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Extraterritorial Application of U.S. Trade Law as a Tool of Unilateral Sanctions: An International Law Analysis Centering on the "Non-Market Economy" Status Review Case of Armenia

Xuecong Ye

School of Asian Studies, Beijing Foreign Studies University, Beijing, China
15068744278@163.com

Abstract. Intensifying international geopolitical competition has prompted significant evolution within U.S. domestic trade law, shifting its use from a conventional trade remedy tool to one of unilateral sanctions to intervene in the international order. Using the U.S. Department of Commerce NME status review of Armenia (Case A-831-804), in part for purposes of observation, we find a discernible pattern of weaponizing law by closely examining the "six-factor test" and the surrogate country approach. These mechanisms strip targeted countries of their "discourse power about data" and place them under the "denial-of-market" label, forcing them to comply with "market standards set by others." From a legal standpoint, since there are no specific derogation provisions in Armenia's WTO Protocol of Accession, the U.S. action represents a substantive violation of the WTO ADA. Moreover, from the angle of Third World Approaches to International Law (TWAIL), it imposes structural repression on the economic sovereignty and the right to development of transitional economies. The above discussion on the logic of unilateral hegemony offers a few strategic pointers that could help China bolster its own institutional barriers and assume leadership in efforts to establish more balanced international trade rules.

Keywords: U.S. trade law, unilateral sanctions, non-market economy status, weaponization of law, Armenian aluminum foil case.

1. Introduction

In recent years, in an effort to preserve its global economic hegemony, the United States has increasingly relied on domestic trade law to impose unilateral sanctions and to take extra-territorial actions that intervene in the international economic and trade system. In Fiscal Year 2024, the United States added about 3,655 entries to the specially designated nationals (SDN) list and the entity list. These high numbers indicate a tendency toward the "weaponization of law" in the United States. International trade law, as an instrument of U.S. foreign policy, has replaced its traditional role as a mechanism for domestic market adjustments [1].

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This pattern of "law weaponization" traces a deep pedigree of institutional development. The Trading with the Enemy Act (TWEA) of 1917 established the precedent of intervening via domestic law against foreign economic actors. During the Cold War, the introduction of legislation like the International Emergency Economic Powers Act (IEEPA) signified the formal maturation of trade law weaponization [1]. Today, the U.S. government has tried using tools like tariffs, exchange rates, and security to push a "Grand Restructuring" of the world's trade and financial order. This is a shift in the logic of U.S. trade law away from being a wartime auxiliary tool toward becoming a regularized way of wringing political gains out of trade pressure [2].

The "weaponization of law" is made concrete by the functional activities of the executive department. In the determination and review process for NME status, the central implementing body is the United States Department of Commerce (DOC) and its component bureaus [2]. Its jurisdiction rests on an elaborate national law framework, involved in whether Section 771(18) of the Tariff Act of 1930 confers upon the Secretary exclusive administrative discretion over which economic characteristics are attributed to foreign entities [3].In addition, certain special antidumping proceedings were provided for in the Trade Agreements Act of 1979, and particular review procedures are specifically governed by title 19, Part 351, Code of Federal Regulations [3]. Such an executive-led review process is a departure from the basic objective of the multilateral trading system. The fundamental role of the WTO/GATT has been that of promoting trade liberalization and not characterizing the political attributes of member's economy system [4]. In the past, the addition of transition economies to the system was in order to be compatible with rules and not politically defined [4].

Under the context of the "Great Power Competition", NME rules, originally designed to resolve price distortion problems, have now been bestowed with geopolitical missions by the US Department of Commerce. By forcefully taking away from targeted countries its "price discourse power" (the right to explain why they produce at those prices), and launching a "Great Power Competition", the US has successfully contained the economic development of the target countries [5]. At present, the so-called transitional economies like China, Vietnam, Belarus, and Russia (revoked from this list in 2022) are listed by the U.S. as NME countries. The vestiges of national coordination retained by those countries on some particular sectors became a pretext under law that U.S. executive departments can use with an expansive interpretation and make precise attacks [6].

The U.S. AD review of the Armenian aluminum foil industry represents, in pure form, an example of how domestic trade law can be wielded as a geopolitical weapon. Armenia's aluminum foil industry, which generates over $142 million annually and is one of the nation's key sources of foreign exchange [7]. The industry was born in "Kanaker Aluminum Smelter", constructed in the Soviet times [7], but currently it is owned and run by the United Company RUSAL as "Rusal-Armenal", which became the Armenian market leader of aluminum foil producers. Having targeted this industry with Russian capital, the United States wants to reduce Russian economic influence there and make it more difficult for Armenia not to "westernize" its own institutions. The tension between Armenian dependence on Russian capital investment, on one hand, and Armenian political orientation toward the West, on the other, creates operational space in which the United States can abuse administrative discretion, making this case an important testbed to observe the "weaponization of law."

Academic circles hold divergent views on the legality of NME status under the WTO framework, with the primary point of contention being the application of law following the expiration of relevant provisions in the Protocols of Accession. The mainstream view holds that NME rules are essentially "exception clauses" for specific historical periods. Scholars such as Yi Xiaozhun have

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pointed out that the WTO lacks the function to characterize members' economic systems; NME rules serve only as tools for addressing price comparability and lack the function of political characterization [4]. Building on this, Peng Delei further argues that upon the expiration of Section 15(a)(ii) of China's Protocol of Accession in 2016, the legal application in anti-dumping investigations should shift from discriminatory "special law" (Section 15 of the Protocol) back to "general law" (GATT Article VI:1), thereby terminating the "surrogate country methodology" and restoring the equal legal status of member states [8].

The discourse surrounding Non-Market Economy (NME) status has evolved through sophisticated legal reinterpretations aimed at extending the reach of NME rules despite the expiration of specific international treaty clauses. Scholars like Peng Delei highlight a shift in the "burden of proof," where Western legal theories now increasingly require petitioners to demonstrate that a foreign entity's behavior conforms to market economy standards, failing which investigative authorities resort to "special methods" for calculating normal value. This is complemented by the findings of Dai Chengcheng, who notes that the EU's "market distortion" concept and the U.S. Trade Preference Extension Act (TPEA) have effectively institutionalized the "surrogate country methodology." By expanding the criteria for "Particular Market Situations" (PMS), these powers have created a legal pretext to withhold market economy recognition through domestic legislative amendments.

Beyond the purely legal debate, empirical and political science research has exposed the systemic distortions and underlying motivations of NME designations. Data from 1995 to 2015, analyzed by Fang Feifei and Long Xiaoning, demonstrate that NME status significantly increases both the likelihood and frequency of anti-dumping investigations, with developed nations being more prone to using these designations as discriminatory instruments. Bai Xinyun further identifies an "Illusion of Victory" effect, where the mere existence of NME status emboldens domestic petitioners and inflates affirmative determination rates. Politically, as Dai Chengcheng argues, provisions such as the "Poison Pill" in the USMCA serve a containment function, strategically blocking NME-designated countries from integrating into broader free trade networks.

Despite the depth of current scholarship, two critical gaps remain. First, existing literature focuses almost exclusively on "great power" dynamics, neglecting the unique predicament of small-to-medium transit states like Armenia. Armenia represents a vital "test bed" for administrative discretion: while its legal regime shifts toward the West, its economy remains anchored in Russian capital, making it a prime target for geopolitical strikes. Second, there is a lack of systematic distinction between "trade remedies" and "unilateral sanctions" within the NME review process. This paper argues that when the U.S. Department of Commerce uses NME reviews to coerce a country's energy policy and geopolitical alignment, the process de facto mutates into a unilateral sanction. By examining the Armenian aluminum foil case, this article offers fresh insight into the extraterritorial application of such instruments, filling a void in transitional small-state studies and providing a definitive characterization of "law weaponization.".

2. Legal framework: U.S. trade law and unilateral sanctions

The jurisprudential root of U.S. trade law's ability to transcend national borders and serve as a tool for geopolitical unilateral sanctions lies in the expansive restructuring of international rules by the U.S. domestic legal system.

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2.1. Legal logic and evolution of the extraterritorial application of U.S. trade law

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The evolution of U.S. trade law from border measures to long-arm jurisdiction tools is driven by the "securitization" of legislative power and the proliferation of administrative discretion [1].

The "securitization" of legislative power is manifested in the transition of sanction laws from wartime exceptions to regular applications. The Trading with the Enemy Act of 1917 was strictly limited to a "state of war." Conversely, the Cold War-era International Emergency Economic Powers Act lowered the threshold to a broad "national emergency," thereby legitimizing sanctions during peacetime [1].

Subsequently, from the codification of NME determination standards in the Omnibus Trade and Competitiveness Act of 1988 to the introduction of the "Special Market Situation" concept in the Trade Preference Extension Act of 2015, U.S. legislation has provided domestic legal grounds for executive departments to bypass WTO rules [5].

The overall efficacy of the U.S. trade sanctions regime is due to an "asymmetry" in favor of the Executive Branch and against the Judiciary as part of our constitutional architecture, namely: [T]he exercise by the Executive Branch of its authority to impose or waive a trade remedy has become so widespread that it is now exercised essentially at will [1]. In effect, building a one-sided sanctions wall is protected by internal bureaucratic processes.

The exercise of such powers by the President and his subordinate officers is made possible under Acts of Congress which give wide latitude for discretion in their implementation: Under section 771(18) of the Tariff Act of 1930when determining NME status, the DOC is to consider not only certain economic indicators but also "such other factors as the administering authority deems appropriate."" Such a "sweeping catch-all provision" gives DOC virtually unbridled discretion [3] for allowing the executive branch to include non-economic considerations, such as political alignment, to trade investigations [3]. All burdens of proof are shifted onto the government and companies of the investigated country by the NME investigation: the conversion of the DOC to a tool for expressing national will, and turning the law into an administrative manifestation of strategic intent.

In trade cases that implicate foreign policy and national security, federal courts have traditionally followed a "judicial deference" approach. In effect, courts generally defer to agency interpretations of economic information and country-specific practices under doctrines like " Chevron Deference." This practice developed to an extent of considerable judicial concession as to the reasonableness of agency decisions [1]. Thus, in practice, courts do not often meaningfully challenge the DOC's interpretation of what constitutes NME status. Because the burden on any interested party seeking a judicial review is so great that it provides little opportunity for meaningful judicial oversight, securing the DOC's final "discourse authority" to outcomes [9]. In sum, the extraordinary extension of administrative authority and the substantive lack of judicial restraint have created the DOC's hegemony over rules, developing it into an effective weapon of unilateral sanctions.

2.2. The sanction-like attributes of NME status determination

The determination of Non-Market Economy (NME) status has evolved far beyond a technical trade remedy, functioning instead as a concealed, unilateral sanction designed to penalize and coercively restructure foreign economic systems. On a practical level, this regime fundamentally deprives foreign exporters of their "discourse on data." By authorizing the U.S. Department of Commerce (DOC) to disregard actual firm-level cost data, the system relies on a "surrogate country

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methodology" that frequently selects high-cost nations to artificially inflate dumping margins. This practice has morphed into a direct instrument of "market denial" via insurmountable tariff barriers. Furthermore, this structural bias generates an "Illusion of Victory" for U.S. domestic industries. Knowing the DOC will utilize favorable surrogate data against NME countries, domestic petitioners are highly incentivized to exploit these rules for protectionist purposes, secure in the expectation of affirmative, sanction-like outcomes.

Strategically, the NME designation operates as an exercise in "conditional sanctioning." By wielding market access as bait and punitive tariffs as a stick, the U.S. utilizes market status as an "institutional poker chip" to force targeted nations into reforming their domestic legal and economic frameworks. This disciplinary mechanism exerts immense coercive power, particularly over small, transitional economies like Armenia. Situated in the Eurasian geopolitical rift zone, Armenia faces extreme survival stress under this "long-arm jurisdiction." Through statutory frameworks like the "six-factor test"—rooted in the Omnibus Trade and Competitiveness Act of 1988—the U.S. essentially mandates that vulnerable states align their exchange rates, state-owned enterprise sectors, and broader institutional behaviors with American models.

Ultimately, by mutating domestic trade discretion into an instrument of extraterritorial jurisdiction, the United States weaponizes NME rules to achieve dual objectives: securing direct trade advantages and unilaterally exporting its market rules to control global supply chains. This transformation of the NME framework from an impartial legal mechanism into a geopolitical sanction represents the archetypal exercise of institutional hegemony, where global dominance is maintained by forcing transitional states to trade their economic autonomy for market survival.

3. Case analysis: the full trajectory of armenia's "non-market economy" status review

3.1. Case origin: the chain reaction of the U.S. aluminum foil anti-dumping investigation

The genesis of the Armenian aluminum foil antidumping case can be traced back to the interaction between Armenia's legacy as a former Soviet industry, on one hand, and recent political developments, on the other. In Aluminum Foil Production in Armenia, the aluminum foil industry became one of the most important industries in the Armenian industry complex under today's world conditions [7]. The Russian Aluminum Group (RUSAL) -owned Rusal-Armenal is Armenia's main economic lifeline and major foreign-exchange earner [7]. But, as an entity that is controlled by Russian capital and depends heavily upon imported raw material inputs, it is especially vulnerable to being targeted for imposition of so-called " secondary sanctions " through the application of U.S. trade law.

The DOC's initiation of an anti-dumping investigation (Case No. A-831-804) into Armenian aluminum foil in 2021 provides a deep-seated example for researching how "weaponization of trade law" is extended towards smaller countries involved in geopolitical fights [3]. The case indicates that NME review has been transformed into a standardized tool for the United States to launch "precision strikes" at geopolitical targets, and in its determination, the United States. refused to designate Armenia as an NME country and began using discriminatory surrogate country calculation procedures. In its selection process, Armenia suggested that Indonesia is a better proxy as to the kind of product and level of development, but the DOC forcefully chose South Africa, by creating an artificial "normal value" much higher than what Armenian producers actually produce: the U.S. applied a punitive dumping margin [3]. As noted above, the decision resulted in the near-complete elimination of Armenian aluminum foil shipments into the United States, dropping from about $25 million per year to approximately $1 million during calendar year 2022, thereby cutting off the

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industry's access to USD liquidity via "starvation by denial." This strategy eventually forced the Government of Armenia to send its request to the DOC on December 21, 2023, requesting CCR for the removal of the NME label [10].

3.2. Case origin: the chain reaction of the U.S. aluminum foil anti-dumping investigation

The U.S. Department of Commerce's (DOC) assessment of Armenia's "market orientation" weaponizes the six factors of the Tariff Act of 1930, using ambiguous legal provisions to gatekeep transitional economies. Rather than objectively evaluating economic metrics, the DOC utilizes broad statutory discretion to shift the goalposts. For example, despite Armenia proving its currency convertibility and free collective bargaining (Factors i and ii), the U.S. uses the "catch-all" Factor (vi) to attack the Armenian judiciary's independence, framing the entire legal system as an "unpredictable risk."

Furthermore, the review intentionally politicizes resource allocation (Factors iv and v) by categorizing the heavy presence of Russian capital in Armenia's energy sector as a non-market distortion driven by "external forces." This transforms a standard economic review into an instrument of U.S. long-arm jurisdiction, directly pressuring Armenia toward the "de-Russification" of its economy. Ultimately, the expansive discretion afforded by Factor (vi) functions as an all-purpose pretext. It allows the DOC to ignore positive economic realities—such as Armenia's 2022 FDI surge—and utilize a "black box" methodology that traps the Armenian economy within U.S. geopolitical objectives.

3.3. Armenia's defense and the stakeholder game

The legal review of Armenia's market status by the U.S. Department of Commerce (DOC) represents a high-stakes, multi-dimensional game where "six-factor tests" and trade compliance serve as proxies for national development and geopolitical survival. For the Pashinyan government, initiating the review in December 2023 was a calculated move within its "Leaving Russia and Heading West" strategy. By citing 2022 FDI surges and asserting the independence of its Central Bank, Armenia sought to leverage a legal change of status as a "passkey" into the Western economic orbit, attempting to secure a developmental foothold in the fissures between the U.S. and Russia.

At the micro-level, this strategy collided with the reality of Rusal-Armenal, the industry leader whose Russian ownership tethered it to the very "geopolitical shackles" Armenia aimed to break. The company's defense was caught in an impossible bind: it had to challenge the technicalities of South African surrogate pricing while simultaneously proving that its production decisions were governed by market logic rather than Russian directives. These commercial arguments, however, proved largely defenseless against a "weaponized" U.S. trade law. As highlighted in the 2025 Investment Climate Statements, the U.S. leveraged Armenia's reliance on Russian-controlled energy lifelines to categorize production costs as subject to non-market intervention, effectively transforming $142M in potential losses and the livelihoods of thousands of workers into political leverage.

Ultimately, this process reveals a hegemonic regime where the mandated 270-day study period functions not as an objective analysis, but as a "test period" for Armenian loyalty on sensitive issues like the Russia-Ukraine crisis. The DOC's determination was further steered by a coalition of U.S. domestic producers and geostrategists who utilized reports of judicial instability and energy subsidies to ensure the maintenance of punitive tariffs. In this environment, a firm's existence is determined not by its efficiency or transparency, but by "geopolitical tags" outside its control.

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Armenia's experience underscores a grim trade-off: to gain tenuous entry into Western markets, a nation must often surrender a significant portion of its economic and trade autonomy to the interpretive whims of a singular global power.

4. Case analysis: the full trajectory of armenia's "non-market economy" status review

The analysis of the Armenian aluminum foil case provides an excellent example of how, in carrying out precision strikes, the DOC relies on its use of "administrative discretion" within the confines of the domestic legal process. The entire NME review system is facing a serious crisis of legitimacy with respect to the multilateral trading regime, with all three forms of illegitimacy—conflictual regulation, hypocritical re-regulation, and specifics of Armenia's WTO accession agreement.

4.1. Substantive conflict between the NME "surrogate country methodology" and the WTO Anti-Dumping Agreement (ADA)

In the current WTO multilateral trading system, the determination of "normal value" is the starting point of any anti-dumping investigation. According to Articles 2.1 and 2.2 of the Antidumping Agreement (ADA), normal value must, as a priority, be based on the prices or production costs in the ordinary course of trade within the exporting country. However, the "surrogate country methodology" adopted by the United States substantively deprives exporting enterprises of their "data discourse power" [8].

The fundamental cause of this regulatory conflict is that the U.S. domestic standards for designating a "market economy" are far more stringent than the original standards set by the WTO. The general rules regarding "non-market economies" in the multilateral trading system exist solely in Ad Article VI:1 of the General Agreement on Tariffs and Trade (GATT 1994). This provision strictly stipulates that the surrogate country methodology may be applied only when the country under investigation maintains a complete or substantive monopoly of its trade and where all domestic prices are fixed by the State [4]. Transitional economies like Armenia, which have long completed initial privatization and are highly integrated into the international division of labor, do not meet these extreme criteria; therefore, in principle, their "market economy" status should not require verification [11]. By forcibly bypassing ADA Article 2.1 and introducing incompatible data from surrogate countries, the U.S. DOC not only causes technical data mismatch but also departs from the compensatory relief principle of the ADA, transforming the process into a discriminatory trade barrier achieved through administrative fiat [9].

4.2. Substantive conflict between the NME "surrogate country methodology" and the WTO Anti-Dumping Agreement (ADA)

The expiration of transitional commitments like China's Section 15 of China's Protocol of Accession has begun to unravel the legal basis that supported many of the NME rules previously used by the United States under the multilateral trading system. To preserve a sense of the legality of its use of NME rules when it is not authorized by treaty, the United States has sought to change the designation of "non-market economy" into an assessment of so-called "Market-Oriented Conditions" (MOC) [5]. It's not aimed at promoting free trade, however, it aims to give the so-called "legal" policy endorsement of its own unilateral sanctions [12].

The hypocrisy of the regulatory restructuring becomes clear in the Armenian aluminum foil case. In the Changed Circumstances Review of Armenia, the U.S. DOC undertook intensive analysis of

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the country's capital structure and source of materials, which relies on "Special Market Situation" standards of U.S. domestic law as a way to maintain discriminatory policy [5]. Such a one-sidedly defined "marketization" is now an institutional gate-keeping barrier in itself [1]. Such a redefinition from "Non-Market Economy" to "Market-Oriented Conditions" not only shakes up the established antidumping jurisprudence, but also encourages national industry to make full use of the administration procedure to conduct a precise strike and eliminate the essence of foreign industry with the help of the "Illusion of Victory" effect [9].

4.3. Comparative applicability of relevant provisions in armenia's WTO accession protocol

The one potentially fatal legal argument against the Armenian aluminum foil dumping case is that there are no special transition provisions for Armenia similar to those contained in China's or Vietnam's protocol of accession within the WTO. If we compare the Armenian Working Party report (WT/ACC/ARM/23) [11] with section 15 of the Protocol of Accession from China, it can be seen that there has been a major expansion of the US administrative determination.

Firstly, at entry into WTO, China agreed to accept a special law authorization provision (Section 15), under consensus among WTO members, which explicitly provided a five year deadline on continued application of the so-called "surrogate country methodology" [4] While neither Armenia's Protocol of Accession nor its Working Party Report provides such an exception clause allowing members to treat Armenian aluminum foil and/or other industries as being "non-market", [11]This means, effectively, there is no legal authority for an NME review process to be undertaken with respect to Armenia.

Second, Armenia has continued to embrace its commitment to marketization ever since it joined the EU in 2003. Without explicit authority from Armenia's accession texts, the U.S. DOC's forced NME review and efforts to keep Armenia's NME status in place pursuant to the Tariff Act of 1930 constitute a manipulation of Armenia's rights as governed by international economic law [3].

Finally, the author contends that this phenomenon of "legal mismatch" reflects a dangerous trend: the United States is attempting to universalize discriminatory rules originally targeted at specific countries into a "permanent sanction tool" against all transitional economies. The U.S. anti-dumping investigation into the aluminum foil industry, which sustains Armenia's foreign exchange lifeline—not only ignores the results of Armenia's privatization efforts since 1994 but also constitutes an open violation of the fundamental WTO principles of "National Treatment" and "Most-Favored-Nation (MFN) Treatment."

5. Critique from the perspective of public international law: sovereignty and the principle of non-intervention

This chapter examines three dimensions—economic sovereignty, jurisdictional conflicts, and the right to development from a global justice perspective—to reveal the true nature of the U.S. NME review system as a "legal weapon" that erodes the sovereign order.

5.1. Economic coercion and deviation from the principle of non-intervention

The bedrock, cornerstone, or keystone of modern international law is that no State may intervene in the internal or external affairs of another State (the doctrine of non-intervention). The "six-factor test" adopted by the U.S. DOC is effective in its use of the elimination of the aluminum foil industry,

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a lever to coerce Armenia into making its economy more "market-oriented" by threatening to pull back on support for Armenia's domestic industrial base [13].

This is classic economic coercion: "exchanging institutional sovereignty for market access." The United Nations Declaration on Principles of International Law (1970) specifically forbids the use of economic, political, or any other measures for coercion of another State with a view to obtaining from it the subordination of the exercise of its sovereign rights. The U.S. the forced imposition of the U.S.'s own "market economy" definition is essentially a unilateral extension of the concept of "legal imperialism." Such "weaponization of law" leads transitional states to compromise on questions of administration and geopolitics because it threatens their existence via "cut-off of supplies" or "punitive tariffs." Not only does this represent an overt violation of the principle of non-intervention, but it constitutes a gross interference in the right of sovereign States to pursue their own chosen development path [1-2].

5.2. Jurisdictional conflict and limitations of countermeasures in the extraterritorial application of unilateral sanctions

The extraterritorial application of U.S. trade law in its capacity as a vehicle for unilateral sanctions rests on an expansion of "long arm jurisdiction," which undermines the concept of legitimate jurisdiction under international law, since international law demands that jurisdiction is exercised based on a real or "substantial connection" between the State and its object. Yet, the United States. DOC's exercise of administrative fiat as to the production expenses of Armenian firms reflects a prohibited invocation of the domestic law of effect within the territorial jurisdiction of another country.

The extraterritorial assertion by the United States of its domestic jurisdiction at will has done grievous harm to basic elements of international law. It undermines international rules on countermeasures. The International Law Commission's (ILC's) Draft Articles on Responsibility of States for Internationally Wrongful Acts, the application of countermeasures is narrowly circumscribed: they may only be adopted by a wronged State as retaliation for the unlawful actions of another State, and must conform to the requirements of proportionality and transitoriness. In the Armenian aluminum foil case, the U.S. unilaterally imposed high anti-dumping duties according to its own domestic law, without having proven any violation of Armenian conduct under international law, thereby skipping entirely the process of consultation and multilateral adjudication mandated in international law, constituting a perversion of the elementary legal concepts underlying international responsibility [14]. In court practice and, particularly, in the judgment in Rusal Armenal v. Council (T-512/09), the court clearly stated that, absent express treaty authority within the protocol of accession, as is the case with China, using discriminatory "surrogate country" approaches to transitional countries has no jurisprudential support. The U.S. DOC disregarded the weight of this international jurisprudence, instead exercising its administrative discretion and applying the "surrogate country methodology" to Armenia [14].

5.3. Structural suppression of developing countries and the TWAIL perspective

From the theoretical perspective of Third World Approaches to International Law (TWAIL), the long-standing NME review system pushed by the U.S. is a quintessential hallmark of "institutional oppression" against the "Global South" and transitional economies by exploiting the discourse advantage of Western states.

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Pursuant to U.N. GA Res. 1803 Permanent Sovereignty over Natural Resources, and by the 1974 Charter of Economic Rights and Duties of States, every State has the right freely to determine its political status and to pursue its economic, social, and cultural development according to its own choice without outside interference; the will of its people, and its resource endowment. But within the U.S. NME review process, it is taken from them in an extremely secretive way. In the Armenian case, however, the United States used "data discourse power" to forcefully inject South Africa's price data —a country that is completely different from South Caucasus (in terms of economy), geography, and factor costs – as the valuation benchmark [3]. The "algorithmic hegemony" thus forces Armenia to accept prices built from "administrative fiat" by the U.S. DOC. It converts a sovereign state's right of choosing an economic system into a "pending right" subject to U.S. administrative audit [12]. From a TWAIL viewpoint, that is a mutation of international law instruments with "colonial residue thinking", when law is considered as an invisible chain used by developed countries to impose their own institutional standards on the developing world [6].

While the 1986 U.N. Declaration on the Right to Development specifically declares that the right to development is an inalienable human right, the U.S. "surrogate country methodology" is itself an institutionalized form of structural deprivation of the right to development in transitional states [6]. By "weaponizing" trade law, the United States lured Armenia into a snare: when it has made its basic sector competitive on world markets by modernizing, the United States uses the NME review tool to sanction it with artificially set high anti-dumping duties [9], and these artificially high rates drive its targets to a state of crisis or near-crisis survival. According to empirical studies by Fang Feifei, NME reviews for anti-dumping investigations launched by developed countries on Chinese companies are obviously targeted in essence, seeking to entrench the current world economic and trading order in a legally binding way [6]. Thus, Armenia is deprived of an opportunity for developing based upon its own national industrial basis and left with a weak place in the world trading system, which is, in substance, a popular demand for international justice and equality.

6. Conclusion

This paper demonstrates through the Armenian Aluminum Foil case (A-831-804) that U.S. Trade Law has mutated from a defender of fair competition into a geopolitical weapon, severely damaging global trade governance. First, the U.S. weaponizes Non-Market Economy (NME) reviews and "surrogate country" methodologies to impose implicit sanctions, depriving investigated states of their economic sovereignty. Second, this constitutes "legal imperialism," as the U.S. blatantly violates Armenia's WTO accession terms by placing domestic administrative discretion above multilateral agreements. Ultimately, these practices act as an invisible fetter on the industrial development of the Global South, threatening to degrade the WTO-centered international order into the "law of the jungle."

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