

# **Resurgence of Unilateralism in International Economic Order**

Kenta Hiram

Associate Professor, University of Nagasaki

October 21, 2024, US-Japan Forum 2024

# Outline

---

1. What Is Unilateralism?
2. Rationales for the Rise of Unilateralism in Trade Policy
3. Problematic Nature of Unilateralism
4. How Should Unilateralism Be Controlled?

## 1-1 What Is Unilateralism?

---

### 1. Juridical unilateral acts

- they generally fall within the framework of the application of international law.

*E.g.*, the delimitation by a state of its territorial waters

### 2. the general tendency prevailing among some powerful states to act unilaterally to impose their values on other states

- To achieve some policy objectives, states with large markets have increasingly taken unilateral measures to condition market access by imposing direct liability on economic actors in other states that wish to trade.

# 1-2 Examples

---

## United States

- Helms-Burton Act
- Section 301 of the Trade Act of 1974
- Section 232 of the Trade Expansion Act of 1962

## European Union

- Carbon Border Adjustment Mechanism (CBAM)
  - EU Battery Regulation
  - Corporate Sustainability Due-Diligence Directive (CSDDD)
  - EU Deforestation Regulation (EUDR)
- “Brussels effect”

## 2-1 Rationales for the Rise of Unilateralism in Trade Policy

---

- Ineffectiveness of existing international rules for today's challenges
- Stagnation of rule-making by treaties
- WTO Appellate Body crisis
- Under these circumstances, unilateral measures imposing conditions on market access are more likely to be effective tools to change the behavior of other state or its economic actors.

## 2-2 Inclination for unilateralism at US-EU TTC

---

US-EU Trade and Technology Council (TTC), “Pittsburgh Statement”, Annex V (Statement on Global Trade Challenges), September 29, 2021

1. ...

2. The European Union and the United States recognise that **domestic measures that each takes on its own** can play a critical role in ensuring that trade policy supports market-based economies and the rule of law. This recognition is without prejudice to the views that either of them may have with respect to the appropriateness of any particular measure.

### 3 Problematic Nature of Unilateralism

---

- Imposition by one state of its values on other states

*E.g., Helms-Burton Act, US – Shrimp case*

- Imposition of costs and burdens on economic actors in other states

*E.g., CBAM, CSDDD, EU Battery Regulation*

- Constraints on the regulatory space of other states

## 4 How Should Unilateralism Be Controlled?

---

### 1. Practical approach

- Use of dispute settlement system in trade agreements?
- Economic diplomacy

### 2. Legal theoretical approach (under consideration)

- “Opposability” of unilateral measures
- Principle of “good faith”