponed. Dependence on one major market makes exporters vulnerable to unilateral policy changes. Indonesia needs to accelerate the use of existing agreements, such as the Regional Comprehensive Economic Partnership and expand access to the European Union, the Middle East, Africa, South Asia and Latin America, since economies that remain heavily chained into a single bilateral trade relationship are shown to be disproportionately exposed to unilateral tariff shocks (Wu et al., 2021), whereas deeper regional integration through frameworks such as RCEP and the ASEAN Economic Community can strengthen the bargaining position of smaller economies amid rising protectionism (Shimizu, 2021). Market diversification not only means finding new buyers, but also adjusting standards, certifications, consumer preferences, payment systems and export logistics, functions that empirical evidence suggests are meaningfully supported by institutions such as Indonesia's Trade Promotion Centers in expanding non-oil and gas exports to both developed and developing country markets (Ajija et al., 2021).

The government also needs to strengthen the tariff and compliance information system for exporters. Many business actors, especially medium-sized enterprises in the export supply chain, do not always have the capacity to read changes in tariffs, rules of origin, quotas and non-tariff requirements quickly. In the context of ART, textile exporters need to understand the requirements of the zero tariff quota, the relationship with US inputs and the procedure for proving the origin of goods. Without technical assistance, the benefits of zero tariffs can be suboptimal and only enjoyed by large companies that have better access to information.

From the national legal perspective, Indonesia needs to ensure that any trade concessions do not conflict with industrial policies and the protection of national interests. The elimination of tariffs for 99 percent of U.S. products must be mapped out of their impact on small industries, strategic sectors and domestic supply chains. If there are vulnerable sectors, the government can use legitimate industrial policy instruments, such as increased competitiveness, standardization support, export financing and market facilitation, instead of protectionism that is contrary to the WTO.

Another strategy is to strengthen legal and economic databases for possible disputes. If Indonesia is considering WTO consultations or dispute panels, then evidence must be prepared in detail. The evidence includes a list of affected products, the United States' bound tariff on each product, additional tariffs imposed, impact on exports, comparisons of treatment with other countries and inadequate defenses based on safeguards or national security. Without a solid evidence base, even the correct legal arguments can be weak litigationally.

Table 3. Indonesia's Response Strategy Priorities

Priorities	Steps	Purpose	Expected output
Multilateral law	WTO/DSB consultation and basic mapping of Articles I, II, XIX, XXI GATT	Maintaining Indonesia's position in the rule-based trade system	Ready-to-use legal position documents and dispute options.
Diplomasi bilateral	Review of the implementation of ART and clarification of the post-decision clause of Learning Resources	Prevent unbalanced liabilities and maintain tariff benefits	Technical renegotiation or mutual interpretation of certain clauses.
Koalisi regional	Coordination with ASEAN and other affected countries	Strengthening bargaining power and political-legal legitimacy	Joint statements, impact data or coordinated lawsuits.
Market diversificatio n	Market expansion to the European Union, Middle East, Africa, Asia Pacific and RCEP	Reducing dependence on the United States market	The export portfolio is more balanced and tariff risks are more spread.
Exporter support	Facilitation of rules of origin, textile quotas, certification and tariff information	Optimize the benefits of the agreement and reduce compliance costs	Technical guidance and trade consulting services for exporters.

CONCLUSION

The United States' unilateral import tariff policy toward Indonesia presents a significant issue of international trade law that extends beyond a purely economic tariff dispute. The imposition of country-specific tariff measures has the potential to conflict with the Most-Favored-Nation (MFN) principle under Article I of the General Agreement on Tariffs and Trade (GATT) 1994, particularly if the differentiated tariff treatment is not justified under a recognized exception within the World Trade Organization (WTO) legal framework. Furthermore, the additional tariffs raise issues concerning tariff-binding commitments under Article II of the GATT 1994 if the applied tariff rates exceed the bound rates contained in the United States' Schedule of Concessions. Justifications based on safeguard measures or the national security exception should be subject to careful legal scrutiny because a bilateral trade deficit does not, in itself, constitute serious injury or automatically satisfy the threshold for an emergency in international relations under WTO law. Indonesia's diplomatic response through the Agreement on Reciprocal Trade reduced the tariff rate from 32% to 19% and created opportunities for tariff exemptions for certain commodities, as well as a zero-tariff quota mechanism for selected textile products. Nevertheless, the agreement requires careful evaluation because it may have implications for Indonesia's regulatory autonomy, particularly with respect to tariff elimination, product standards, non-tariff measures, and procurement commitments. The judicial decision in Learning Resources, Inc. v. Trump further underscored the need for such an evaluation because it invalidated the domestic legal basis for the reciprocal tariff measures, although the ruling did not resolve the separate issues arising under WTO law. Accordingly, Indonesia should pursue a multilayered strategy combining bilateral diplomacy, preparedness for WTO legal proceedings, and domestic economic mitigation measures. Recommended actions include preparing a comprehensive WTO legal position, considering consultations under the Dispute Settlement Understanding (DSU), strengthening regional coordination with ASEAN Member States, evaluating the implementation of the Agreement on Reciprocal Trade, enhancing technical assistance for exporters, and accelerating export market diversification. Through this strategy, Indonesia can better safeguard its export interests while remaining committed to the fundamental principles of the rules-based international trading system.

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