



# **CENTRE FOR TRADE AND INVESTMENT LAW**

*Creating Ideas for Better Trade Policy*

**RE-IMAGINING INTERNATIONAL ECONOMIC LAW :  
REFORM, RESILIENCE & REBUILD**

***EIGHTH ANNIVERSARY ISSUE***



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Source : X/Piyush Goyal

India and the United Kingdom advancing closer economic ties through the Comprehensive Economic and Trade Agreement (CETA)

# FROM THE EDITOR'S DESK



It is with pride and great satisfaction that I present the eighth-anniversary edition of the Centre for Trade and Investment Law (CTIL) magazine. CTIL started its journey in a humble way in 2017 with skeletal staff. Eight years down the lane, CTIL is a familiar name among lawyers, law students and academics interested in the field of international law - not only in India but also beyond. Looking back, it was a year of fulfillment for CTIL.

This publication is far more than a commemoration of a minor milestone; it represents a meaningful opportunity to reflect on a transformative journey—one marked by steady flourish and a growing impact on India's role in the evolving global trade and investment architecture. Over the years, CTIL has built on its mandate growing into a dynamic, forward-looking think tank that plays a critical role in shaping India's trade policy. The Centre has grown not only in scale and scope but also in its intellectual reach and policy influence, providing expert analysis, offering legal counsel on complex international trade matters, and supporting India's positions in multilateral, regional, and bilateral negotiations.

During the past year, CTIL has contributed meaningfully to India's trade negotiations, legislative and regulatory reviews, and analytical studies on areas such as the EU's CBAM, deforestation regulation, and corporate supply chain due diligence directives. CTIL has also played a key role in the preparation of the Standard Operating Procedure (SOP) for negotiating trade agreements. By fostering collaboration between academia, government, and industry, the Centre has reinforced its role as a thought leader and a trusted advisor in international economic law and policy. As we mark eight years of CTIL's journey, we not only celebrate the milestones we have crossed but also reaffirm our commitment to academic and research excellence, and service to the nation. This magazine captures the essence of that commitment, showcasing the work, the reflections and a vision that continues to propel CTIL to become one of the recognized research and advisory centres in the field of trade and investment law in the world.

## **A Pivotal Role in Free Trade Agreements (FTA) and Other Trade Developments**

India has marked a notable phase in its international trade policy, characterized by the conclusion of a comprehensive and modern trade agreement with the United Kingdom, and the Trade and Economic Partnership Agreement (TEPA) with the European Free Trade Association (EFTA). In both these negotiations, CTIL's professional staff were involved in every step of the way - from the preparation of the

terms of reference to legal scrubbing and finalization of the outcomes. CTIL's role aligns neatly with India's broader strategic vision of deeper economic integration with key global partners, as well as its ambition to secure market access and attract investment in meet its vision of Viksit Bharat by 2047. In this context, the demand for high-quality legal and technical expertise has become not only important but indispensable. CTIL has responded to these challenges as well as opportunities by working closely with the Department of Commerce and other line Ministries to provide specialized legal and policy support throughout the negotiations and beyond.

Apart from FTAs, CTIL has played a crucial role in matters related to the WTO. This includes providing legal opinions on various WTO matters such as the ongoing reform discussions and WTO's routine work. For example, CTIL played a meaningful role in India's participation in various Committee meetings of the WTO including identifying specific trade concerns in the context of the TBT and SPS Agreements. Our team has also been deeply involved in providing legal support in emerging areas of trade policy, from the legal implications of carbon border adjustments to the governance of cross-border data flows.

### **Bridging the Gap: Academic Research and Supporting the Department of Commerce**

At the heart of CTIL's enduring relevance lies its core strength: the ability to integrate academic research with real-time, solution-oriented policy advisory. In an increasingly complex trade landscape, this synergy between scholarship and practice has never been more critical. Over the past year, our research output has not only grown in volume but has also improved in analytical rigour. Our faculty and legal researchers have engaged with some of the most pressing and contemporary issues in international economic law, including the intersection of trade and sustainable development, the evolving legal contours of digital trade governance, and the legal-policy dimensions of supply chain resilience in a fragmented global order. CTIL's professional staff contributed to a special issue of *Global Trade and Customs Journal* (Wolters Kluwer) on this theme, and continue to publish in some of leading international journals. These are not merely academic inquiries; they are policy-relevant studies designed to inform, guide, and support India's trade positions in international forums such as the WTO and the G20. Our research directly underpins our advisory work, helping shape legal positions that are both theoretically robust and practically effective.

CTIL's advisory role to the Department of Commerce has also expanded significantly. Since our inception, we have provided more than 3,000 legal and policy advisory opinions, supporting India's trade negotiators, subject matter divisions (SMDs), and policymakers with evidence-based legal reasoning, treaty interpretation, and comparative analysis.

A major achievement of CTIL has been the operationalization of the Trade Remedies Advisory Cell (TRAC). This first-of-its-kind initiative is designed to provide comprehensive support to Indian MSMEs in the field of trade remedies. TRAC brings together a multidisciplinary team of legal experts and cost accountants to provide reliable and timely assistance to domestic industries impacted by unfair trade as well as import surges. This unit serves as a bridge between policy and industry, empowering Indian businesses, particularly MSMEs, to protect their interests in the face of unfair trade practices and complex investigative procedures.

### **Notable Achievements: Building Capacity and Expanding Outreach**

The year 2024–25 has been a period of quite consolidation for the Centre. A cornerstone of our capacity-building efforts this year was the successful completion of another cycle of TradeLab Clinic projects, a collaborative initiative with some of India's leading law schools, mostly national law schools. It is an investment in nurturing a new generation of legal professionals equipped to serve India's growing role in global trade governance.

During this period, we also held a two-day international conference of the Asian and African Chairs of the WTO's Chairs Programme in September 2024, and another event in Kathmandu in January 2025. In addition, CTIL partnered with several law schools including GNLU, NALSAR, GMU, TNNLU, DSNLU, NLUJ, NLIU, WBNUJS and prestigious private law schools including Jindal Global Law School, Symbiosis Law School and Bennett University Law School in organizing academic events and trade law capacity building programmes. These programmes resulted in academic outputs including joint publications.

Beyond these activities, CTIL offers internship opportunities on an ongoing basis, enabling students to acquire familiarity with the domain of international economic law. During 2024-25, CTIL offered more than 200 physical internships in addition to certain virtual internships.

As we look to the future, CTIL's mission becomes even more critical. With the global trade landscape in a state of flux - shaped by geopolitics, digitalization including AI, climate imperatives, and shifting power balances - India's trade policy must remain agile, strategic, and deeply informed. CTIL stands ready to meet this moment. Backed by a team of dedicated professionals and supported by a growing network of institutional and academic partners, we are confident in our continued role as an upcoming centre of excellence in international economic law, working steadfastly to advance India's interests on the global stage.

In our journey, I would like to express my deepest gratitude to the Hon'ble Minister for Commerce and Industry, Shri Piyush Goyal, Commerce Secretary Shri Sunil Barthwal, Additional Secretary Shri Ajay Badhoo and Joint Secretary Smt. Petal Dhillon. I would like to specifically acknowledge the great interest that the Hon'ble Minister and Commerce Secretary have taken in making CTIL and the CRIT organizations of international repute. In addition, I would like to gratefully acknowledge the support of the Indian Institute of Foreign Trade (IIFT) and its Vice-Chancellor Prof. Rakesh Mohan Joshi and administrative staff. Let me thank Dr. Pritam Banerjee and Dr. Murali Kullammal for their camaraderie and for the spirit of working together.

All these accomplishments and goals could not have been realized without the support of our dedicated and talented researchers and faculty. I would like to thank all my colleagues for their outstanding work.

Finally, a few words about this publication. Our editorial team comprising of Preetkiran Kaur and Kailas Surendran worked hard to provide a rich menu of thoughtful articles and insightful interviews. The Magazine not only provides valuable and indeed diverse perspectives on reforming and rebuilding international economic law, but also provides a flavor of the activities we do. I would also like to specially thank our reviewers including Shailja Singh, Satwik Shekhar, Shiny Pradeep, Sunanda Tewari, Sparsha Janardhan, Aparna Bhattacharya and Ashita Jain. Credit is also due to Jitender Das and Tarun Guddu for all the organizational support.

I hope you find CTIL's 8th Anniversary issue an enjoyable read.



Sincerely,  
**James J. Nedumpara**

## About CTIL



The Centre for Trade and Investment Law (CTIL) was established in 2016 by the Ministry of Commerce and Industry, Government of India, to function as a leading institution dedicated to developing India's capacity in international trade and investment law. CTIL provides rigorous legal analysis and strategic advice to the Government of India on a wide range of international economic law issues, with a focus on WTO law, bilateral trade agreements, and dispute settlement matters. It provides legal inputs to assist the Government of India in developing India's trade policy and trade promotion schemes across various sectors. The Centre provides research inputs to the Department of Commerce to assist in its engagement at the WTO, including in dispute settlement mechanisms. With a dedicated team of legal experts, CTIL supports the formulation of India's trade policy and serves as a key resource centre for trade and investment negotiations. CTIL has been recognised as a thought leader in the field of international law through its research, publications, and academic engagements. It also conducts training programmes, workshops, and stakeholder consultations to build expertise in international trade and investment law across government and industry. In addition to these, CTIL regularly conducts outreach activities to develop trade investment law capacity in leading law schools across the country.

In addition to acting as a repository of information on international trade and investment law, CTIL also operates the Trade Remedies Advisory Cell (TRAC) to support the domestic industry in trade remedial matters. TRAC provides free-of-cost, end-to-end assistance for trade remedy investigations before the anti-dumping and safeguard authorities of India. It helps domestic producers prepare applications, collate data, and navigate the complex legal and procedural landscape of trade investigations before Indian authorities.



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# Re-imagining International Economic Law: Reform, Resilience, Rebuild

The contemporary international economic system in a multipolar global order stands at a critical juncture today, where traditional frameworks of international economic law (IEL) are increasingly unable to meet the demands of a rapidly evolving world. These frameworks were largely designed at a time when developing economies played a minimal role in global economic governance. This has now changed, with countries at various stages of development participating more actively. This shift in global participation has made the unequal nature of the current legal order more apparent, revealing structural imbalances that cannot be resolved through minor reforms alone. What is required is a comprehensive reimagining of international economic law - one that responds to the specific needs of developing countries without compromising sustainable development within a globalised economy.

The need for such reimagining stems from a convergence of serious concerns that have exposed the inadequacies of the current system. For instance, the United States' refusal to approve new appointments has rendered the WTO Appellate Body dysfunctional. This institutional paralysis undermines the predictability and clarity that developing countries depend on planning economic activities.

Moreover, the re-emergence of geoeconomics in contemporary times, as seen through the invocation of national security exceptions, poses a threat to the IEL regime. This raises doubts on whether the current IEL regime can accommodate States seeking to reshape their interdependence through geoeconomic measures.

Moreover, new regulatory measures introduced by developed countries, such as the European Union's Carbon Border Adjustment Mechanism and Deforestation Regulation, are creating new

forms of trade barriers. While these measures are designed to address environmental concerns, they risk placing a disproportionate burden on developing countries.

The pressing need for reworking the system is also imperative in the area of international investment law. The existing system of investor-state dispute settlement (ISDS) has been widely criticised for disproportionately protecting foreign investors at the expense of the host country's ability to regulate in the public interest. Therefore, the pressing need for investment treaty and ISDS reform is also crucial in the context of the states' right to adopt legitimate policy objectives.

Amidst these dynamics, reshaping IEL in a manner that aligns with contemporary global realities and compelling needs requires both inclusive and forward-looking reforms. The foundations of legal and institutional frameworks must be restructured to reflect a genuine commitment to equity, sustainability, and shared prosperity for all. This necessitates a paradigm shift from dominance by a few actors towards a collective stewardship of the global economic governance, where all the voices - particularly those of developing countries - are meaningfully represented. Norm-setting processes must be guided by principles of inclusiveness, transparency, and responsiveness to diverse developmental contexts of every State involved. Legal instruments should not merely regulate markets but enable fair participation and strengthen the capacity of developing countries to voice and address their concerns effectively. International economic law, therefore, calls for a reorientation that treats growth and sustainability as complementary objectives rather than peripheral concerns, thereby facilitating global economic development within a renewed multilateral economic order.

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## HIGHLIGHTS

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*Interview with  
Dr. Werner Zdouc*

***Reimagining Multilateralism:  
Evolving Role of the WTO and its Leadership***

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*Interview with  
Prof. Gregory Shaffer*

***Reimagining Trade Governance:  
Flanking Policies and Systemic Reform***

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*Interview with  
Prof. Joel P. Trachtman*

***The Trump Administration 2.0 - Impact on a  
Rules Based International Legal Order***

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## HIGHLIGHTS

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*Interview with  
Ms. Hemalatha P.*

***From SEZs to Green Growth:  
India's Vision for an Inclusive Economic Order***

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*Interview with  
Dr. Jan Yves Remy*

***Regional Voices, Global Futures:  
Rethinking Trade and Sustainability***

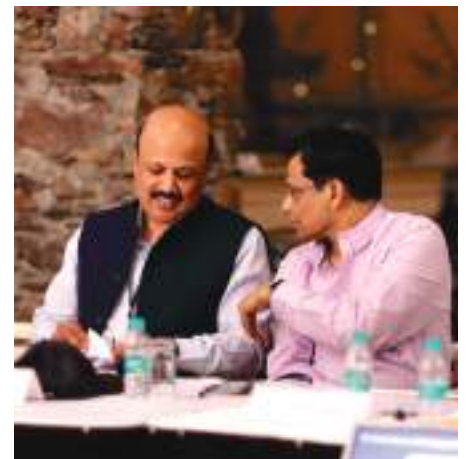
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*Interview with  
Ms. Akshaya Venkataraman*

***Reimagining Multilateralism:  
Evolving Role of the WTO and its Leadership***

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# Reimagining Multilateralism: Evolving Role of the WTO and Its Leadership

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*Dr. Werner Zdouc*

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**Werner Zdouc** served as Director of the WTO Appellate Body Secretariat from 2006 to 2020. He was also the Director of the Knowledge and Information Management, Academic Outreach and WTO Chairs Programme Division of the WTO. Dr Zdouc joined the WTO Legal Affairs Division in 1995 and the Appellate Body Secretariat in 2001. In 2008 to 2009, he chaired the WTO Joint Advisory Committee to the Director-General. He has been a lecturer and visiting professor at Vienna Economic University, the Universities of St Gallen, Zurich, Barcelona, Seoul, Shanghai and the Geneva Graduate Institute.

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In light of the growing reliance on unilateral economic measures such as tariffs, export restrictions, and climate-related trade instruments like carbon border adjustments, what, in your view, are the broader implications of this trend for the multilateral trading system? How might such measures affect the legitimacy, resilience, and inclusiveness of international economic governance frameworks moving forward? How does it affect the rules-based international trading/economic system?

The unilateral tariffs by the US administration are widely reported, but generally, there is a broad shift in attitude towards the multilateral system. Firstly, trade law, which should never be isolated from other areas of international law, has, nonetheless, been treated in clinical isolation in recent decades. While the contemporary challenges of climate change,

digitalisation, public health, and investment require a holistic view, it should be done in a way that gives policy space for the Members as well as addresses the pressing demands posed by these challenges. Trade rules should not be seen in isolation from the contemporary challenges related to climate change, digitalisation, investment, public health, human rights, and other important legitimate concerns. Though these areas are traditionally considered as non-trade related, these are intrinsically linked to trade, and trade measures may be part of the solutions to resolve these challenges.

Second, as it stands, there is a growing discontent with the multilateral system. It is pertinent to note that the WTO system may have excessively focused on creating rules and advising Member states on how to generate welfare through international trade, but the domain of

deciding how to redistribute welfare generated through trade is still the domain of Members, and some are better than others in ensuring that all layers of society benefit from trade by supporting open economies. Moreover, the 2023 and 2024 World Trade Reports of the WTO established that there are always winners and losers of globalisation and freer trade. On one hand, hundreds of millions have been lifted out of poverty in developing countries, and on the other hand, some developing countries have not benefited as much and lessons should be learned from those developing countries that were more successful in using trade to become emerging economies.

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The countries need to emphasize on those left behind in the process of economic development. For instance, blue-collar workers in declining industries in developed countries often turn to populist politicians. Other marginalised parts of society, especially in developing countries, include the agricultural sector, informal sectors, women, minorities, and the like, and more emphasis should be placed on ensuring that no one is left behind in benefiting from international trade.

The current situation of the multilateral system, to some extent, is a result of this neglect as well. In that sense, the current US administration is not the source of the problem, but the result of it. We see backlash against globalisation in many other societies and the experience of COVID-19 highlighted the dependence on fragile supply chains, even in areas that are very

vital from a perspective of public health, to give one example. Despite this situation, it does not change the fact that the unilateral measures that are being adopted by the major economies are the wrong response. They are, first and foremost, self-harming, and likely harming the less prominent layers of society than those that decide the elections, if you think, for example, of swing states in US elections.

But it does not change the fact that economists have for a long time, proven that tariff escalation and other trade barriers create a lose-lose situation for everyone, that is those which impose tariffs and restrictions and those who suffer from them. We have seen in the 1930s with the US Smoot-Hawley Tariff Act, but also during the first presidency of the Trump administration, that these approaches to weaponize tariffs have triggered very limited results, and US continues to negotiate with China the same issues as during Trump's first term.

Several studies highlighted, for example, that to the extent that the steel and aluminium tariffs created some jobs in the steel sector, many more jobs were lost in the processing industries downstream. So this classic example of bringing steel production home to the United States ended up with a deadweight welfare loss for the world, as well as to begin with, the United States' own economy. There were also attempts to change the architecture of existing economic systems with a high degree of involvement of the government and state-run companies via unilateral measures during Trump's first presidency, and these failed. Even the United States administration has recently acknowledged this. So, it is unclear how these policies by the Trump administration could work, and whether international trade can be replaced through investment in the US because supply chains don't work this way. This, however, does not prevent politicians from trying out all the wrong options before they try out the right ones.

But unilateralism is not happening only in this context – it is also happening in areas where it is considered to be benevolent, for instance, climate change mitigation measures. The European Union's measures when it comes to border tax adjustment, deforestation, or corporate social responsibility are well-intended, but

the complications and the lack of clarity for businesses on how to implement them show once again that unilateralism is a suboptimal approach. They also show suboptimal approaches to externalizing climate change mitigation to exporting countries and placing administrative burdens on non-European companies partaking in upstream supply chains.

Only coordinated and negotiated solutions at the international or regional level can offer lasting solutions against challenges such as human rights violations, climate change, public health and resilience of supply chains. Time is of the essence and thus, a new approach needs to be thought out at the multilateral level – an approach which is plurilateral and not entirely consensus-based and where policy space for sovereign countries is combined with coherent approaches across the fragmented policy areas previously mentioned, such as human rights violations.

Despite the ongoing paralysis of the WTO Appellate Body, members continue to initiate disputes under the WTO framework. How do you interpret this persistence in using the system, and what are the key considerations for restoring or reimagining the appellate mechanism to ensure credibility, finality, and fairness in dispute resolution? For instance, countries like China and Canada are raising consultations against the tariffs imposed by the US which have raised concerns over the credibility and trust in the system.

Indeed, it cannot be denied that international trade rules are not credible if they cannot be enforced. Fixing the problem of the paralysis of the Appellate Body or a reformed second stage of WTO dispute settlement is inevitable. But in the meantime, dispute settlement activity has not stopped, and it will not stop for several

reasons. First of all, the panel system are still operational. Second, the Multi-Party Interim Appeal Arbitration Arrangement (MPIA) is operational. It covers quite an impressive part of world trade and the WTO membership, except for India and the United States, and it has demonstrated its operationality. There is still a reason why countries will continue to file disputes because there is an objective assessment of the legal situation that is also very useful for negotiations in a world that is replete with fake news nowadays.

*Only coordinated and negotiated solutions at the international or regional level can offer lasting solutions against challenges such as human rights violations, climate change, public health and resilience of supply chains.*

If a neutral international body establishes what is legal and what is not legal, that is already a value in itself, something we did not appreciate in the past. These reports are either adopted without appeal, or increasingly being used as a basis for negotiation or enforcement in other fora.

For the time being, the MPIA has emerged as a viable alternative to fill the vacuum created due to the appellate body not being operational. However, when it comes to these negotiations and settlements that the WTO, maybe, should get involved in, there may be a new line of business for trade lawyers and diplomats, as it were. We are faced with a situation where we cannot just enforce rulings and expect illegal measures to be instantly removed. Some of these unilateral measures are here to stay, and therefore, new ways to navigate negotiations and dispute resolution must be looked into to reduce their negative impacts. It can be achieved through a variety of means, such as rebalancing through compensation or alternative trade opportunities, or use of countermeasures. At the same time, there is also a need to discipline the abuse of countermeasures and point out negotiated solutions that can satisfy the interests of the countries left behind.





We know you served as the Director of the WTO Chairs Programme. In your experience, how does the WTO Chairs Programme aid in capacity building in the field of international trade law? How has the programme engaged with the Global South in light of the geopolitical developments?

I think working with the WTO Chairs Programme (WCP) has been one of the most fascinating aspects of my professional life since the Appellate Body's paralysis. It is, simply in my view, the cutting-edge, most innovative way of doing capacity-building. We used to conduct training courses in Geneva, where Geneva-based experts explained the rules to developing country officials. The WCP is a more innovative form of empowerment because the Chairs themselves develop research projects, courses, and outreach projects. They have their ear to the ground on what the governments and the stakeholders in the private sector need. That is something that traditional, old-school technical assistance cannot provide. It is not simply learning about how to implement existing rules, rather it is about how developing countries can identify their priorities, develop strategies on how to implement them, and reshape their negotiating approaches to their advantage.

The agenda is co-shaped by the beneficiaries, and the academics who work together from the outset with

the policy makers, whether in the government or the private sector. It is probably the most targeted and the most self-determined form of capacity building that the WTO has to offer.

It is important for WCP to have local partners in the form of universities such as the Indian Institute of Foreign Trade (IIFT), or research organisations like the Centre for Trade and Investment Law (CTIL), and the Centre for WTO Studies (CWS) to achieve long-term capacity building through targeted and self-determined agenda. At a time when the trust in WTO is declining and everybody has a lot of criticism to offer, outreach activities and critical research by partner institutions assumes greater importance. I do not doubt that we will need to rebuild the multilateral system that is hopefully not too substantially damaged, because all the alternatives to unilateralism we see are failing one after the other.

This requires even more creativity, ingenuity and reassessment of priorities, and trying out new approaches in the interest of policymakers in the government and the private sector in developing countries like India. This is important now more than ever before because we now have to operate multilaterally, regionally, as well as bilaterally and with domestic policy makers, in light of the fact that the trade rules we were so familiar with are no longer reliable or enforceable to the same extent as they used to be. So, the institutions that we are partnering with through the WTO Chairs Programme are more important than ever since major emerging Member countries like India need to respond to unilateralism, reshoring and friends-shoring by trading partners as well as the need for coherence in policy-making between trade, investment, sustainability, digitalization – internationally and domestically. Likewise, I think the role of CTIL and CWS is more essential than ever, because you have to create new structures bilaterally, regionally, and multilaterally in a reformed way, and that means more research and cross-cutting policy advice work, not less.

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# Reimagining Trade Governance: Flanking Policies and Systemic Reform \_\_\_\_\_



*Professor Gregory Shaffer*

**Gregory Shaffer** is the Scott K. Ginsburg Professor of International Law at Georgetown University Law Center and a former President of the American Society of International Law (2022-2024). He is an internationally renowned expert on law and globalisation, with a specialisation in international trade law. Prof. Shaffer is a prolific author with over 10 books and over 100 articles and book chapters to his credit exemplifying his cross-disciplinary work. He is also the recipient of multiple national awards and has given lectures and keynotes in around 30 countries.

This interview is based on Prof. Gregory Shaffer's article titled "Addressing the Negative Externalities of Trade: Flanking Policies and the Role of Package Treaties".

Professor, your article titled "Addressing the Negative Externalities of Trade: Flanking Policies and the Role of Package Treaties" introduces the concept of material, moral and social/political externalities linked to trade. Could you briefly explain these categories and why it is important to distinguish between them when designing trade policy?

Conceptually, three types of negative externalities (or negative spillover effects) justify the adoption of flanking policies to address them. The first type is material externalities, such as harm to the

environment from pollution caused in a production process. A subset of material externalities are pecuniary ones, such as when the wages of workers in one country are adversely affected by competition from imported goods produced in violation of labor rights in another country.

A second category of externality, which is less discussed in the economic literature, is moral ones. Slavery and forced labor, for example, do not create a material social cost for those who consume products produced with them. The consumer rather benefits

materially from the products' lower prices. Where a society believes that slavery or forced labor is immoral, its importation and consumption of products produced elsewhere with such laborers renders it complicit in supporting such a system. Complicity with such practices through the purchase of products at low prices has moral costs. In the terminology of this article, it involves a moral externality.

*Where globalization results in negative social effects that lead to rising inequality, economic precarity and political polarization, it can threaten social stability and commitments to democracy and thus create serious social and political externalities. We have seen this occur in the United States, giving rise to the populist Donald Trump.*

The third type of externality is social and political, and these are becoming increasingly visible worldwide. Where globalization results in negative social effects that lead to rising inequality, economic precarity and political polarization, it can threaten social stability and commitments to democracy and thus create serious social and political externalities. We have seen this occur in the United States, giving rise to the populist Donald Trump. These social and political spillovers are critical to address.

Now you also ask why it is important to distinguish between them. It is not as important to distinguish them as it is to expand the concept of externalities and the need for policies to address them beyond conventional conceptions of material externalities. Addressing moral externalities is important and social and political externalities must be taken into account for the stability of societies. Protecting against these effects is important if we are to have a cooperative trading system.

[How can trade-related flanking policies maintain legitimacy and effectiveness across jurisdictions with divergent social and environmental standards in an increasingly fragmented global order?](#)

By the term flanking policies, I take and build from Pauwelyn and Sieber-Gasser's conception of policies that reduce the negative effects of trade liberalization and that are linked to such liberalization. There are different types of flanking policies, with some raising more contention than others.

To start, there are domestic flanking policies such as trade adjustment assistance, environmental regulations and other social protections for affected workers. Relying on domestic flanking policies has been advocated by many trade liberals, who acknowledge that trade can create winners and losers, but that the losers should be compensated at the domestic level.

The problem with this conception is that in practice the losers are often not compensated and can be made worse off. In practice, globalization can enhance the power of capital over labor and over states more generally, creating serious social and political externalities. Labor can be pressured to accept lower wages under the threat that capital will invest elsewhere. Similarly, states can lower taxes so that capital does not locate elsewhere, with the result that states have fewer resources to fund social programs. Thus, there should be policy space for countries to adopt trade barriers to protect the social bargain between capital and labor. There is also a need to include harmonisation policies in light of common goals, while taking into account the divergent social priorities of countries at different levels of development and facing different contexts.

Further, with climate change being a global issue, domestic action alone is insufficient. As the European Union recognises, unilateral efforts may be undermined if other countries do not act in parallel. In such a scenario, capital is likely to relocate to jurisdictions with less stringent climate policies, thereby exacerbating the global climate crisis and adversely affecting labour within the EU. This creates a legitimate basis for the EU to adopt measures that prevent capital flight or other actions that could undermine its domestic climate policies, since the EU may otherwise be disincentivised from taking action.

However, this approach presents a serious challenge of how to account for the impact on developing

countries. This issue must be addressed through negotiation. In this context, one could envisage mechanisms such as technology transfers and differentiated implementation timelines. In my view, it is inadequate to suggest that only the EU should create requirements applying to its own industries, while developing countries bear no obligations, since capital will inevitably shift to those countries, and the global climate situation will remain unresolved. Moreover, the most severe consequences of climate change will be borne by the poorest and most vulnerable populations.

It is therefore in the interest of developing countries to develop cooperative solutions that deter the relocation of capital to less-regulated markets and ensure meaningful progress in addressing climate change.

On one hand, states are increasingly asserting domestic policy objectives—such as national security, economic security, public health and environmental protection, over trade commitments. On the other hand, you propose making sustainability and social inclusion the policy core, with trade as the flanking measure. What would such a reordering look like in practice?

In my view, the initial focus of the original GATT, which came out of the proposal to create an International Trade Organization under the Havana Charter, was to ensure the attainment of domestic economic stability



and full employment. The preamble of the GATT recognizes that GATT parties' relations "should be conducted to raise standards of living, ensure full employment and a large and steadily growing volume of real income and effective demand". The reason, in other words, to reduce tariffs and other barriers to trade was to facilitate attaining these domestic goals. Following the rise of the WTO, we arguably lost track of that vision and many focused on the removal of trade barriers for their own sake. If we are to have a successful trading system, we must have healthy domestic polities, involving full employment and growing income.

*We now face the existential crisis of climate change. This should be our major focus. Trade policy should serve such core concerns and not be in tension with them.*

In addition, we now face the existential crisis of climate change. This should be our major focus. Trade policy should serve such core concerns and not be in tension with them. It can do so by permitting subsidies to address the green transition, by supporting the creation of climate clubs and permitting unilateral action that is not discriminatory. At a minimum, it should not get in the way of important actions to address climate change.

The Montreal Protocol is an example of a successful environmental treaty that employed trade sanctions only as a measure of last resort, prioritising cooperation and technology transfer. What is required today is a gradual, product-by-product approach that allows for policy experimentation. Trade policy must serve to support, rather than obstruct, these national and global efforts.

As the intersection between trade and environmental concerns becomes increasingly central to global governance, how can the WTO be institutionally reformed or reoriented to play a more constructive role in climate change mitigation and adaptation? What are the main legal and structural barriers preventing the WTO from fully engaging with the sustainability agenda?

It appears too difficult to reform the WTO immediately given the current political context, but it can be done over time. To start, the WTO can defer to states' protecting themselves through flanking policies; it has the tools to do so through GATT article XX exceptions. The WTO also can reintroduce green light subsidies such as for the energy transition. The WTO also can continue to support efforts to reduce tariffs on environmental goods and it can continue facilitating common discussions through committees, working groups, and other initiatives.

The WTO can also work with observer groups that address climate change efforts to see how it can support them and coordinate with them. In parallel, climate issues will need to be addressed in bilateral and regional settings that can migrate to the WTO over time, just as provisions in NAFTA came before their introduction into the WTO.

*International cooperation depends on thriving and stable domestic societies. Countries must have the policy space to address internal concerns. Only then will international economic cooperation be sustainable.*

A central concept in your paper is the use of “package treaties.” Given the WTO’s current institutional and political challenges, how feasible is it to embed such integrated treaty models into the multilateral system? How do these legal instruments function as a structural innovation in international economic law, and why might they offer a more effective approach than incremental treaty reform where changes are made gradually within existing frameworks, or unilateral safeguards that countries adopt independently?

By package treaties, I refer to treaties that include binding commitments on flanking policies, such as those to address social and environmental concerns. They involve the integration of flanking policies into a

treaty itself. In the current political environment, it may not be feasible to enter into such agreements multilaterally. Rather they need to be developed over time.

Package treaties require negotiation and compromise, offering partner countries a greater voice in the process. Such treaties may encompass technology transfers, flexible implementation timelines and specific carve-outs, thereby enabling broader participation while preserving the level of ambition. Such package treaties can start with climate clubs, with the EU taking the lead with other concerned countries. Not that long ago, the US and EU were working on a treaty named the Global Arrangement on Sustainable Steel and Aluminium (or GASSA), which aimed at decarbonizing the steel and aluminium industries. Although GASSA had its problems that could have led to discrimination and although it was abandoned by the Trump administration, it illustrates efforts to develop package treaties. One can imagine package treaties potentially arising in response to the EU’s initiative to effectively tax greenhouse gas emissions through a carbon emissions trading system.

In the light of the magazine’s theme — “Reimagining International Economic Law: Reform, Resilience, and Recoup”— how do you understand the idea of reimagining international economic law and where do you see the most urgent need for reform?

I like your title for the theme and your initiative to address the challenges of our day. Let me address the three words “reform, resilience, and recoup” in the opposite order. Let’s thus start with the word “recoup”. As I noted, the initial GATT and proposed International Trade Order focused on liberalization and international cooperation regarding trade within the context of maintaining healthy domestic societies in the aftermath of economic calamity and war. We need to recoup that spirit. International cooperation depends on thriving and stable domestic societies. Countries must have the policy space to address internal concerns. Only then will international economic cooperation be sustainable.

This last comment takes us to your second term, “resilience.” The term resilience captures the

importance of supporting stable and flourishing domestic societies. The focus on “efficiency” through outsourcing production lost sight of this larger goal. Resilience today also refers to resilient supply chains, whether for medicines, food, or other essential goods. Such resilience does not require autarky because domestic production can also fail, whether because of droughts or fires or floods or other natural causes.

Countries should not be dependent on a single source of supply but rather multiple ones. In particular, where there is geopolitical tension, they should not depend on supply from a potential political rival or opponent.

Now let us turn to the term “reform.” We live in a different context from that of Bretton Woods in the late 1940s. Today, in particular, we have powerful regulatory states and we need them to address environmental and social challenges. It is a mistake for trade policymakers to see such regulations simply as regulatory barriers to trade. Rather they address important social issues in countries facing different contexts. Nonetheless, one country’s regulations do have external effects on third countries and their constituencies. We thus need agreements and institutions where countries can coordinate and cooperate. In some cases, such structures can lead to harmonization of regulations. In other cases, they can lead to mutual recognition of standards where different approaches are accepted as long as the country’s regulatory goals are met. And in other cases, the result will be acceptance of pluralistic difference so long as the regulations are not discriminatory in violation of international rules.

*Ultimately, we are all in this together, and we will only solve this by not viewing ourselves as rival countries. Rather we are a common humanity facing a common challenge. We need to respond to climate change in a fair and just way. We will be better able to do so if we keep our focus on our common humanity and our common challenge.*

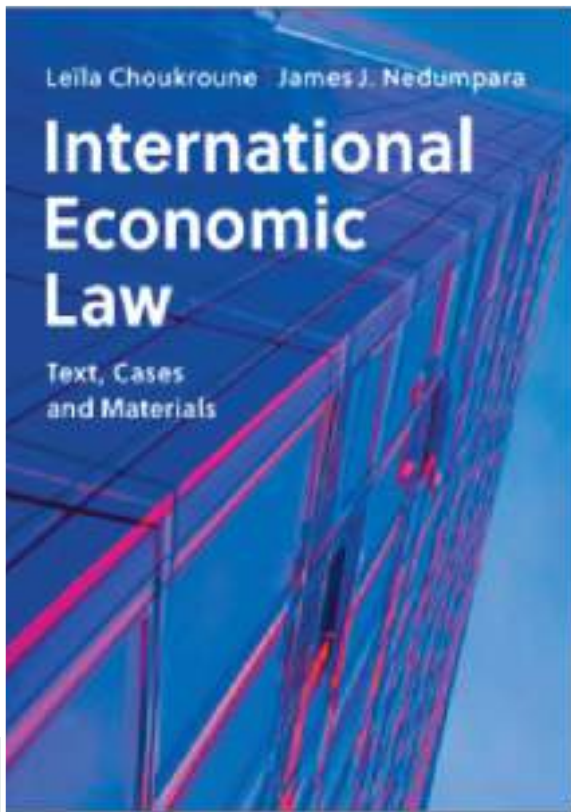
**Resilience implies adaptability to systemic shocks, including climate change and political instability. How can trade regimes integrate flanking policies to better prepare for or respond to such crises?**

To start, speaking broadly, trade agreements must support and not interfere with climate action taken by countries individually and collectively. Second, there is a need to create institutions where countries can meet and explain their actions and take into account the effects of their actions on others.

The WTO is still in the process of integrating discussions over environmental concerns. Indeed, this week in Geneva we are seeing the convening of meetings under what is known as Trade and Environmental Sustainability Structured Discussions (TESSD). These structures, especially when institutionalized, can foster learning through the sharing of experiences.

The “core” (in terms of addressing climate change) likely will not be led by the trade regime so long as coordination takes place. The most successful international environmental agreement is the Montreal Protocol on the Protection of the Ozone Layer. It contained trade provisions, including sanctions where countries do not meet its requirements. The Montreal Protocol included a great deal of flexibility to achieve its ends, which included technology transfers and time extensions, as well as trade sanctions. Trade sanctions were a type of flanking measure with the core focus being on saving the ozone layer. But they were used as a last resort in a context where countries coordinated to address a common end. We need to institutionalise such an approach to address the complexities of climate change.

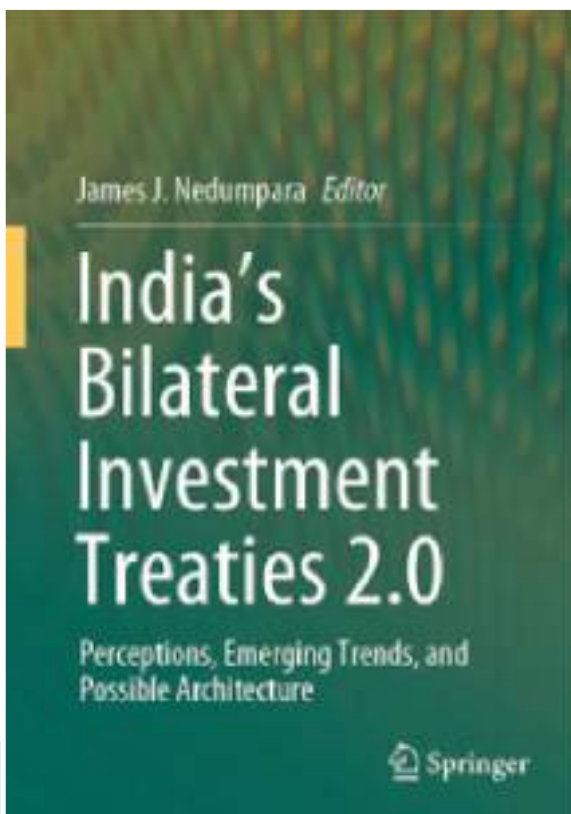
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International Economic Law Text, Cases and Materials



Global Trade And Customs Journal (Volume 19 Issue 3)



India's Bilateral Investment Treaties 2.0 Perceptions, Emerging Trends, and Possible Architecture



CTIL Study & WTO Chairs Programme Background Paper

# The Trump Administration 2.0 – Impact on a Rules Based International Legal Order \_\_\_\_\_



*Professor Joel Trachtman*

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**Joel P. Trachtman** is an Emeritus Professor of International Law at The Fletcher School of Law and Diplomacy. He has written several notable books and has served on the boards of leading journals such as the American Journal of International Law and the Journal of International Economic Law. Prof. Trachtman has consulted for a number of governments and international organizations including the UN, World Bank, and OECD. He has also been a visiting professor at Basel, Hamburg, Harvard, and Hong Kong among numerous other universities.

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With the return of the Trump administration and the resurgence of unilateral trade policies, how do you assess the future of the WTO-centred multilateral trading system? Do you believe a consensus-based approach anchored in a global institution like the WTO still holds relevance in today's geopolitical and economic landscape?

There are many ways in which Trump represents something new on the horizon. He acts unilaterally. Unilateralism by itself is not a problem, but these actions violate international law. Even if they didn't violate international law, they would be problematic for a number of reasons. I think this is a challenge to not only the international system of trade, but also to the entire international legal system. It's unfortunate that the United States is not complying with a system that it had a significant hand in building.

I think the multilateral system of WTO, which has evolved from the GATT beginning in 1947 and then the WTO in 1995, has been valuable. It has lifted many people out of poverty and increased the welfare of the entire world. These recent actions, however, are destructive to that system and risk making us all worse off. The solution is fundamentally a political one. Other countries can act in response, but it's hard to determine the best course of action.

The WTO system, as it stands today, is still largely the one established in 1995, and it is obsolete in several important respects. One of the reasons the United States has been unhappy, even before Trump and one of the factors that motivates the Trump administration, is that it has been difficult to modify WTO rules to integrate China more effectively into the WTO system. China has said, "We are happy with the



1995 system; why would we renegotiate?" But this system of treaty-making, which effectively requires unanimity (even though amendments can be made by supermajority under the WTO Charter), is rigid. Furthermore, although the Charter says decisions can be made by majority, in practice they are made exclusively by consensus. That may need to change. The system is too rigid and not able to adapt to new challenges. One area I have been studying is the role of trade in supporting sustainable development.

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The trade system could contribute more and, at the very least, could ensure that it does not impede action toward sustainable development. But it cannot change. Digital commerce is another area presenting opportunities and challenges that require legal and regulatory frameworks, but nothing significant has happened there yet. The trade system is good, but it needs reform to be more effective.

[In light of the current global trade environment, where multilateral rulemaking under the WTO appears to be losing momentum, how significant do you believe is the role of mega-regional trade agreements such as the CPTPP in shaping international trade norms and governance?](#)

Mega-regionals can take important actions and they have done so. The CPTPP included the United States, until it withdrew. The United States signed it, but when Trump began his first presidency, he withdrew from it. It had provisions that might have addressed some of the trade-related problems with China, and one motivation was to induce China to accept policy changes as the price of joining.

However, regional or sub-multilateral systems have some limitations. One is that they cannot really ensure

a global Most-Favoured Nation (MFN) treatment. From a welfare economics standpoint, it is best to apply tariffs on a true MFN basis—that is, equally to all countries. That is the most efficient approach to tariffs. Actually, it is the second most efficient—the most efficient is to eliminate tariffs altogether. But if you are not going to eliminate them, then the multilateral MFN approach is the best. When it comes to non-tariff barriers like product standards or labour standards, many of which relate to sustainability, these cannot be effectively addressed in a regional setting alone, like CPTPP. For instance, if Japan changes its standards under the CPTPP, it effectively changes them for the whole world. However, it isn't negotiating with the whole world, so it doesn't get sufficient reciprocal concessions globally. As a result, there is insufficient incentive to accept concessions within mega-regionals.

Still, they can serve as a good starting point. Jagdish Bhagwati raised the question of whether regional integration is a stumbling block or a building block. In some sense, it is a building block. Reducing barriers and liberalising trade regionally makes it politically easier to reduce barrier and liberalise multilaterally because the domestic opposition to reducing barriers loses profits based on protectionism, and therefore



influence. Regionals also provide an opportunity to experiment. We can learn through them and then see which aspects can be useful at a multilateral level.

What do you think the countries affected by the US measures should do? Should these countries rush to negotiate trade deals with the US? If yes, what will be the impact of these trade deals with the US, and how will these trade deals play in the domestic politics of other countries?

Right, so today is June 22nd, 2025. I just want to provide a date stamp because I think the only trade deal that the United States has negotiated is with the UK. Maybe I'm missing something, but it was supposed to be 90 deals in 90 days. More experienced people say, well, it takes a couple of years to negotiate one of these agreements.

So, I think many other countries have just sat back and taken the view that these special retaliatory or reciprocal tariffs that the Trump administration has imposed or has said they will impose and then held back are not really good for the United States. So they think they don't have to do anything because the United States will back away. Then there's this idea—the "TACO" strategy that says "Trump Always Chickens Out." And in a sense, it's because these were not good ideas in the first place; they are self-harming ideas and other interests have prevailed on Trump to back down.

So they seem to be empty threats to some extent. It's hard to say, because it may be that self-harm is the way the United States operates. We'll have to see. But I think other countries would strategically benefit from standing together to enforce the rule of law and the laws of economics.

I and some others in the United States think that Trump has authoritarian tendencies. And it's not just an internal authoritarianism; he seeks to extend that internationally. I think the best way to stand up to authoritarians is to group together. In my view that might be the best strategic approach for other countries.

The Trump administration has introduced a slew of executive orders imposing tariffs to address issues such as the threat of illegal aliens and drugs. Additionally, there was an executive order imposing 25% tariffs on third countries found to be importing oil from Venezuela. In your view, does this reflect a shift in the use of tariffs from their traditional role in regulating imports towards a broader foreign policy tool akin to economic sanctions? What implications might this have for the legitimacy and coherence of international economic law?

Yes, I think that has been something that Trump administration has used more intensively than previous administrations in the United States. There used to be some kind of a separation of trade from geopolitics, but now we are living in a geo-economic

*Reducing barriers and liberalising trade regionally makes it politically easier to reduce barrier and liberalise multilaterally because the domestic opposition to reducing barriers loses profits based on protectionism, and therefore influence.*

world where these things are combined in many ways. Therefore, the Trump administration thinks that the US has terms of trade power so that it can unilaterally impose such tariffs to coerce action from other countries.

Some of the basis for these tariffs, like fentanyl trafficking from Canada, is pretextual and are not real. While there is a little bit of fentanyl coming into the US from Canada, it's not because Canada is uncooperative with the US.

But having said that, the assumption behind these tariffs is that the US has the power to impose and other countries will not retaliate. For instance, it's true that Venezuela is not in a position to retaliate effectively against the United States. Its economy is very weak and diminished at this point. But again, we have a

question of whether this approach can persist in the multilateral system, and whether other states will stand up to this kind of action.

Finally, when these tariffs are imposed against major countries like China, they become self-defeating. The United States cannot impose significant tariffs on China without harming itself, because the US relies on China not only for consumer goods but also for intermediate products critical to our manufacturing.

If we were to implement the tariffs Trump has proposed, we would destroy our own manufacturing capacity and be forced to import much more from other countries, like India.

So, I think it's unlikely this will be a lasting policy for the United States. The bigger question is: how long could the US sustain such a policy, and how damaging would it be—to China, to the US, and to other countries.



Do you think this imposition of tariffs for various reasons will become a regular feature of US trade policy? Or will the Trump administration recalibrate its approach?

I think the Trump administration is likely to reluctantly and partially recalibrate this approach over time. I

hope that future US administrations will learn from this experience and avoid acting in this manner. This strategy of the Trump administration has two problems: it is self-harming, and it disregards the agency of other states. It assumes they cannot respond to this, but they can, and they are responding. China's imposition of rare earth export restrictions is a good example. Hopefully, there will be some learning from this, and future policy will be more measured.

*There used to be some kind of a separation of trade from geopolitics, but now we are living in a geo-economic world where these things are combined in many ways.*

The ruling of the US Court of International Trade in *VOS Elections v. United States* halted the most recent tariffs and underscored the judiciary's growing skepticism towards the use of national security justifications. How do you think this decision impacts the interpretation of national security or national emergency in trade law?

It's important to say that some of Trump's tariffs were purportedly imposed under the International Emergency Economic Powers Act (IEEPA). This act delegates power to the president to take certain actions, not necessarily tariffs, in response to deal with certain types of national security emergency. There is a significant question about what constitutes an "emergency" and who gets to decide whether that condition exists.

First, constitutionally, the President has no power over tariffs. Under the Commerce Clause, Congress is responsible for tariffs. Second, the US Supreme Court has also established the non-delegation doctrine, which says that Congress or other parts of the government cannot delegate its constitutional authority away completely. There has to be an intelligible principle that governs the delegation.

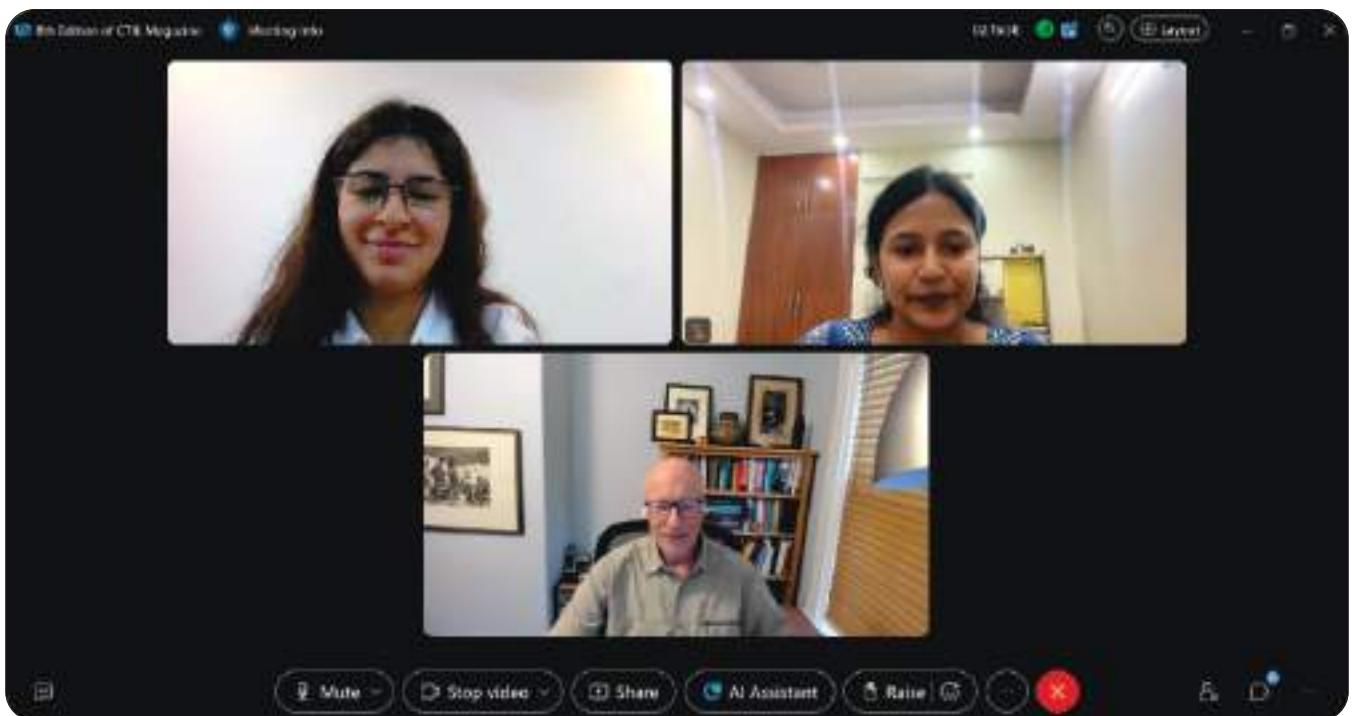
In my view, for a delegation to be valid, it must be judicially reviewable. You can't simply say the

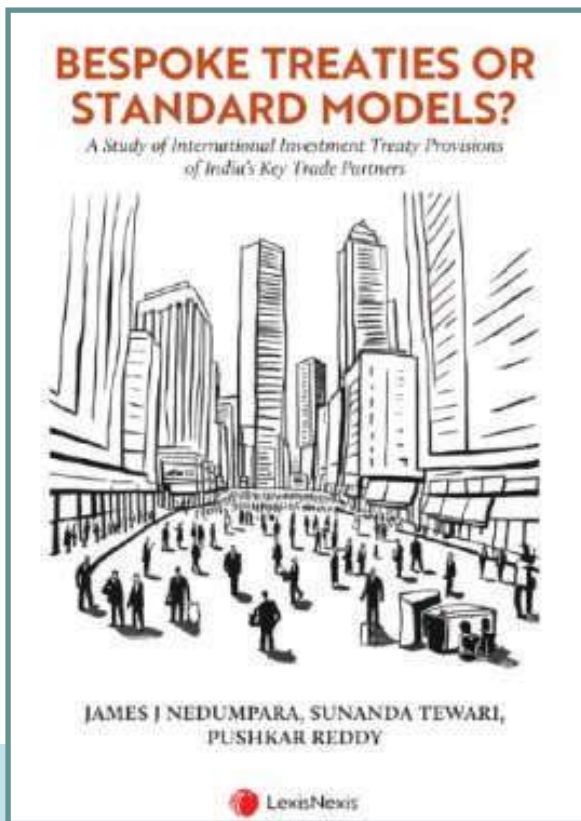
President can decide unilaterally whether a national security condition exists, especially with a President who is willing to make decisions contrary to facts.

In *VOS Elections v. United States*, the court said that these matters are reviewable and the President doesn't have full discretion to decide things without judicial review. Judicial review must ensure compliance with the IEEPA, both factually and legally. The court relied on the non-delegation doctrine and the "major questions doctrine," which says that major statutory interpretations, in this case regarding IEEPA, are for the courts and not the executive to decide. The court ruled that the "Liberation Day" tariffs must meet those standards, and the court can review them for compliance with the IEEPA both factually and interpretatively. The ruling emphasized that the court is in charge of interpretation. But if you look closely, the interpretation of whether facts meet a legal standard is both an interpretative and factual process, and it's hard to separate.

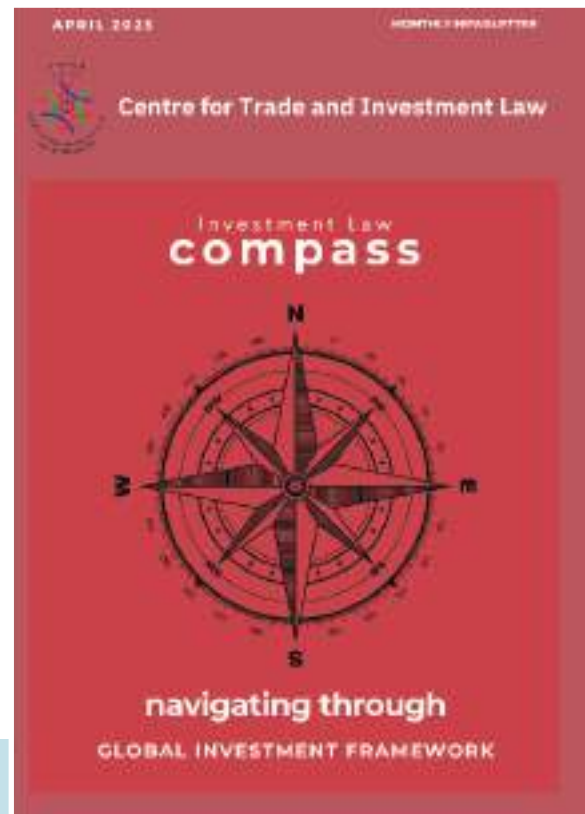
The decision is being appealed. There has traditionally been deference to the President in relation to factual determinations, especially as to national security matters. But in my opinion, excessive deference poses risk. Trump does not respect legal constraints in the way prior Presidents have. So now the judiciary is stepping in to restore those boundaries.

The other part of this, the trafficking-related tariffs against China, Mexico, and Canada, related to immigration and fentanyl, were found not to be authorized under the IEEPA, as the court said these did not "deal with" the national emergency. And the reason for that, according to the court, is that they basically coerce the country's foreign policy, rather than directly dealing with the issue of fentanyl trafficking or dealing with the issue of unauthorized immigration. That distinction will be important on appeal. It raises a key interpretative issue: what does it mean to "deal with" an emergency? Essentially, it's a question of interpretation. The initial ruling adopted a specific interpretation, which I think is defensible, though we'll see if it holds.

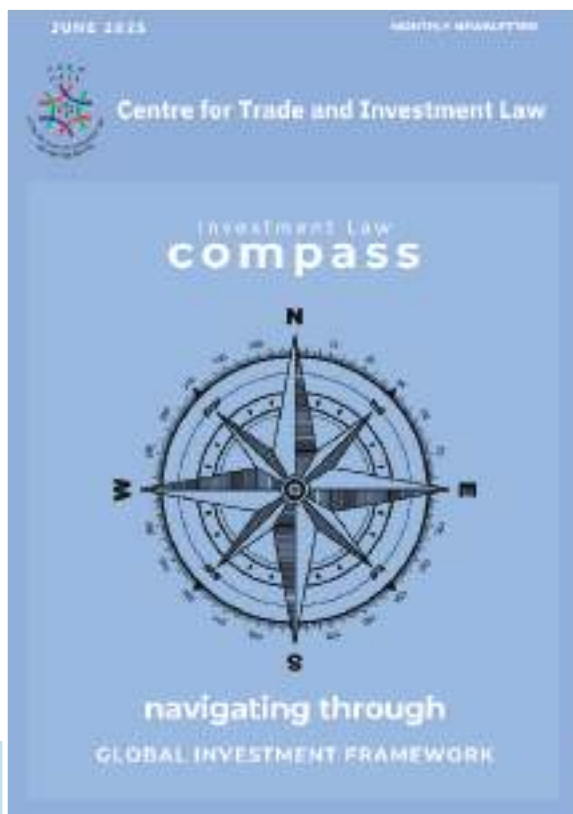




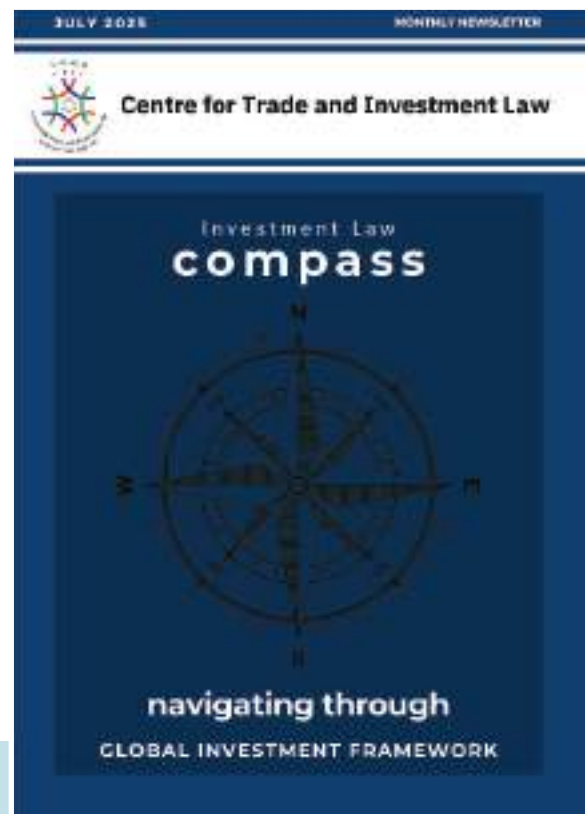
Bespoke Treaties or Standard Models?-A Study of International Investment Treaty Provisions of India's Key Trade Partners



CTIL International Investment Law Newsletter 'Compass' – April Edition



CTIL International Investment Law Newsletter 'Compass' – June Edition



CTIL International Investment Law Newsletter 'Compass' – July Edition

# From SEZs to Green Growth: India's Vision for an Inclusive Economic Order \_\_\_\_\_



*Ms. Hemalatha P. IAS*

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**Ms. Hemalatha P.** is an officer of the Indian Administrative Service (Karnataka cadre, 2000 batch). She is currently serving as the Development Commissioner of the Cochin Special Economic Zone (CSEZ), headquartered in Kakkanad, Cochin. In addition to her duties as the Development Commissioner, she has been entrusted with the additional charge of Secretary, Spices Board, Government of India.

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[Given the weakening of the WTO's dispute settlement system, what alternative mechanisms do you think India and other developing countries can explore to address trade-distorting actions by larger economies?](#)

Many developing countries and economies implement trade-distorting measures and protectionist policies in the form of subsidies, tariffs and non-tariff barriers. As a first step, developing economies such as India should focus on strengthening domestic capacities by building a resilient economy, reinforcing our economic fundamentals to minimise the impact of such external measures. However, given the global nature of trade, we are bound to be affected by these measures, especially those imposed by larger economies.

Since 2019, the trade dispute resolution landscape has seen a paradigm shift owing to the paralysis of the WTO Appellate Body. While alternatives like the Multi-Party Interim Appeal Arbitration Arrangement exist, its

voluntary and mutual consent-based participation detracts from its effectiveness. Although WTO does provide for certain corrective mechanisms such as anti-dumping and countervailing actions, the nature of recent trade-distorting measures warrants a much more organised approach.

Therefore, I think, we must explore various alternatives. One such option is collective action by similarly placed economies. Greater collaboration among Developing countries such as G-20 and Regional Comprehensive Economic Partnerships offer alternative paths to address these concerns. Strengthening alliances with similarly positioned countries will help create collective leverage during trade negotiations and serve as a viable route for addressing trade-distorting practices.

Free trade agreements (FTAs) and preferential trade agreements that offer tailored dispute settlement

procedures can be another important tool. Concluding more FTAs that incorporate detailed Dispute Settlement chapter can become crucial for resolving future disputes. These chapters often allow countries the flexibility to select the forum to pursue disputes, either at the WTO level or as specified under the FTA. Dispute resolution mechanisms can clarify ambiguous rules and allow recourse such as suspension of concessions or compensation. The effectiveness of FTA dispute resolution mechanisms, too, is determined by the quality of trade diplomacy.

*While alternatives like the Multi-Party Interim Appeal Arbitration Arrangement exist, its voluntary and mutual consent-based participation detracts from its effectiveness.*

While these are the alternatives available as of now, we must strive for the establishment of an appellate system akin to that which existed at the WTO and it is imperative that developing countries take the lead and use their negotiating power to bring reforms at WTO.

[How can India proactively use trade agreements to support its green growth, manufacturing, and energy security goals while staying aligned with international trade commitments?](#)

With respect to green growth, recent FTAs, such as the India-UK CETA include exclusive chapters on sustainability measures. These chapters focus on clean energy and reinforce the countries' commitment to pursue sustainable development across sectors. India's participation in these discussions is a step forward in fulfilling both green goals and international commitments.

FTAs also facilitate investment in clean technologies. For instance, the India-EFTA agreement includes commitments to invest in clean technologies and Green Economy projects which can support India's green growth pathway. The India-UK CETA contains provisions for joint research and development, technology transfer, and financing in the clean energy

sector. All these elements will contribute meaningfully to green growth.

Additionally, the elimination of tariffs and non-tariff barriers in the clean energy sector improves access to advanced technologies from developed economies, particularly in clean technology and the sustainable mining of critical minerals. Our FTA with Australia, for example, presents an opportunity to secure critical minerals, which will help us with our clean energy goals.

[Considering that the international economic regime has entered a new phase of states reasserting their sovereignty, how important do you think the development and proliferation of Special Economic Zones \(SEZs\) in developing and emerging countries is?](#)

SEZs are designated geographical areas with liberalised regulations. In customs parlance, they are referred to as "foreign territories," offering benefits such as tax breaks, duty-free imports, and world-class infrastructure for units that set up their businesses. This attracts foreign investments both in the form of capital and technology. SEZs reconcile the need for targeted economic liberalisation with the preservation of policy space.

SEZs generate employment and contribute to the economic development of the surrounding areas. It is assessed that the positive effects of SEZs spill over around 10-to-50-kilometre radius of their location. For example, in Kochi, the area where the SEZ was developed in the late '80s was initially barren. Now, it's one of the most sought-after parts of the city with strong manufacturing and IT presence, backed by modern infrastructure and a skilled talent pool.

*Additionally, the elimination of tariffs and non-tariff barriers in the clean energy sector improves access to advanced technologies from developed economies, particularly in clean technology and the sustainable mining of critical minerals.*

Businesses are very much interested in coming to these economic zones not just for tax exemptions, but also for the world-class infrastructure and the talent base.

Globally, there are around 5,400 SEZs—about 4,000 of which are in Asia, predominantly in China and other parts of Asia. These zones have stimulated a rise in employment and have attracted investments in technology. SEZs embedded with sustainability and innovation spur the growth of green energy. In Egypt, the Suez Canal Economic Zone, by leveraging its shipping corridor advantage, focuses on ship refuelling

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stations, manufacturing of wind turbines and solar panels to support green Hydrogen production. Given today's environment, where we are plagued with compliance-related issues, SEZs, with streamlined rules, remain a very important policy tool for promoting business.

Given India's focus on enhancing manufacturing competitiveness and integrating with global value chains, how do you see Indian SEZs contributing to manufacturing in the country and export-led growth?

One of the key advantages of SEZs is the duty-free import of raw materials, plant and machinery and exemption from GST on domestic procurements. Until 2019, the units enjoyed income tax holiday, which was a major motivating factor for manufacturers.

SEZs are the prime movers for manufacturing. Apart from duty exemptions, they also contribute to employment generation in the area where these zones are located. For instance a predominantly labour-intensive footwear-producing SEZ in Tiruvannamalai, Tamil Nadu, developed across 200 hectares, created a massive employment base in the surrounding villages.

These villages supplied labour, and the SEZ provided the required training, which in effect contributed to the skill upgradation of the local people. With the facilitation of tie-ups with vocational training institutes, units will invest less in imparting skill, making them even more self-sustaining.

Manufacturing sectors in SEZs also benefit from reduced compliance, bureaucratic hurdles and minimal procedural delay because of the single-window clearance system.

With around 276 operational SEZs and 5711 units in the country, 37% of total merchandise exported from the country was from SEZs, particularly in the pharmaceutical, automotive components and electronics sectors. The locational benefits and other duty benefits have ensured that SEZs spur the growth of the economy.

In light of the magazine's theme — "Reimagining International Economic Law: Reform, Resilience, and Rebuild", and as a negotiator for India, where do you believe reimagining of international economic law (IEL) is most urgently required to ensure broad-based benefits for all countries? From India's perspective, what key reforms or shifts are needed to make the international economic legal framework more inclusive, equitable, and future-ready?

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There is a growing consensus on social, environmental and ecological inclusiveness among a lot of countries. These countries have been vocal about social inclusiveness in international economic legal discourse. Apart from economic growth, support for human rights and environmental stability on the lines of Sustainable Development Goals is an important aspect that we should work towards.



India may not be fully ready yet, but we must start building systems that ensure that our vulnerable sections are not subjected to exploitation in the name of economic growth. At the same time, we must acknowledge that we are not at the same level of development as the countries advocating these reforms, and hence, we must find a balance between achieving sustainable development and protecting our economic interests. IEL should address global inequality by promoting fair trade, capacity building, technology transfer, etc. It should ensure meaningful market access for underdeveloped and developing nations.

*India may not be fully ready yet, but we must start building systems that ensure that our vulnerable sections are not subjected to exploitation in the name of economic growth.*

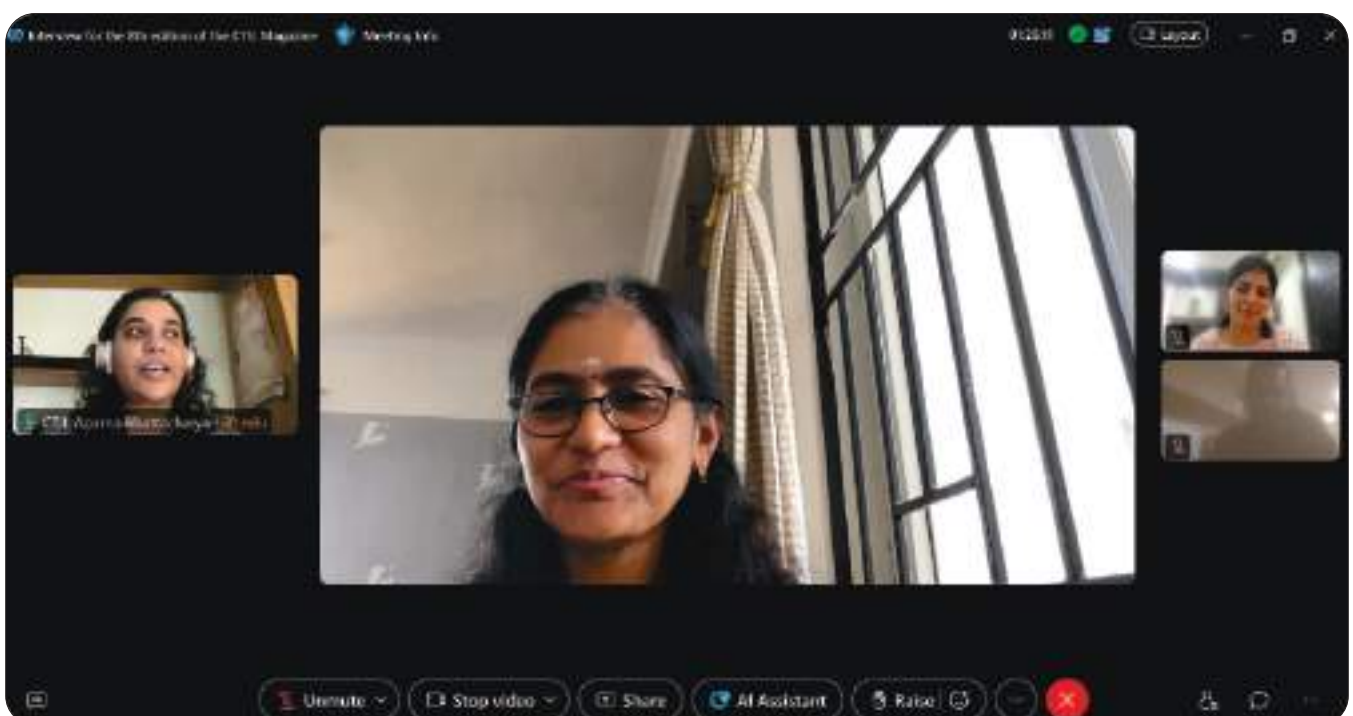
The State must retain the sovereign right to regulate foreign investments at all times. From India's point of view, a rights-based approach, like the one we have under the Right to Education or the employment guarantee under MNREGA, should be advocated to protect our vulnerable populations from exploitation and guarantee equitable access. We should leverage

technology for social inclusion. Trade policies should be reformed to support MSMEs and women-led businesses.

**Finally, what message would you give to the next generation of trade professionals, scholars, and negotiators in India who are stepping into an increasingly complex and fragmented global trade order?**

I think, in this fragmented world order, we need to be mindful of the evolving geopolitical shifts, emergence of new trade blocs. That awareness will be key for future negotiators. Trade is not just about tariffs. It is about goods, services, investment, data, etc. and a holistic view of all these is essential. At the same time, while we negotiate, we need to be clear on our non-negotiables and where we can be flexible.

Trade diplomacy has moved from slow multilateral negotiations to fast-paced issue-driven bargaining. We need to adapt to these diplomatic realities while being mindful of our key interests and takeaways. We need to be proactive in adjusting to frequent policy changes, new digital trade frameworks, environmental and labour standards. For developing economies like ours, forging strategic alliances with similarly placed countries will give us a stronger, collective voice on the global platform.



# Reimagining Multilateralism: Evolving Role of the WTO and Its Leadership

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*Ms. Akshaya Venkataraman*

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**Akshaya Venkataraman** is currently working as an Editorial Assistant for the Journal of International Economic Law. She specializes in international trade and investment law and has several publications to her credit including the co-edited Handbook on Product Standards and International Trade: Navigating the Regulatory Landscape in India. Ms. Venkataraman has worked at prestigious law firms, at CTIL as a Senior Research Fellow and the WTO Secretariat as a lawyer.

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In your recent book chapter ‘Taking Initiatives in the WTO: The Role of an Executive Head in Steering Change’, you discuss how past and current Director Generals of the WTO have taken onto themselves to find innovative solutions or initiatives tied to their explicit powers, functions and duties mentioned in the WTO Agreements. How do you think this has shaped the opinion of WTO’s Director General (DG) and the Secretariat, in general?

One of the things that made working on this article particularly interesting was discovering that a great deal can be learned about the institutional workings of the WTO from the ways in which the DG of the WTO exercises initiative. What emerged from the article’s findings was a somewhat novel assessment of the DG’s ability to take leadership in the space between the DG’s explicit powers and duties on the one hand, and the overall Member-driven mandate and institutional

purpose of the WTO on the other. The general sense within the WTO has long been that it is a Member-driven organisation, and that understanding fundamentally shapes how the Director-General and the Secretariat view their role. In this view, decision-making authority and overall direction rest with the Members. However, our research highlighted that there is, in fact, some opportunities, albeit limited, for the Director-General and the Secretariat to take initiatives which have taken forward the mandate of the WTO. These are often pursued quietly without the formal invitation of the Membership but driven by a multitude of factors including prevalent crises, needs of the Membership and the leadership interests of the DG.

In areas like dispute settlement, trade monitoring, and cooperation with other international organizations and external actors like private sector and civil society,

various DGs have introduced new processes (e.g. mediation beyond what's explicitly contemplated in the DSU), activities (like the Public Forum, and forums with private sector) and functions (e.g. trade monitoring reports and the World Trade Report). This has played a significant role in shaping the politics within the organisation today. From both personal experience and the interviews conducted for the chapter, it was evident that the Secretariat and the DG remain extremely careful not to be seen as stepping on the toes of the Members. Even now, there is a strong sense that their work must never be seen as exceeding what the Members allow. Yet, many of these initiatives have been tacitly accepted by Members and have become instrumental in the regular functioning of the WTO. This dynamic reflects the balance that the DG must maintain between taking leadership and respecting the Member-driven nature of the organisation.

*What emerged from the article's findings was a somewhat novel assessment of the DG's ability to take leadership in the space between the DG's explicit powers and duties on the one hand, and the overall member-driven mandate and institutional purpose of the WTO.*

[Do you feel that the DG's extended functions and innovative initiatives can help in addressing the rise of unilateral protectionist measures?](#)

When considering what the DG and the WTO can or cannot do when faced with a political standstill, I return to a perspective shared by many scholars: that the WTO has institutional functions beyond negotiations. Despite developments like the Fisheries Subsidies Agreement, the negotiation function of the WTO has certainly stalled in recent years. There is now a much stronger tendency than even three or four years ago for states to adopt unilateral measures. This trend is not limited to actions like the United States' imposition of tariffs, but extends across a range of areas including climate governance.

This raises a broader problem many are still grappling with – what is the purpose of an institution like the WTO? In my view, the WTO is not simply a platform for formal rule-making and dispute settlement. I recall Rob Howse's idea described in his paper on the WTO's deliberative function, best reflected in the work of the WTO's everyday committees: the smaller committees, the ad hoc committees, the TBT Committee, the Trade and Environment Committee, and the SPS Committee. These spaces are vital for regular dialogue and information sharing. These meetings may not seem like headline events, but I think they are central to the institution's purpose. Some believe that pivoting to this deliberative function could be part of the solution to the WTO's current challenges, while others are more sceptical.

I believe these institutional functions are worth protecting, particularly when the WTO is often said to no longer serve a meaningful role. The WTO holds a great deal of institutional memory — technical knowledge that has been built up over several decades by those who have worked at the WTO for thirty years – which cannot be replicated elsewhere. The WTO also houses some of the largest databases of trade measures which are publicly accessible – mapping technical regulations, subsidies, trade-related environmental measures, specific trade concerns of Members and so on. That knowledge has kept the organisation running and guided conversations toward common ground. While it hasn't solved problems like unilateral protectionist measures, I do believe it has enabled Members to identify shared concerns and build a basis for further dialogue. In that context, the role of the DG and the Secretariat in facilitating this dialogue, and providing a platform for governments with limited technical, political and financial capacity to meaningfully participate in clubs, plurilateral or bilaterals, becomes crucial.

One example that stands out from my time at the WTO is the discussion around the European Union's (EU) Carbon Border Adjustment Mechanism (CBAM), which was still under development at the time. It was striking to see how, at each stage that the EU presented and discussed the measure in committees and meetings like the Public Forum, it created opportunities for other Members, particularly smaller Members, LDCs, and emerging economies, to question

them on various aspects of the measure in the drafts and what the regulation might look like two years down the line. In such instances, a platform like the WTO and an institutional framework led by a DG and a Secretariat is crucial to the functioning of an international legal order, and must be protected.

In ‘Unmasking the Phantom of the Opera: Is there a Hidden Secretariat in the WTO Dispute Settlement System?’, you and Professor Marceau produce counter arguments to the idea that the Secretariat exerts influence and control over adjudicators under the WTO Dispute Settlement System. You develop several proposals in the paper like a rotating staff and appointing law clerks for panels. Do you think these proposals are being considered in the reform of the dispute settlement system?

When I was at the WTO, I had the opportunity to witness the dispute settlement reform process. At the time, Ambassador Marco Molina from Guatemala was leading the reform discussions, though that process has since been paused. Around 2023, there was genuine interest in improving the dispute settlement system, not just in re-electing the Appellate Body, but also in terms of broader procedural concerns like the role of the Secretariat in dispute settlement, time taken for decision making and the scope of substantive issues dealt with by the panels and Appellate Body. There was an effort to consider what improvements could be made to the process itself. This created space to examine the structural and procedural issues developing countries and LDCs face regularly in using the system. There was also interest in how to make the process more approachable, particularly under the current conditions where the Appellate Body is non-functional and panels remain the main avenue for dispute resolution.

In the paper Professor Marceau and I worked on, we discussed ideas, such as the concept of a rotating roster and the distinction between panel staff and the Secretariat’s institutional support. One of the questions we looked at was how to balance the influence of long-serving Secretariat staff with panel members who come into the process temporarily and may not have the same institutional familiarity. These were the kinds of concerns that were actively being discussed. As I understand it, the process is still

ongoing, though MC13 did not deliver a concrete outcome. At one point, 2024 had been identified as the target year for resolving the dispute settlement crisis, but that has now passed.

Now, I view these developments from more of an external position. I believe that those currently working through delegations or organisations like CTIL would have a better understanding of the current direction of these conversations. It will be interesting to see how much of the reform process moves forward particularly in light of the ongoing political push towards de-globalisation around the world. It remains to be seen whether there is still momentum for a renewed and prioritised push toward reform.

That said, one shift I noticed during my time at the WTO was that there is also a broader interest in ensuring that the WTO is not seen solely through the lens of dispute settlement, tying back to its deliberative function and what more it can offer beyond adjudication.

The world is currently in a deadlock when it comes to meaningful multilateral negotiations, due to unilateral measures like the Liberation Day tariffs or the EU CBAM and related measures. In your opinion, how does this affect inclusive multilateral solution finding for issues like climate change, especially for LDCs and SIDS?

*The WTO holds a great deal of institutional memory—technical knowledge that has been built up over several decades by those who have worked at the WTO for thirty years – which cannot be replicated elsewhere.*

This is a very important and complex question. I would begin by breaking it down: First, does multilateralism continue to hold relevance amidst growing unilateral protectionist measures?

I believe that multilateralism offers the possibility of inclusivity for a wide range of negotiating groups. I recall attending a forum at the WTO on de-

carbonisation standards, which brought together Members, private sector, industry associations and technical experts to identify cutting-edge regulatory developments around the world with a view to encourage information sharing, dialogue and finding common ground. Plurilateral discussions within the WTO while contested by some Members, including India, remain open to all Members who wish to participate. I have personally witnessed several such open negotiations, where smaller delegations have the option to join or simply observe, underscoring the platform's inclusive nature.

*The incorporation of the SDGs is also indicative of a broader shift, where economic institutions are increasingly engaging with environmental and climate-related objectives.*

So, even though multilateral negotiations may currently be struggling to make progress, multilateral platforms like the WTO continue to hold immense value. They ensure that a wide and diverse Membership can be involved in discussions, especially on issues like climate change, where vulnerable countries, such as SIDS, bear the consequences without having significantly contributed to the problem.

However, international politics is shifting toward inward-looking governance, with many states re-framing tools of diplomacy through the lens of national security. This securitisation of trade and related diplomacy tools appears to be the prevailing norm for the foreseeable future, especially as political administrations championing it are still in office and are likely to remain for several years.

This begs the follow-up question, does multilateralism of the future look different? I certainly think so. At a recent trade law conference I was at, experts with decades of experience continued to debate and not have a clear answer on how to move forward with the consensus-based multilateralism that the WTO was founded on. The time is perhaps ideal to reimagine what multilateralism can look like. I do not believe we should do away with multilateralism, and indeed,

there is growing academic interest in thinking about newer forms it might take. One possibility is moving away from binding rulemaking towards soft standard-setting, which research shows may influence markets in subtle but effective ways. Another possibility put forth is working within smaller group discussions, such as climate clubs or plurilateral initiatives, that begin with a limited Membership but are designed to expand outward over time. However, as has been discussed in scholarship frequently, such approaches could have the effect of excluding smaller economies and LDCs.

Without such reimagining and restructuring, and a lack of coordinated effort at the political level to organise alternatives for multilateral rulemaking, unilateral measures will become the default. A relevant example is the Fisheries Subsidies Agreement. Although one part of that agreement was successfully adopted, progress on the remaining sections has stalled. The next part depends on unresolved questions around how to treat developing countries, prohibitions on subsidies for fishing which contribute to overfishing and overcapacity (OCOF subsidies), fishing in high seas, and fuel subsidies for fishing activities. Until those issues are addressed, the agreement cannot be fully implemented. So, yes, I believe there is a need to rethink how multilateral negotiations are structured, but I also believe it is critical that we continue to have these conversations and sustain the platforms that enable them.

[The UN Sustainable Development Goals \(SDG\) aims to revitalize global partnership for sustainable development. How do you feel the adoption of these goals has affected the working of international organizations, especially the Bretton Woods institutions and the WTO, towards an inclusive and just international economic order?](#)

Within the WTO, and to some extent the World Bank and other Bretton Woods Institutions, the SDGs have undoubtedly become a central part of their work.

At the WTO, there is a clear institutional focus on initiatives aligned with the SDGs. Through its World Trade Report, annual reports, and various workshops and public events, the organisation actively highlights how its activities correspond with the SDGs. The WTO's 2024 report to the UN High Level Political

Forum on SDGs maps WTO's contribution to specific goals, including those related to inclusivity and poverty reduction. Aid for Trade, collaborations with the ITC and UNCTAD, and the post-COVID trilateral partnership on vaccine distribution are notable examples. In these contexts, the SDGs are not merely a stated objective but serve as an important reference point for ongoing day-to-day work of the institution. These efforts represent the core but often overlooked functions of international organisations, which tend to be eclipsed by the focus on political constraints to negotiations. The regular work of staff, supported by delegations, demonstrates the continuing relevance of these institutions and the importance of allowing them to operate without undue restrictions.

The incorporation of the SDGs is also indicative of a broader shift, where economic institutions are increasingly engaging with environmental and climate-related objectives. This is a theme that also informs my current research. Historically, environmental concerns were addressed only in limited ways within economic institutions like the WTO (e.g. exceptions under GATT Article XX). That dynamic has shifted over the last decade and a half. Sustainable development and its three dimensions, as reflected in the preamble to the Marrakesh Agreement, are now becoming more central to newer developments within the WTO. The DG noted, in the context of the Fisheries Subsidies negotiations, that this was the first instance where environmental harmfulness of a measure (as compared to competitiveness and trade liberalisation concerns) was prioritised as a basis to discipline a measure. This made the agreement a novel development in trade rulemaking.

There is a clear and ongoing effort by the WTO to reimagine its role in the international legal order and to actively consider how trade can be used as a tool to advance climate goals. This conversation must continue if the relevance of economic institutions is to be maintained in a future (and already a present) impacted by climate change.

[What innovative steps can international organizations like the WTO take to remain effective and relevant in addressing global challenges such as sustainability and supply chain resilience?](#)

As I explored in my chapter on taking initiatives in the WTO, an international organisation reflects both the choices of its Members and the work of its staff and Secretariat. These elements are interlinked and cannot be viewed in isolation. In this context, the WTO appears to be actively reassessing its own functions and exploring how its structures can be made more effective.

When I first encountered the WTO as a law student, I associated it primarily with dispute settlement. It was only during my time at the organisation that I came to appreciate the crucially important work of divisions like the Economic Research and Statistics Division, the Development Division which supports, among others, initiatives like Aid for Trade, and the Trade Policy Division. These divisions and the different Member Committees and initiatives they support are central to internal debates like the WTO's role in carbon pricing and how the institution could contribute meaningfully to trade facilitation. Post-COVID, the DG has led efforts to engage more directly with the private sector, which first began with initiatives to diversify distribution and supply of COVID-19 vaccines and evolved with time to events like the forum on decarbonisation discussed earlier. Globally, there is growing attention to issues such as the governance of critical minerals, with countries increasingly factoring in labour and sustainability concerns into trade and extraction frameworks. These are being discussed across a range of multilateral, bilateral and regional platforms.

*Multilateral institutions and bodies which are involved in the development and application of international law norms, like the ICJ, remain relevant, as seen in its climate-related advisory proceedings.*

While I would welcome the return of binding multilateral rulemaking, the direction may be shifting toward more informal cooperation. That said, multilateral institutions and bodies which are involved in the development and application of international law norms, like the ICJ, remain relevant, as seen in its climate-related advisory proceedings.

While no single approach offers a complete solution, these discussions are essential to shaping the future of international institutional engagement.

You have worked in law firms, at CTIL and at the WTO. What would your advice be to new and aspiring lawyers wanting to gain a footing in the international trade law field in these tumultuous times of international trade?

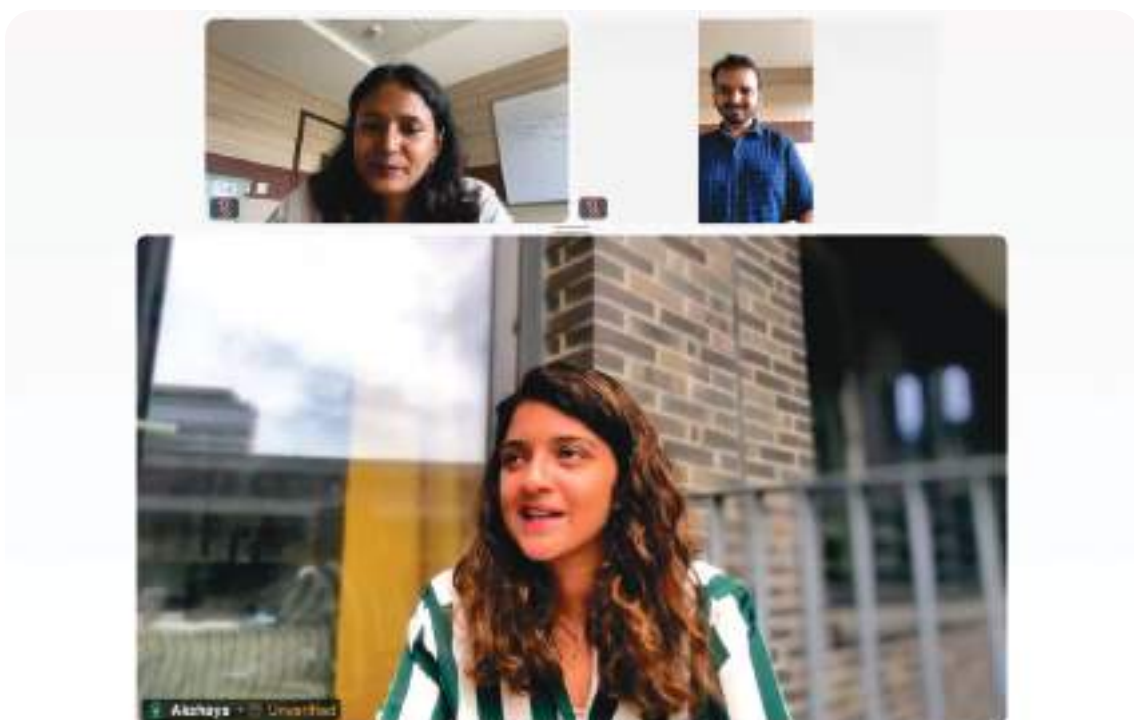
I think the path to finding your space in this field of international trade law is non-linear. I am by no means an expert and am at the beginning of a long career hopefully. Undoubtedly, it's both a difficult and exciting moment to be in this space. Difficult because the traditional paths for lawyers no longer exist: Geneva law firms are hiring less and the WTO has effectively had a hiring freeze for 3-4 years, particularly for people with legal backgrounds. If there was a clear, linear path for Indian lawyers into international trade ten years ago, that's no longer the case.

But that also makes it exciting. It means we need to reimagine how we exist in this space, beyond Geneva. I think CTIL is a great example of this. I think that a lot more work is being developed in Capitals, in spaces like CTIL because there is now room for a lot of different regional perspectives. Being at the forefront of the regional and bilateral work shaping up in international

trade law is a great place to practice international trade law.

In parallel, new and cutting-edge scholarship on international trade and economic law is being developed globally with a view to reforming the field. I've seen through my work at the Journal of International Economic Law, that every day new scholarship is emerging. It's important to read widely, engage with ideas, and let them shape your own. Comment, write, participate, whether in critical or forward-looking scholarship, conferences and forums and let your ideas lead you. Much of what we've discussed in this interview are broad, loose, forward-looking ideas on how to reimagine a field that is now shapeshifting away from what we knew it to be. So, my two key pieces of advice is: don't think in linear terms; and don't be afraid of big ideas or to share them.

I remember spaces like CTIL being vibrant with people constantly engaged in conversations and discussions, any of which could lead to papers and conferences. Perhaps these ideas then make their way to real-world policy when government officials engage with these ideas and put them into action. In the international trade law of today, anyone who wishes to participate should aim to be both - a thinker and do-er. I have no doubt, CTIL's already producing many of them right now as we speak. So I wish you all the best.



# Regional Voices, Global Futures: Rethinking Trade and Sustainability

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*Dr. Jan Yves Remy*

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**Jan Yves Remy** is the Director of the Shridath Ramphal Centre for International Trade Law, Policy and Services, University of West Indies, and also serves as the Co-President of TradeLab Legal Clinics. An accomplished international trade lawyer, she has advised governments and private stakeholders on international trade matters, with a focus on dispute settlement under the WTO. Dr. Remy has held the position of WTO Chair at the University of the West Indies (Barbados), under the WTO's Chair Programme since 2021.

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[As Co-President of TradeLab, how do you see this initiative shaping broader trade policy making in terms of empowerment of underrepresented actors, access to expertise, and achieving the goal of sustainable development?](#)

At TradeLab, we emphasize the importance of involving young people in advancing a sustainable trade agenda. The success of any trade policy depends not only on our ability to inspire the younger generation to pursue careers in trade, but also on encouraging those already engaged in the trade space to think creatively about the future they want to build. At its core, TradeLab is about making trade policy sustainable by empowering young people to lead it into the future.

Our goal is to connect students and research professors in universities with clients and beneficiaries in the trade sphere who are shaping and implementing trade policy. Many of our projects engage beneficiaries such as small- and medium-sized enterprises as well as governments, helping to ensure that trade policy translates into meaningful change in the import and export sectors.

We've seen a steady rise in projects focused on women-led businesses, green industrial policies, and digital trade — core elements of the new sustainability agenda. Many of these initiatives are carried out through pilot projects and clinics that focus on emerging areas of international trade policy. By working directly with stakeholders on projects that



integrate sustainability into operations and international organizations — projects with real potential to raise standards of living — students experience the trade–sustainability nexus in action. This hands-on approach enriches their education beyond traditional law while directly addressing the needs of beneficiaries.

*In a very real way, TradeLab is about making trade policy sustainable by empowering young people to carry it forward.*

Your recent conversations as part of Remaking Trade for a Sustainable Future project involved discussions on framing Africa’s voice, sustainable industrialization, and green industrial policy. How do you think the Global South — particularly African, Latin American, and South Asian economies— is contributing to the agenda of reforming the WTO as well as addressing the need to balance their decarbonization priorities with historical responsibilities, energy access, and industrial aspirations in their regions?

The question is how the Global South is reflecting its priorities in the trade space. It is encouraging to see the WTO continues to serve as a platform where countries can articulate how they want trade rules to evolve. India, for instance, has taken a clear position against expanding the trade agenda to include sustainability. Meanwhile, certain other countries are taking the lead in WTO plurilateral initiatives, which now includes the Trade and Environmental Sustainability Structured Discussions, the reform of fossil fuel subsidies, and other aspects of the sustainability agenda. These themes also appear within existing bodies such as the Committee on Agriculture and in the raising of Specific Trade Concerns in various areas.

In my view, excluding sustainability from WTO discussions is becoming increasingly difficult, even if these issues are not yet reflected in binding rules. For many countries, sustainability is integral to their industrial strategies. Consequently, discussions around subsidies, procurement, and other trade instruments used to promote industrial policy inevitably intersect with sustainability concerns. However, there has been little progress in updating

WTO rules to accommodate these imperatives, with most developments emerging through case law and dispute settlement.

Key questions arise in this context: should WTO subsidy rules be reformed to align with sustainability objectives under the Villars Framework? How can WTO-permitted subsidies explicitly include a sustainability component, rather than merely prohibiting trade-distorting subsidies? Carbon pricing offers a good example: while actively being discussed at the IMF, WTO, and World Bank — it is already affecting trade in goods as a de facto standard, even though these discussions have not yet resulted in binding rules. From the Global South’s perspective, the WTO’s approach remains largely defensive, aimed at preventing rules or processes adopted by the EU or the US from becoming trade barriers.

The imposition of unilateral rules, standards, and subsidy programmes that restrict developing countries’ access to markets distorts trade and harms producers and exporters. As a result, much of the focus remains on how the Global South can prevent such barriers from undermining trade opportunities. While sustainability discussions at the WTO remain largely defensive in nature, regional dialogues — in Africa, Asia, and elsewhere — are more proactive, exploring how developing countries can build competitiveness in these emerging areas.

*In my view, trade policies increasingly play a critical role in shaping outcomes, including in the climate space.*

The pressing questions we face include: how can we ensure our meaningful participation in the green transition by leveraging finance and investment in sectors like renewable energy? How can we move up the value chain for critical minerals, which are natural endowments in many of our countries? How do we ensure that the post-Industrial Revolution green transition does not leave our economies behind? The conversation, therefore, must focus on building regional value chains, attracting investment, and facilitating technology transfer to foster domestic innovation and meaningful participation in the sustainability agenda.

Regional discussions tend to be more positive and forward-looking, leveraging the sustainability agenda to advance local priorities, in contrast to WTO discussions, which remain focused on rules, disputes, and guarding against exclusion from trade. It depends on where you situate the conversation. I recently returned from South Africa and Latin America, where ongoing discussions on electric vehicles, renewable energy, and critical minerals — alongside softer issues like women-led SMEs, youth, and digital technologies — show that these societies intend to, and are positioned to, take advantage of the opportunities. In these contexts, the sustainability agenda is viewed as enabling. The key challenge remains ensuring that trade rules, processes, and regional cooperation actually facilitate our participation in the transition, rather than leaving us behind.

*At the recent ICJ hearings on the Obligations of States in respect of Climate Change, you represented your country of Saint Lucia and made passionate arguments on the adverse effects of climate change on Saint Lucians, especially the economy. Considering the challenges faced by the small island developing states (SIDS), how do you propose that they can leverage trade policy to align the climate and energy transition agenda with their developmental priorities, while also ensuring equity in global value chains, access to green technologies, and a fair say in standard-setting processes?*

I became involved in the ICJ hearings not only out of personal interest but also because of the growing opportunities to bring trade considerations into the international arena. In my view, trade policies play an increasingly critical role in shaping global outcomes,

*It is increasingly difficult to exclude the sustainability agenda from WTO discussions, even if these issues are not yet reflected in binding rules. Sustainability is a growing preoccupation for many countries, often as part of their industrial strategies.*



including in the climate space. Through our participation at the ICJ, I aimed to explore how trade rules could help clarify states' obligations.

For instance, plurilateral efforts are already underway at the WTO to discipline fossil fuel subsidies, which are among the most harmful because of their emissions impact. This illustrates how different silos of international law are using their respective tools to tackle the challenges of climate change. While trade law was only a small part of our ICJ submission, it reflected a broader approach — using trade law and its philosophy to inform responses to global problems.

The ICJ, unlike ITLOS with its more specific jurisdiction and competencies, has general jurisdiction and competence. At the ICJ, I sought to frame the issue within the broader discussion of the fragmentation of international law. Drawing on obligations from different branches of law can help the court adopt a more holistic perspective on how states' obligations can serve the climate agenda.

*You are a proponent of the Villars Framework, a bold effort to revamp international trade to work towards a sustainable future. How do you think the global economy is responding to these efforts? Do you see a move to attain some goals of the framework in the multilateral or plurilateral stage, even when developed economies are moving towards unilateral and protectionist measures?*

The Villars Framework is evolving to reflect current realities, shifting focus from predominantly the WTO to regional and institutional spaces. Increasingly, the action is taking place regionally and domestically, as countries feel empowered to shape their own approaches to trade. In my own region – the Caribbean – for example, there is a strong movement around food

*In the current difficult context — with major powers like the US retreating from multilateralism and geopolitical tensions rising — it is hard to predict the future.*

security, driven by the recognition of our over-reliance on larger countries.

In all of our Remaking Trade Projects and meetings, we consciously look beyond the WTO — focusing instead on regional movements and other international processes where the sustainability agenda can be advanced. Personally, I am also involved in negotiations at the International Maritime Organization (IMO), which recently adopted its first-ever framework for decarbonizing shipping.

Even when progress happens outside the WTO, such as at the IMO, these decisions still affect trade — raising costs in the short term but contributing to the larger goal of decarbonizing trade. I believe our focus is rightly shifting toward making trade an inclusive process that aligns with regional priorities and processes, rather than being fixated solely on multilateral outcomes. For me, what matters most is having the right people at the table — large and small companies and individuals, powerful and less powerful actors in the trade space — and ensuring they can shape the outcomes. Ultimately, the decisions they make should be theirs. But the more inclusive the process, the more sustainable the outcome is likely to be.

In today's difficult context — with major powers such as the US retreating from multilateralism and geopolitical tensions rising — it is hard to predict the future. That is why our approach has been to stay

granular, focusing on areas where we can make a tangible impact, such as regional processes that foster more inclusive and resilient outcomes.

[How is multilateralism being affected not only in the trade sector but in different sectors? How does this affect smaller countries that cannot usually have powers as much as the consensus system gave under the WTO?](#)

Sometimes the experts don't have all the answers — and I feel a bit divided on this question myself. The Remaking Trade Project has helped me reconcile my underlying belief in multilateralism, particularly as someone from a small country, where our voices often risk being drowned out. This is especially true as the WTO moves away from its consensus principle — which I strongly believe in — toward majority-based voting. The consensus principle, at the very least, forces us to listen to every voice. At the same time, I recognize the problem of the tyranny of the minority, where one or two countries can block progress for everyone else. Depending on how you look at it — glass half-full or half-empty — I have mixed feelings about consensus as a foundation for multilateralism. But I don't see multilateralism and regionalism as antagonistic.

I believe the WTO can do more to foster regional processes, complementing and strengthening multilateralism, as regional initiatives can sometimes deliver more viable, durable outcomes. For small

*I believe the WTO can do more to foster regional processes, and should complement and strengthen multilateralism, as they sometimes offer better prospects for viable, durable outcomes.*

countries, particularly in the post-COVID era, over-reliance on global supply chains has proven unsustainable—underscoring the importance of building resilient regional systems. Yet, regional systems can never fully substitute for the global access and opportunities offered by the international

economy. It's about striking the right balance between regional resilience and global integration — and discerning when to prioritize one over the other. It often feels like walking a tightrope.

As new coalitions like friend-shoring emerge, the question of where to align ourselves geopolitically becomes more pressing. While people are thinking creatively about the next steps, I don't believe there will ever be a complete solution that excludes multilateralism. Reforming multilateral systems to make them more meaningful and fit for purpose remains essential.

[What message would you like to give international law practitioners and budding lawyers who seek to navigate the uncertainties of the current geopolitical landscape and contribute to development of sustainable trade policies?](#)

Trade is not an easy field to enter today, especially when there's uncertainty about its long-term

prospects. Although it is increasingly intersecting with areas like gender and digital policy — which should create more opportunities — many young people feel they need to develop an entirely new skill set to keep up.

For those of us already in trade, it still feels like a work in progress. In my view, you have to follow your passion — that is what keeps you motivated, gives you the drive to reach out, ask questions, keep writing, and develop your own voice. I also think there's a need for leadership in identifying new areas of research. There is always room for students who are committed to excellence.

It's important to trust your instincts and believe in your uniqueness. One thing I've grown braver about is pursuing my own interests, even when they don't follow the usual path. Ultimately, it's about creating your own voice, grounded in what excites and inspires you.





# International Economic Law in a State of Nature? The Road Ahead

Dr. James J. Nedumpara<sup>1</sup>

Professor & Head, CTIL & India Chair, WTO Chairs Programme

International Economic Law (IEL) has a profound role in global economic governance. Its role is more observable in areas such as domestic regulation, market setting and institutional coordination among various levels of government. The fact that IEL provides global public goods<sup>2</sup> including economic stability and protects private interests from arbitrary and capricious state actions is not contested by many. IEL most importantly fosters economic interdependence and interconnectedness, shielding businesses and transnational actors from discriminatory and targeted policies.

The oft-repeated headline that IEL is at a crossroads is an understatement.<sup>3</sup> Some harsher critics would say that it is in a vegetative state – not fully dead, but too impotent to make a significant difference in the way international economic ordering is made.<sup>4</sup> A recovery would have been possible, had the focus been on reforms in a range of areas of this expansive discipline. However, the

shift is in the way of unilateral measures, and not balanced reciprocal agreements. Unilateral tariffs have also been used as an instrument to achieve a range of goals, known in common parlance as “weaponization of trade”.

The rot started more than a decade ago, and strangely and incomprehensibly under the watch of President Obama, an internationalist, and a liberal constitutional lawyer. The situation progressively worsened with the crippling of WTO's Appellate Body in 2019, and a failure to revive the system since then. The larger question is, without the WTO's anchoring role, can the IEL survive and last long?

It is a fact that without the WTO, at least as of now, international trade law has no real life. WTO is the central pillar for a rule-based international economic order.<sup>5</sup> Although the breadth of the WTO-covered agreements is narrow, the creation of the institution in 1995 was perhaps the most



Source : WTO Director-General

epochal moment in international economic relations. The WTO, at its creation, evoked unprecedented curiosity and a deep-seated belief that the international economic relations would be guided by the institution and rules the Organization has webbed. As the WTO marks its 30th anniversary this year, the foundational principles of the system remain substantially weakened.<sup>6</sup> Never in the history of any international institution, including the International Court of Justice (ICJ), has as many international disputes been adjudicated and resolved in a peaceful manner. As is often said, the WTO became a victim of its own success.<sup>7</sup>

The WTO system which is based on non-discrimination and open trade policy is possibly going through its most testing period. To clarify, non-discrimination includes most-favoured nation (MFN) treatment and national treatment. Some of the elements of the recently launched America First Trade Policy brazenly shred the MFN principle. Indeed, the concept of open trade has become a fallacy with countries playing with tariffs at will. While the regional trade agreements (RTA) are a clearly permitted arrangement under the WTO, most preferential arrangements are not fully compatible with the WTO rules. In addition, some of WTO's exceptions, for example, the national security exception, have been grotesquely misused to authorize discriminatory tariff and non-tariff arrangements.

### **All is not lost**

While the WTO's core foundational principles and its much-touted dispute settlement system have eroded a bit, its influence in the field of international economic treaty making has remained almost intact. Most of the preferential trade agreements (PTA) are heavily rooted in the ideals of the WTO. Economic liberalization through trade agreements almost replicates the

WTO template with certain revisions and refinements. For example, most chapters in a PTA would mimic or reaffirm the provisions of the WTO and other international agreements. It is impossible to find trade agreements without WTO-type disciplines in chapters including trade in goods, trade in services and intellectual property rights. Most trade agreements embellish WTO provisions with additional or WTO plus disciplines. In essence, the soul of economic liberalization is not lost in preferential trade agreements.

Reciprocity has become a new topic of interest. International trade negotiations have always been reciprocal, albeit in a different sense. The principle of reciprocity is written clearly in the preamble of the GATT 1947 and the WTO Marrakesh Agreement. Over time, the developing countries were able to seek recognition for the principle of less than full reciprocity in tariff concessions. In other words, the Enabling clause and the generalized system of preferences (GSP) effectuated these equitable considerations. Importantly, these features undergirded the concept of inclusive and equitable economic globalization.

Certain contours of the America First Trade Policy seek to turn this valuable principle on its head. According to this approach, countries, especially several developing countries, that have maintained a positive trade balance with the United States will end up paying "reciprocal tariffs" - tariffs which are by no means the same or similar, but substantially higher while allowing U.S. products market access at almost nil tariffs in their territory. It is possible to argue that recent developments have rewritten the concept of reciprocity, but it is more appropriate to characterize the recent patterns as "enforced trade". These announcements are political and are not built on the concepts of comparative advantage or

economic efficiency. In all likelihood, adhoc preferences can be revoked at will and could result in fractious relationships.

While there is significant flux in international economic relationship, the discussion on establishing a new economic order is too inchoate. The establishment of the WTO was a 50-year-old project, although, to be accurate, it was an outcome of a process formally launched during the Uruguay Round (1986-1994). In fact, the rushed through announced trade deals and the trading arrangements it may spawn cannot be an alternative to the WTO-based legal order. There is also no indication that other countries have abjured the WTO principles – national treatment, prohibition on quantitative restriction or binding tariffs – as a leitmotif of their external trade engagement. If each country plays by its own rules on tariff and related matter, it will be disorder, and not a new global order. In other words, unilateralism, mercantilism, and hastily concluded deals cannot shape the structure of an economic order of the future. There are some views that the legal order underpinning the new global trade deals will permanently and irrevocably replace the rules-based economic order. Even if countries willingly enter into a certain scheme of arrangement, it would soon be disrespected or ignored in practice. In short, there is no indication that the contagion could spread.

Trade policy mandarins claim that the integrity of trade agreements can only be secured by a binding dispute settlement system. Stated pithily, a legal right has to be formally enforceable through a remedy. A reasonable sequitur is that in the absence of a binding dispute settlement, an economic order is unlikely to arise or that the economic order that a set of rules has created is bound to crumble. This assumption is nearly true. Many commentators have argued that the only way to salvage the system is by vigorously

activating WTO reforms. At the same time, what we do not want is a reform process to further delay the much-needed actions. For example, the Molino process initiated certain informal discussions at the WTO which was helpful. But in the course of time, the discussions appeared almost a filibuster, i.e., discussions to eternally delay actions and mask the real issues by crowding the agenda.

IEL is still not dead; it has obviously been weakened. The prediction on IEL premised on the U.S. approach to the WTO has its own risks. To be fair, the United States should be credited for establishing the current multilateral trading system. At the same time, the fact that it has disengaged with the current system cannot be highlighted as the reason for the potential demise of the system. Commentators also believe that the United States would continue to pursue its current path in the near term, irrespective of the political party in power. To rationalize, one major country, a very powerful country at that, has taken a deviant path. But it does not mean that the rest of the world trading community is either opposed to or unwilling to obey the law. In other words, the stakes are too important for other major players to continue with the status quo.

### **Improvements in IEL disciplines – making the system fit-for-purpose**

The current disciplines of IEL are not static. MFN, National Treatment and binding market access commitments are just a few cornerstone elements of the world trading system. Over time, especially since the rise of China as a major economic power, there was a realization that the rules of the world trading system are insufficient to address the problems attributed to state capitalism.<sup>8</sup> A matter of equal concern was the failure to find a solution for insufficiency in rules in addressing food security. Yet again, dependence on other countries have also led to vulnerabilities and disruptions in



value chains, especially in times of geo-political tensions or other crises such as the Covid-19 pandemic. These factors combined with the deindustrialization in certain advanced economies led to an increasing clamor for reshoring manufacturing capabilities. These concerns are valid, but the solution lies in creating better response mechanisms in trade rules. Similar resistance and pushback also happened to mechanisms such as investor-state dispute settlement (ISDS) in the field of international investment law. While ISDS is a vast and controversial area, introducing the much-needed reforms and improvements in the ISDS system could serve the field of IEL immensely.

In trade and investment agreements, general exceptions and national security exceptions play an important role. General exceptions are important to enable State parties to exercise the right to regulate and pursue legitimate public policy objectives. National security exceptions are also important. While State parties were generally unwilling to invoke national security exceptions in the history of the multilateral trading system, in recent years, there is a great tendency to invoke such exceptions without the slightest hesitation. While signatories to economic treaties enjoyed limited flexibilities in the past in invoking these exceptions, the pendulum cannot swing completely to the other end. It is important to strike a balance in the use of general exceptions and security exceptions. What we need to see is a rational use of exceptions compatible with the extensive obligations under the respective agreements.

### Conclusion

Law exists when unfairness, coercion and arbitrariness are too stark or almost self-evident. When the UK pays 10 percent tariff while Laos pays 40 percent import tariff, unfairness is writ large. Holding on to the belief that the world

trading system will self-correct could be delusional. The key to strengthening the world trade rules, is to first fix the dispute settlement system and simultaneously undertake the much needed reforms. Fair and equitable arrangements to ensure that dispute settlement rulings can be enforced until the impasse exists could be a worthwhile idea to explore. Greater deliberation is needed to explore a mechanism that is broadly compatible with the existing structure. There is also a need to strongly embed the core WTO principles in PTAs or trade agreements. Nor is there any gain in saying that the WTO is dead or irrelevant. What the WTO needs from its Members and well-wishers is a more affirmative political commitment and a greater involvement in steering its mandated activities, not a pronouncement of its death. To state a fact, most of the WTO Membership would like the system to function effectively and deliver just and fair outcomes.

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# The Reimagination of Security Exceptions in an Age of Insecurity – Nations & Their (Trade-related) Trust Issues

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*“Cry ‘Havoc!’, and let slip the dogs of war.”*

*Mark Anthony, Julius Caesar*

## Introduction

As the world completes twenty-five years into the 21st Century, the province of international economic law (IEL) appears to be beset by a quarter-life ‘polycrisis’.<sup>2</sup> The Covid-19 pandemic which was posited to be the most challenging phase for international relations, quickly gave way to the Russia-Ukraine War, the Red Sea crisis,<sup>3</sup> acute Israel-Middle East tensions, a race for securing critical minerals<sup>4</sup> and competition to achieve dominance in the manufacturing of semiconductors.<sup>5</sup> Intertwined with these historical and politically driven conflicts, countries are grappling with problems pertaining to mounting cost of living,<sup>6</sup> stagnant real growth and employment generation.

Against this background, we observe that the insecurity faced by nations is increasingly being reflected in the trade and industrial policies of States and the rhetoric of policymakers. States are increasingly adopting trade measures to protect ‘security interests’, with the understanding of the term itself witnessing tectonic shifts. Industrial policies as well are being oriented towards securing economic goals and granting patronage to domestic industries, either brazenly or under the guise of ‘greenwashing’ policies. Thus, the ‘Security Exception’ under IEL, which was conceived as a permitted deviation reserved for

extraordinary circumstances,<sup>7</sup> is now invoked routinely by States in the design and implementation of their trade and industrial policies.

## From a Liberal Trade Order to a ‘Secure’ one

The seeds of present day IEL can be traced back to the horrors of the two World Wars. The post-war consensus was that industrial nationalism and economic rivalry combined with political rhetoric in continental Europe were at root of the World Wars.<sup>8</sup> To prevent future wars, economic interdependence was sine qua non in order to ensure economic growth for all, and with a view to raise the cost of future wars to such levels so as to make it unviable. This idea found expression in the ‘Bretton Woods Consensus’,<sup>9</sup> which aimed at promoting free trade by pursuing trade liberalisation for goods and services, ensuring non-discrimination between domestic and imported products, and the creation of a rules-based trading order.<sup>10</sup> The International Monetary Fund (IMF), the World Bank (WB) and the World Trade Organization (WTO) were born out of the Bretton Woods Conference with a view to championing these causes. These ideas held sway for the remainder of the 20th Century, peaking with the accession of China to the WTO in 2001.<sup>11</sup> Cracks in this trade order began appearing with the 2008 Recession,<sup>12</sup> and have only widened since.

Presently, countries have deployed a range of policies, in the form of safeguard measures, export controls, screening measures, etc. with a view to protect domestic industry, prevent the erosion of their manufacturing base, secure access to inputs (particularly critical minerals), and subsidize growth in emerging technologies, particularly in the fabrication of semiconductors and artificial intelligence.<sup>13</sup> For instance, the United States (US), under President Biden, enacted the Creating Helpful Incentives to Produce Semiconductors (CHIPS) and Science Act (CHIPS Act),<sup>14</sup> and the Inflation Reduction Act (IRA).<sup>15</sup> The CHIPS Act contained considerable financial incentives for promoting domestic semiconductor manufacturing and consequently, reducing external dependence for these semiconductor chips. In addition to containing local content requirements, and ‘buy American’ stipulations, it also enabled the Secretary of Commerce to undertake reviews to secure the economic and national security interests of the US.<sup>16</sup> The IRA was replete with domestic content requirements as a precondition to claim incentives under the Act.<sup>17</sup> Under President Trump, the US has imposed a flat 10% tariff on all goods imported into the US, and further tariffs are in the offing.<sup>18</sup> In addition to these policies, the US has sanctioned chip manufacturers,<sup>19</sup> and placed export controls on ‘frontier’ AI model weights and circuits,<sup>20</sup> on grounds of national security.

The European Union (EU) has also undertaken a slew of policies aimed ostensibly at meeting its Climate Goals, but which have protectionist undertones. Foremost amongst these is the EU’s Carbon Border Adjustment Measure (CBAM),<sup>21</sup> which seeks to give a fillip to the EU’s iron and steel industries by imposing stringent requirements for imports from other countries on grounds of their ‘high carbon intensity’.<sup>22</sup> Other policies include the EU’s Deforestation Regulations (EUDR),<sup>23</sup> Waste Shipment Regulations,<sup>24</sup> and circular economy action plan.<sup>25</sup> The EU also aims to invest a billion Euros annually

on AI research and development, while also mobilising investments from the private sector and EU Member States.<sup>26</sup>

### Whose Security Interest is it anyway?

The security exception was born of a need to permit countries to deviate from their obligations under IEL when their security interests were threatened. Clauses pertaining to security exceptions can be found in WTO Agreements, Free/Regional Trade Agreements (FTA/RTA), as well as International Investment Treaties (IIAs).

In the WTO texts, provisions pertaining to security exception can be found in Article XXI of the GATT 1994, Article XIVbis of the GATS, and Article 73 of the TRIPS. In drafting the security exception, the GATT Contracting Parties were cognizant of the need to *‘draft provisions which would take care of real security interests and, at the same time, so far as we could, to limit the exception so as to prevent the adoption of protection for maintaining industries under every conceivable circumstance.’*<sup>27</sup>

The security exception under the WTO has been sparingly invoked with the Russia – Traffic in Transit (DS512) being the first dispute dealing with GATT Article XXI whose report was adopted by the WTO’s Dispute Settlement Body (DSB). The panel introduced a three-tier test to examine whether a Member’s invocation of the security exception was valid.<sup>28</sup> In doing so, the panel displayed considerable deference to a Member’s self-determination of ‘emergency in international relations’, while also holding that the same was not immune from an objective determination that may be made by a panel.<sup>29</sup> Currently, the security exception has not been tested in a bilateral trade dispute. Interestingly, Ukraine chose not to invoke the security exception in its bilateral dispute with the EU under the Ukraine-EU Association Agreement in Ukraine – Wood Export Ban, instead asking the panel “to take the situation as described above into account and consider the highly

particular circumstances from which Ukraine has been severely suffering during the last years” (alluding to Russian aggression on Ukraine).<sup>30</sup>

### **Fringe to Focal – A law on ‘Economic Security’?**

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As stated in the preceding sections, States are increasingly proffering the rationale of protecting essential security interests as a means to implement economic, trade and industrial policies which are often protectionist in nature. These include US tariffs on steel and aluminium under Section 232 of the Trade Expansion Act 1962,<sup>31</sup> the EU’s investment screening regulations,<sup>32</sup> Saudi Arabia’s trade restrictions on Qatar,<sup>33</sup> or China’s export restrictions on export of rare earth materials and its Export Control Law.<sup>34</sup> This necessitates dedicated study on this emerging legal norm of ‘economic security’ measures, and the new paradigm that they offer on studying the security exception.

Interestingly, the economic security nexus is also being expanded in FTAs with negotiating partners expanding the scope of the security exception to include more economic areas. For instance, the India-Australia Economic and Cooperation Trade Agreement (IAECTA) includes the protection of critical public infrastructure (whether private or publicly owned), as a facet of the security exception.<sup>35</sup> The same is also present in the EU-Singapore FTA.<sup>36</sup> The USMCA,<sup>37</sup> and the CPTPP<sup>38</sup> contain broadly drafted provisions on the security exception, making it wholly self-judging in nature.

### **Conclusion**

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The grammar of IEL is undergoing change on the issue of security exceptions. States are increasingly adding a security dimension in designing their trade and industrial policies, crafting a legal shield to deflect challenges to their measures and justify protectionism in the guise of sovereign necessity. In doing so, they are stretching the scope of the security exception in ways that may undermine the fundamental WTO principles of non-discrimination, while eroding the integrity of the multilateral trading system in pursuit of self-serving objectives.

Recent State practice appears to indicate that States are keen on reforming the security exception to include a broader set of policy interests. It is important that any reimagination of the security exception under IEL be formalised through multilateral efforts. This requires concerted efforts at norm-building, without adopting a reactive approach. Unilateral recasting of practices or different groupings working in silos will only lead to further fragmentation of the multilateral trading order leading to further abuse of security exceptions. After all, trade norms must account for trade realities.

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# Reimagining WTO Subsidy Rules: The Role of Friendshoring in Shaping New Trade Norms

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As the world becomes increasingly interconnected, global trade is being expanded through innovative instruments. The other side of the coin of global trade expansion is that the world is also facing new challenges in combating unfair trade practices. One such problem is efficiently addressing embedded subsidies in commodities, which can cause economic harm to the other country's industry. Traditionally, to deal with this situation, anti-subsidy investigations are addressed under the framework of the World Trade Organisation ('WTO'), Agreement on Subsidies and Countervailing Measures ('SCM Agreement'), which focuses on subsidies provided by the exporting country's government to companies located within its territorial jurisdiction.<sup>1</sup> Countries are using innovative strategies to expand trade, and the drafters of the SCM Agreement may not have envisaged a situation in which the government of a country could provide financial support to companies established in the territory of another country, which in turn exports goods to another country (third country), commonly referred to as a 'transnational subsidy'. This short article briefly traces the development of the transnational subsidy issue through the lens of friendshoring and then delves into the recent amendments made in the United States' (US) law to permit the investigation of transnational subsidies. This article also briefly discusses previous instances of investigation of transnational subsidy by the European Union (EU) and similar situations before India's Directorate General of Trade Remedies.

## Are transnational subsidy claims resulting from friendshoring?

In simple terms, friendshoring is the strategy of relocating supply chains to politically allied or trusted countries to enhance economic security and reduce geopolitical risks. Friendshoring is directly linked to transnational subsidies because governments often use these subsidies to encourage companies to relocate or maintain parts of their supply chains within friendly or allied countries. By offering financial incentives such as tax breaks, grants, or low-interest loans, governments make it more attractive for businesses to shift production to politically aligned nations, supporting the friendshoring strategy. This strategy has been applied by many countries, specifically China.

For instance, the EU's countervailing actions concerning transnational subsidies in Glass Fibre Fabric (GFF) imports from Egypt started the debate surrounding transnational subsidies and whether the same can be read within the SCM Agreement. In this case, the Commission's investigation revealed that Chinese-owned firms operating in Egypt were benefiting not only from Egyptian government support, such as tax exemptions and preferential land access, but also from Chinese government subsidies.<sup>2</sup> These included favourable financing terms, subsidies for raw materials, and assistance with infrastructure. The EU determined that such cross-border subsidies violated the EU's anti-subsidy regulation (Regulation (EU) 2016/1037), even though the

direct export originated from Egypt rather than China.<sup>3</sup> This interpretation led to the issuance of Commission Implementing Regulation (EU) 2020/776 in June 2020, which imposed countervailing duties on Egyptian-origin GFF and Chinese-origin GFF.<sup>4</sup>

This was the first instance of the EU (or any WTO member) applying duties on transnational subsidies, recognising the growing complexity of global supply chains. The Commission argued that even though the products were manufactured in Egypt, the financial benefit conferred by Chinese policy tools distorted competition in the EU market. The measures were legally challenged but ultimately upheld by the EU's General Court and the European Court of Justice (ECJ).<sup>5</sup> The EU's approach in the first transnational subsidy was primarily guided by subsidisation in Egypt through various agreements between the governments of Egypt and China, along with the co-setup of a special economic zone. It is also important to note that Egypt is a key member of Chinese Belt and Road Initiative and both countries have a strategic partnership.<sup>6</sup> Therefore, transnational subsidies are provided to countries that are considered friends. Another similar action by the EU on *Stainless Steel Cold-Rolled Flat Products* (SSCR) from Indonesia<sup>7</sup> is subject to a WTO dispute.<sup>8</sup> The panel report is expected to be released this year. This investigation is also earmarked by cooperation between Indonesia and China and the Morowali Industrial Park, leading to countervailing of transnational subsidies.<sup>9</sup> Indonesia and China are integrated by the Regional Comprehensive Economic Partnership (RCEP) and are also engaging in strategic dialogues.<sup>10</sup> In a recent and third such investigation pertaining to imports of aluminium road wheels originating in Morocco, the EU again resorted to the conduct of the government of the country of origin or export, bilateral cooperation agreements and preferential financing under the Chinese 'Belt and Road Initiative'.<sup>11</sup>

## Transnational Subsidies Claims in other jurisdictions

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### United States

The US's domestic law, until recently, categorically excluded transnational subsidies investigation.<sup>12</sup> However, in mid-2023, the US Department of Commerce (USDOC) deleted the provision pertaining to transnational subsidies (19 CFR § 351.527), permitting investigation and countervailing transnational subsidies. In April 2024, the USDOC received an application for investigating and subsequently imposing countervailing duty (CVD) concerning imports of "Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules" from Malaysia.<sup>13</sup> This application also contained allegations pertaining to "Cross Border provision of Chinese Silver Paste, Chinese Junction Boxes and Solar Glass for less than adequate remuneration (LTAR)" and "Policy Lending from Chinese Banks for Belt and Road Initiatives (BRI)".<sup>14</sup> USDOC, in its preliminary determination, found these subsidies to confer a financial contribution and are specific.<sup>15</sup> In the recently issued final determination, USDOC has maintained the same position as its preliminary determination.<sup>16</sup> USDOC refused to entertain China's argument pertaining to the permissibility of such an action under the WTO's SCM Agreement, disagreed with such a position.<sup>17</sup> USDOC cited a previous ruling to distinguish the foreign aid and newer forms of transnational subsidy.<sup>18</sup> The relevant extract is reproduced below:

*"... Rather, they are provided to promote the grantor country as well as the recipient's country manufacturing capacities for a particular industry. We also have observed direct investments in a third country from state-owned enterprises, with backings from state-owned policy banks, promoting the specific grantor country's industry policies"*

The USDOC determination also identifies a similar pattern for transnational subsidy as the EU; however, it departs significantly from the EU's approach in determining attribution of cross-border subsidies. While the EU had used International Law Commission (ILC) articles treating subsidies as a “wrongful act” by a state, the US has relied on its domestic laws to attribute subsidies to companies that produced the concerned product, including subsidies to cross-border affiliates.<sup>19</sup>

### *India*

The transnational subsidy allegation has also started surfacing before the Indian designated authority, i.e., the Directorate General of Trade Remedies (DGTR). In a countervailing duty investigation concerning imports of welded stainless steel pipes from China and Vietnam, the domestic industry in India had alleged a Chinese subsidy to Vietnamese producers.<sup>20</sup> Interestingly, the domestic industry in India had also alleged that Chinese subsidies were making way towards Vietnamese production of welded stainless steel pipes in view of various free trade agreements, including ASEAN, Indo-ASEAN and China-ASEAN agreements.<sup>21</sup> However, the DGTR had not examined these allegations.<sup>22</sup>

In another countervailing duty investigation concerning imports of copper tubes and pipes from Malaysia, Thailand and Vietnam, the domestic industry had alleged that Chinese investments made in Thailand and Vietnam were countervailable subsidies.<sup>23</sup> However, the DGTR concluded that enough evidence was not provided to substantiate a case of transnational subsidy.<sup>24</sup> Although DGTR refrained from giving any direct findings with respect to transnational subsidies due to a lack of evidence, the DGTR also did not substantiate whether the investigation of transnational subsidies is permitted or not under Indian law. There is scope to argue that if there was enough evidence, DGTR might have been inclined to pursue the case of transnational subsidy. One

common thread in the EU, US and Indian experience is the changing nature of state cooperation in terms of the identification of strategic sectors and industrial subsidies.

### **Conclusion**

Transnational subsidies function as an essential policy lever that directly supports friendshoring by making investments in friendly countries more financially attractive and strategically advantageous. This intertwining ensures that economic, political, and security considerations align, helping companies and governments collaboratively build more reliable and geopolitically stable supply chains.

On the other hand, the SCM Agreement does not have any explicit provision to address transnational subsidies. The genesis of the question whether the SCM Agreement covers transnational subsidies within its scope lies in its Article 1. Article 1.1(a)(1) of the SCM Agreement, wherein the location of “a government...” providing a subsidy is contested.<sup>25</sup> The US's response in *US–FSC* (Article 21.5) also supports the understanding that a subsidy can also be provided by a government other than the exporting country.<sup>26</sup> This was also the understanding of the parties in the *Brazil–Aircraft* dispute, where it was agreed that the Brazilian Government provided financial contribution to foreign aircraft buyers by way of export financing payments.<sup>27</sup> Another side of the arguments deals with the scheme of the SCM Agreement to not provide for countervailability of transnational subsidies.<sup>28</sup>

The above understanding that the SCM Agreement is not limited to territoriality appears to be the foundation behind the European Commission's findings on countervailing duty investigation on imports of certain woven and/or stitched glass fibre fabrics (GFF) originating in China and Egypt.<sup>29</sup> However, the US and the EU have refrained from interpreting the SCM Agreement. The Panel outcome in the EU's CVD measure on



Stainless Steel Cold-Rolled Flat Products (SSCR) from Indonesia should clarify the transnational subsidy treatment under the SCM Agreement. However, one aspect is clear, i.e., an enhanced desirability to regulate cross-border/transnational subsidy among WTO members. However, one abundantly clear aspect is that the regulation of transnational subsidies is tied to cooperation between the country of origin/export and a third country. This is a result of friendshoring activity and re-globalisation efforts, along with targeted industrial policy that blurs national boundaries. These actions warrant debates surrounding the rethinking and reformation of the WTO's SCM Agreement. The evolving nature of industrial subsidies and the role such subsidy plays in today's global market highlights the urgent need to rethink existing regulatory approaches. As state intervention becomes more prevalent in strategic sectors, existing rules must evolve to reflect new economic realities and promote fair competition.

- 1 Article 1.1 of SCM Agreement uses the word “within the territory of a Member” and Article 2.2 of the SCM Agreement uses “A subsidy which is limited to certain enterprises located within a designated geographical region within the jurisdiction of the granting authority shall be specific” both of which hints towards territoriality.
- 2 Commission Implementing Regulation (EU) 2020/776 of 12 June 2020 imposing definitive countervailing duties on imports of certain woven and/or stitched glass fibre fabrics originating in the People's Republic of China and Egypt and amending Commission Implementing Regulation (EU) 2020/492 imposing definitive anti-dumping duties on imports of certain woven and/or stitched glass fibre fabrics originating in the People's Republic of China and Egypt.
- 3 Ibid.
- 4 Ibid.
- 5 See Judgment of the Court (Second Chamber) of 28 November 2024, *Hengshi Egypt Fiberglass Fabrics SAE and Jushi Egypt for Fiberglass Industry SAE v European Commission*, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:62023CJ0269>.
- 6 Government of the People's Republic of China, 'Egypt-China Ties Grow Stronger over 10 Years of Comprehensive Strategic Partnership' (31 December 2024), [https://english.www.gov.cn/english.www.gov.cn/news/202412/31/content\\_WS6773d197c6d0868f4e8ee683.html](https://english.www.gov.cn/english.www.gov.cn/news/202412/31/content_WS6773d197c6d0868f4e8ee683.html)
- 7 Commission Implementing Regulation (EU) 2022/433 of 15 March 2022 imposing definitive countervailing duties on imports of stainless steel cold-rolled flat products originating in India and amending Commission Implementing Regulation (EU) 2021/2012 imposing a definitive anti-dumping duty and definitively collecting the provisional duty imposed on imports of stainless steel cold-rolled flat products originating in India and Indonesia.
- 8 DS616: European Union — Countervailing and Anti-Dumping Duties on Stainless Steel Cold-Rolled Flat Products from Indonesia.
- 9 Ibid, section 4.5.

- 10 Sujit Dutta, 'China's First 2+2 with Indonesia: A Symbolic Shift in Diplomatic Strategy' *The Diplomat* (21 April 2025) <https://thediplomat.com/2025/04/chinas-first-22-with-indonesia-a-symbolic-shift-in-diplomatic-strategy/>
- 11 Commission implementing Regulation (EU) 2025/500 of 13 March 2025 imposing definitive countervailing duties on imports of certain aluminium road wheels originating in Morocco.
- 12 Under 19 Code of Federal Regulations (C.F.R.) § 351.527 a subsidy does not exist if the Secretary of Commerce determines that the program is funded “by the government of a country other than the country in which the recipient firm is located.”
- 13 Decision Memorandum for the Preliminary Affirmative Determination in the Countervailing Duty Investigation of Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from Malaysia, US Department of Commerce.
- 14 Ibid.
- 15 Ibid.
- 16 Issues and Decision Memorandum for the Final Affirmative Determination in the Countervailing Duty Investigation of Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from Malaysia
- 17 Ibid, Page 11 onwards.
- 18 Ibid, Page 13.
- 19 Ibid.
- 20 Para 74, Countervailing Duty/ Anti-subsidy investigation concerning imports of Welded Stainless Steel Pipes and Tubes originating in or exported from China PR and Vietnam, F.No. 6/22/2018-DGAD, Final Findings, 31st July 2019.
- 21 Ibid, Para 74.
- 22 Ibid, Para 144.
- 23 Para 72, Anti-subsidy investigation "Copper Tubes and Pipes" from Malaysia, Thailand and Vietnam, F. No.04/10/2020-DGTR, Final Findings, 31 January 2022.
- 24 Ibid, Para 74.
- 25 See Agreement on Subsidies and Countervailing Measures, Article 1.1(a)(1), [https://www.wto.org/english/docs\\_e/legal\\_e/24-scm.pdf](https://www.wto.org/english/docs_e/legal_e/24-scm.pdf); See also Victor Crochet and Vineet Hegde, China's 'Going Global' Policy: Transnational Subsidies under the WTO SCM Agreement, *Journal of International Economic Law*, Volume 23, Issue 4, December 2020, <https://academic.oup.com/jiel/article-abstract/23/4/841/5974910>.
- 26 See Panel Report, United States - Tax Treatment for "Foreign Sales Corporations" - Recourse to Article 21.5 of the DSU by the European Communities, Annex F-1 in question 43 and Annex F-3 in question 43, T/DS108/RW (2001). [hereinafter 'PR, US – FSC (Art. 21.5 DSU)']; see also China's 'Going Global' Policy: Transnational Subsidies under the WTO SCM Agreement (JIEL)
- 27 Panel Report, Brazil – Export Financing Programme for Aircraft, WT/DS46/R (1999).
- 28 See Footnote 63, SCM Agreement; See also Article 2, Article 14(a) and Article 25(2) of the SCM Agreement.
- 29 Commission implementing Regulation (EU) 2020/776 of 12 June 2020, imposing definitive countervailing duties on imports of certain woven and/or stitched glass fibre fabrics originating in the People's Republic of China and Egypt and amending Commission Implementing Regulation (EU) 2020/492 imposing definitive anti-dumping duties on imports of certain woven and/or stitched glass fibre fabrics originating in the People's Republic of China and Egypt, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32020R0776>. (Regulation imposing CVD on GFF)



## WTO Chairs Programme



The WTO Chairs Programme, initiated by the World Trade Organization (WTO), was established with the aim of deepening the knowledge and understanding of the multilateral trading regime among academics, citizens, policymakers, and institutions. The Programme focuses on developing curricula, advancing research, stimulating public debates, and conducting outreach activities through universities and research institutions. The Chairs Programme enables teams of trade experts, on the ground in developing and least-developed countries, to conduct outreach programmes among policymakers alongside curriculum development and training activities. The Programme is guided by an Academic Advisory Board, an external body composed of experienced scholars responsible for ensuring the academic quality of outputs produced by Chair holders.



Academic institutions that are awarded WTO Chairs receive support in various areas, including research, curriculum development, and outreach activities. The Chair holders are appointed through a rigorous and competitive selection process involving various divisions of the Secretariat and the Academic Advisory

Board. This multi-step process ensures a thorough evaluation of candidates and upholds the academic standards of the institution. The Chairs Programme provides both financial and substantive assistance to the Chairs over a four-year period, in alignment with the WTO's technical cooperation mandate. This initiative aims to enhance the human and institutional capacities of beneficiary Members, empowering them to fully utilise the rules-based multilateral trading system.

The Programme also facilitates dialogue among academia, policymakers, and practitioners through seminars, conferences, and workshops. These interactions promote informed policy decisions grounded in rigorous research findings. A fundamental component of the WTO Chairs Programme is capacity building, which enhances the capabilities of academic institutions and researchers by equipping them with the knowledge and resources necessary for active participation in trade-related research and education. By cultivating a global network of expertise, the WTO Chairs Programme fosters knowledge sharing and collaboration, reinforcing the role of academia in influencing international trade policy and advancing a comprehensive understanding of the WTO's function within the global trading system.

## WCP Regional Conference for Asian and African Chairs on “Fostering Resilient and Responsible Trade for a Changing Global Order, 27-28 September 2024



The WTO Chairs Programme (WCP) India Chair hosted the WCP Regional Conference for Asian and African Chairs on “Fostering Resilient and Responsible Trade for a Changing Global Order” on 27 and 28 September 2024 at Vanijya Bhawan, New Delhi. The Conference brought together representatives from WCP institutions across Asia and Africa for in-depth discussions on current challenges in international trade, investment, and economic law. The Conference aimed to encourage regionally grounded and research-informed dialogue on adapting trade practices to a changing global order marked by shifting power dynamics, climate imperatives, and digital transformations.

The Conference was inaugurated by Shri Ajay Bhadoo, Additional Secretary, Department of Commerce, Government of India, and included addresses by Amb. Xiangchen Zhang (Deputy Director General, WTO), Dr. Senthil Pandian C. (India’s Ambassador and Permanent Representative to the WTO), Prof. Rakesh Mohan Joshi (Vice Chancellor, IIFT), Prof. James J.

Nedumpara (Head, CTIL and India Chair, WCP), H.E. Ms. Emmanuelle Ivanov-Durand (Permanent Representative of France to the WTO), and H.E. Mr. Jung Sung Park (Deputy Permanent Representative of the Republic of Korea to the WTO).

The first day came to an end with a Gala Dinner hosted at Oberoi, New Delhi, where Prof. Joel Trachtman (The Fletcher School, Tufts University) delivered the keynote address, and Shri B. V. R. Subrahmanyam (CEO, NITI Aayog) delivered the special address.

Over two days, seven thematic sessions addressed topics including regional trade arrangements, critical minerals, green industrial policy, digital transformation, and the WTO dispute settlement mechanism. A closed-door roundtable among WCP Chairs explored ways to deepen collaboration and strengthen academic partnerships under the Chairs Programme. A Conference dinner at The Oberoi, New Delhi, on the first evening offered space for continued exchange among participants.





## CTIL Events



### 02 August 2024 - CTIL Anniversary

CTIL celebrated its seventh anniversary event at Bharat Mandapam, New Delhi, where the Special Issue of the Global Trade and Customs Journal (GTCJ) and its Seventh Anniversary Magazine on “India’s G20 Presidency” were released. The event was graced by the then G20 Sherpa, Government of India, Shri Amitabh Kant; the Commerce Secretary, Shri Sunil Barthwal; the Additional Secretary, Department of Commerce, Shri L. Satya Srinivas; and the Vice Chancellor, Indian Institute of Foreign Trade (IIFT), Shri Rakesh Mohan Joshi.

### 27 August 2024 - Expert Talk on “Weaponization of International Investment Law in Times of Renewed Geopolitical Struggle”

The Trade Talk hosted by CTIL featured distinguished speaker Prof (Dr.) Steffen Hindelang, Professor of International Investment and Trade Law, Uppsala University, who provided insights on the current geopolitical climate and its impact on international investment law. He also discussed the use of strategic investment arbitration in investment law.



### 26 October 2024 - Panel Discussion at Indian Society of International Law 10th International Conference on International Law

CTIL organised a panel discussion on “Rise of Emerging Countries and Its Implications on International Trade and Investment Law” as part of ISIL’s 10th International Conference on International Law. Ms. Cherise Valles, Deputy Director, Advisory Centre on WTO Law; Mr. N. Jansen Calamita, Research Associate Professor, National University of Singapore; Prof. (Dr.) James J. Nedumpara, Professor and Head, CTIL; and Ms. Shailja Singh, Associate Professor, CTIL, shared their insights on the same.



### 29 November 2024, Panel Discussion organised at COP29 in Baku, Azerbaijan

CTIL organized a Panel discussion at the COP29 event on “The Melting of Himalayan Glaciers and its Implications: Climate Change Accountability under International Law”. The panel addressed the accelerated melting of Himalayan glaciers, their grave ecological, economic, and social impacts on South Asia and focused on the need for urgent climate action in the Hindu Kush Himalaya Region. They examined state responsibility for climate change under international law, explored inter-agency cooperation, and discussed financial mechanisms like the Loss and Damage Fund to support vulnerable economies. Dr James Nedumpara moderated the discussion and Dr Achyut Wagle, WCP Nepal Chair, Ms. Shiny Pradeep were the speakers.





### 12 December 2024 - Trade talk on “Environment Impact Assessment in Trade Agreements”

CTIL hosted a trade talk on EIA standardization, regulatory approaches, and the need to align trade-related EIAs with national development priorities. Shri Amitabh Kumar, Additional Secretary, Department of Commerce, delivered a special address. The discussion featured Dr. Nidhi Nagabhatla, Senior Fellow, United Nations University–CRIS, Belgium; Prof. (Dr.) James Nedumpara, Professor and Head, CTIL; Ms. Arkaja Singh, Fellow, CEEW; Prof. Shiny Pradeep, Assistant Professor, CTIL; and Ms. Swasti Misra, Senior Associate, Environment, Trust Legal.

### 10th January 2025, Trade and Sustainable Development (TSD) Workshop by WTO Chairs Programme Nepal and India

The WCP-Nepal at Kathmandu University School of Management, in collaboration with WCP-India and CTIL, conducted a Workshop on Capacity Building on Trade and Sustainable Development (TSD) and a Special Panel discussion on “The Melting of Himalayan Glaciers: Revisiting Climate Change Accountability in view of recent international developments”. Participants, including government, industry and academics, engaged in sessions on emerging regulatory trends, climate obligations, and new trade opportunities, gaining practical tools to align trade policies with sustainable development goals.



### 17-19 January 2025 - Conference on “Navigating the Future: Industrial Policy and Global Competitiveness”

CTIL and NALSAR University of Law, Hyderabad, in collaboration with the Centre for International Trade and Business Laws (CITBL), the World Trade Institute, and the WTO Chairs Programme India hosted the conference on “Navigating the Future: Industrial Policy and Global Competitiveness”. The event focused on industrial policy in relation to national security, resilient supply chains, critical technologies, and sustainability. The Plenary talk was delivered by Shri Montek Singh Ahluwalia, Former Deputy Chairman of the Planning Commission. The event featured prominent scholars and policy experts such as Dr. Werner Zdouc, former Director of the WTO Appellate Body; Mr. Sumanta Chaudhuri, Head Trade Policy, CII; Dr. Pritam Banerjee, Head, Centre for WTO Studies; and Professor Abhijit Das, former Head, Centre for WTO Studies, among others.



### 12 February 2025 - Event on “The New Geopolitics and South Asia’s Trade Architecture”

CTIL and Gateway House, Mumbai, co-organised this conference at Vanija Bhawan, New Delhi, to examine South Asia’s trade landscape amid shifting global dynamics. Shri Sunil Barthwal, Commerce Secretary, Government of India, delivered the keynote address. The Gateway House team—Dr. Ganeshan Wignaraja, Mr. Amit Bhandari, and Mr. Ali Asger Bootwalla presented a paper, which was followed by a panel discussion moderated by Prof. (Dr.) James J. Nedumpara, Head, CTIL.





**21 February 2025 - Panel Discussion on “State-Owned Enterprises, Government Procurement, and Competition Neutrality: Navigating Trade Policy and Market Access in a Changing Global Landscape” as a part of the CTIL DSNLU-MCIA Vis Pre-Moot 2025**

CTIL and Damodaram Sanjivayya National Law University (DSNLU) jointly hosted the CTIL DSNLU-MCIA Vis Pre-Moot 2025 as a preparatory event for the Willem C. Vis International Commercial Arbitration Moot. As part of the event, CTIL hosted a panel discussion on “State-Owned Enterprises, Government Procurement, and Competition Neutrality: Navigating Trade Policy and Market Access in a Changing Global Landscape”. Prof. (Dr.) James J. Nedumpara, Head, CTIL, opened the session, stressing the importance of competitive neutrality for SOEs.

Further, Ms. Neelambara Sandeepan, Partner at Lakshmikumaran & Sridharan; Advocate Mr. G.R. Bhatia; Ms. Priyansha Hajela, Associate, CTIL; Ms. Preetkiran Kaur, Young Professional, CTIL; and Ms. Nidhi Nair, Assistant Professor, VIT-AP shared their perspectives on the topic.

**28 February 2025 - Conference on “Law and Economic Analysis of Ethics, Inclusiveness and Sustainability”**

CTIL, in collaboration with GNLU’s Centre for Law & Economics, and Centre for Empirical & Applied Research in Law & Interdisciplinary Studies, organised the 8th International Conference at Gujarat National Law University, Gandhinagar. The conference focused on ethics, inclusiveness, and sustainability, with sessions on capital markets, technology, and trade policy. Hon’ble Attorney General Shri R. Venkataramani was the Chief Guest. Plenary talks were delivered by Prof. (Dr.) Wolf-Georg Ringe, Professor of Law and Finance, University of Hamburg, and Prof. (Dr.) James J. Nedumpara, Head, CTIL.



**21 March 2025 - Book Launch on “India’s Bilateral Investment Treaties 2.0: Perceptions, Emerging Trends and Possible Architecture”**

CTIL hosted a book launch and panel discussion in New Delhi, featuring addresses by leading figures in international economic law and policy. The event began with an introduction to the book by Prof. (Dr.) James J. Nedumpara, Professor and Head, CTIL and featured prominent experts such as Shri Dammu Ravi, Secretary (Economic Relations), Ministry of External Affairs; Shri R. Venkataramani, Attorney General of India; and Hon’ble Justice A.K. Sikri [Retd.]; Former Judge, Supreme Court of India; Hon’ble Justice Indu Malhotra [Retd.], Former Judge, Supreme Court of India; Shri Amitabh Kumar, Additional Secretary, Department of Commerce; and Ms. Andrea Menaker, among others.



**28-29 March 2025 - Conference on “Advancing Ocean Governance for a Sustainable Future: The Role of International Law”**

CTIL, in collaboration with Gujarat National Law University (GNLU), Gujarat Maritime University, and South Asia International Economic Law Network, organised this conference in Gandhinagar, Gujarat. It focused on United Nations Convention on the Law of the Sea, marine sustainability, the blue economy, conservation, and the WTO Agreement on Fisheries Subsidies. The event featured a keynote address by Mr. Andrea Mastromatteo, Director, WTO Rules Division, and a recorded message from Ms. Angela Ellard, WTO Deputy Director General. Panel discussions during the conference were moderated by Prof. (Dr.) James J. Nedumpara (CTIL), Prof. Leila Choukroune (University of Portsmouth), and Prof. Markus Wagner (University of Wollongong).





### 30 April 2025 - Stakeholder Consultation on "Domestic Regulations in Professional Services"

CTIL, in collaboration with NITI Aayog, organised the first stakeholder consultation on domestic regulations in professional services in New Delhi. The event was chaired by Dr. Arvind Virmani, Member, NITI Aayog, and featured a welcome address by Dr. Sonia Pant, Programme Director, Services Division, NITI Aayog. Prof. (Dr.) James J. Nedumpara, Head, CTIL, addressed the need to align India's regulatory frameworks with global best practices. Stakeholders discussed challenges such as regulatory overlaps, licensing norms, and qualification barriers, aiming to shape more enabling and future-ready domestic regulations.

### 15 July 2025 – Workshop on "Trade Remedies and MSMEs: Building Capacity for Fair Trade"

CTIL organised a workshop on "Trade Remedies and MSMEs: Building Capacity for Fair Trade", at the India Habitat Centre, New Delhi, in collaboration with the Directorate General of Trade Remedies (DGTR), Department of Commerce, and the Confederation of Indian Industry (CII). The event featured eminent experts including Shri Siddharth Mahajan, Joint Secretary & Director General, DGTR; Shri Sumanta Chaudhuri, Principal Advisor, International Trade Policy Division, CII; Shri Anant Swarup, Former Additional Secretary and Director General, DGTR; and Mr. Andrea Mastromatteo, Director, Rules Division, WTO. The workshop aimed towards equipping MSMEs with the knowledge of available tools, discussing existing challenges, and exploring practical ways to counter unfair trade practices.



### 31 July 2025, Case Discussion on the "EU Biofuels dispute [DS593 & DS600]"

CTIL successfully organised a Case Discussion on the EU Biofuels dispute [DS593 & DS600] on 31 July 2025 at NAFED House, New Delhi. The Panel Discussion was Chaired by Shri. Nitin Kumar Yadav IAS, Additional Secretary, Government of India. The Discussion also witnessed insightful remarks from our other esteemed panelists – Prof. (Dr.) James J. Nedumpara, Dr. Anwar Sadat, Ms. Shiny Pradeep and Mr. Vishishth Malhotra. The discussion was preceded by a presentation on the recent WTO disputes DS600 and DS593.





TradeLab, a Geneva-based initiative, collocates students, academics, and legal practitioners to empower stakeholders to harness the benefits of research in international trade law and international investment law. Through pro bono Legal Clinics, TradeLab establishes connections between students and seasoned legal professionals with research organisations, SMEs, and civil society, fostering the development of enduring legal capacity.

Conceived by Professors of international law, Joost Pauwelyn and Sergio Puig, TradeLab has established a global presence since 2013. Renowned practitioners and academics, including Jennifer Hillman, Debra Steger, and Valerie Hughes, have joined the initiative. Currently, Prof. Katrin Kuhlmann and Prof. Jav Yves

Remy serve as Co-Presidents, while Prof. James Nedumpara holds the position of Vice-President. TradeLab's clinics are currently operated at esteemed universities such as Georgetown University (Washington D.C.), the Graduate Institute (Geneva), Kenyatta University (Kenya), the University of Ottawa, and the National University of Singapore, among others.

The Legal Clinics are composed of small groups of highly qualified and meticulously selected law students who collaborate on specific legal inquiries posed by beneficiaries, including SMEs, NGOs, industry bodies, and others. These students work over a semester, conducting comprehensive legal research and creating a draft report of their work. These draft reports are shared with their Academic Supervisors (faculties at the Centre for Trade and Investment Law and the students' respective law schools), Mentors, and beneficiaries for feedback and guidance. The output encompasses a diverse range of legal documents, such as legal memoranda, research projects, reports, drafts of laws, and other tailored outputs that meet the specific needs of the beneficiaries. At the conclusion of the semester, the groups submit a written output and present their project orally in class, in the presence of the beneficiaries and other guests.





### TradeLab-India Operations: Centre for Trade and Investment Law

The TradeLab-India operations adhere to a hub-and-spoke model, with the Centre for Trade and Investment Law (CTIL) serving as an anchor institution between universities and beneficiaries. This arrangement facilitates seamless coordination and communication among all parties involved. The Legal Clinics provide a mutually beneficial experience for all stakeholders: beneficiaries gain access to expert work at no cost and develop their capacity; students acquire practical experience, earn academic credits, and expand their professional networks; Academic Supervisors and Mentors share their expertise on contemporary legal issues and enhance their ability to attract and engage top students with demonstrated skills.

Participating Universities include NALSAR, Gujarat National Law University, National Law University Jodhpur, Dharmashastra National Law University, Jabalpur, and Hidayatullah National Law University.

Our beneficiaries include, among others, the Centre for International Legal Studies (CILS), Salzburg; UNESCAP; the International Institute of Sustainable Development (IISD); the Services Export Promotion Council; the Indian Steel Association; and the Indian Industries Association.

### The Clinic's Objectives

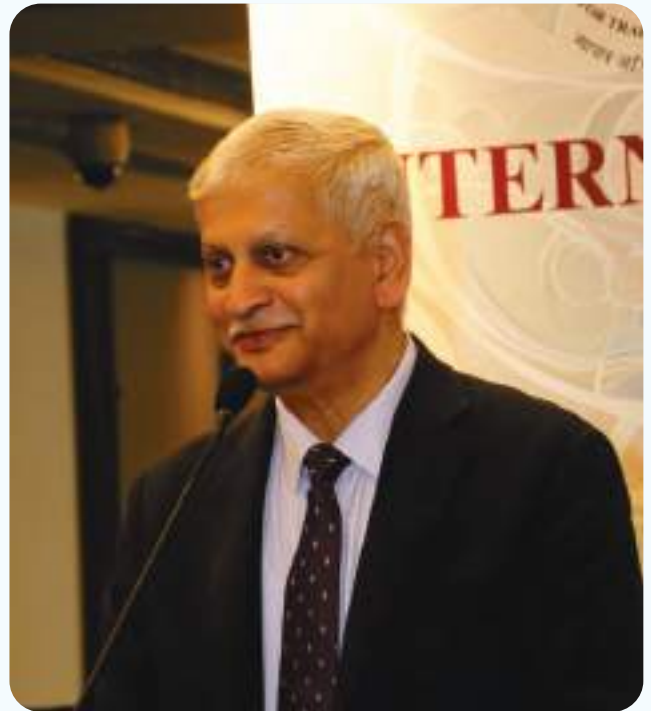
The Clinic's objectives include enhancing students' substantive legal knowledge of international economic law by collaborating as teams on specific legal projects of practical significance to their beneficiaries. It aims to improve students' professional skills to enable them to become successful lawyers by developing their ability to analyze complex legal problems, interact with beneficiaries, work in a diverse ethnic setting, deliver compelling oral presentations, draft legal memoranda or submissions, and adapt the explanation of legal expertise to diverse audiences.

Lastly, the clinic also aims to stimulate the personal skills and aspirations of students by making them aware of the professional opportunities in the international economic law field and to discover new challenges and opportunities. Through interactions with a diverse cohort, participants will develop interpersonal skills, gain insights into different cultures, and experience the challenges and needs of a wide variety of stakeholders affected by international economic law.



### International Annual Trade Lab Conference 2024

The International Annual TradeLab Conference 2024 was organised by CTIL in collaboration with the TradeLab Network on 13 and 14 December 2024 at the India Habitat Centre and the Lalit Hotels, New Delhi. The two-day event was graced by the presence of Honourable Justice Uday Umesh Lalit, former Chief Justice of India, as the keynote speaker. Mr. Sanjay Chadha, Former Additional Secretary, Government of India, and Head of Public Policy for India and South Asia at Uber Technologies delivered the Chief Guest Address. Further, Members of the TradeLab executive committee, faculty from partner TradeLab clinics in various countries, including sub-clinics in India, TradeLab India students, and distinguished faculty from renowned institutions across India participated in the conference to enhance their understanding of clinical legal education and the unique expertise offered by the TradeLab network.



The main theme of the conference centered on advancing teaching pedagogy and clinical legal education in the realm of international trade and investment law. Panel discussions were held on various pertinent and ongoing topics within this legal domain. Additionally, closed-door sessions were conducted for TradeLab executive committee members and academic supervisors who provided valuable feedback. The conference also featured three student presentations from MNLU Mumbai, GNLU, and QMUL London as part of the TradeLab India Clinic. These students presented their research, findings, and unique experiences of working on real-world practical issues in the field of international trade and investment law.



# SAIELN Conference 2024

The Centre for Trade and Investment Law collaborated with the South Asian International Economic Law Network (SAIELN) for its fourth biennial conference 2024 on “Local Approaches to International Economic Law”. This conference was hosted by the Open University of Sri Lanka from December 16-18, 2024. SAIELN’s fourth biennial conference was also supported by NITI Aayog, Reliance Industries Limited, Economic Law Practice, Centre for WTO Studies, University of Portsmouth, Sudath Parera & Associates.



This conference featured eight panel discussions on key international economic law issues, 70+ participants from 27 countries across the globe and keynote addresses by Prof. Gregory Shaffer, Prof. M. Sornarajah, Prof. Katrin Kuhlmann among others. This conference brought together top legal minds, policymakers, and industry leaders to address trade, investment, sustainability, and economic policy.



# CTIL Partnerships 2024-2025

CTIL maintains partnerships with leading law schools in India and globally, in order to cultivate knowledge of international trade and investment law among law students. The Centre co-organizes conferences, symposia, essay writing competitions and trade law moots with national law schools in India. Apart from this, the Centre regularly hosts interns from various law schools, including for the Department of Commerce flagship internship programme. Research staff in the Centre mentor both undergraduate and postgraduate students through these internships. CTIL staff also participates as judges and coaches for a variety of trade and investment law related moot court competitions.



World Trade Institute (WTI),  
University of Bern



Graduate Institute (IHEID),  
Geneva



Damodaram Sanjivayya National Law  
University (DSNLU), Visakhapatnam



National Law University,  
Jodhpur



Gujarat National Law University



Gujarat Maritime University



Lloyd Law College



NALSAR University of Law,  
Hyderabad



Dharmashastra National Law  
University (DNLU), Jabalpur



Indian Society of International Law

# CTIL Alumni Testimonial



**Mr. Pushkar Reddy**  
LLM Candidate,  
Harvard Law School, USA

Working at CTIL has been the most enriching experience of my professional journey. As a Research Fellow at the Centre, I had the opportunity to work on numerous Free Trade Agreements (FTAs) being negotiated by the Government of India, collaborating directly with officials to shape India's international trade and investment law policies. Working on FTAs allowed me to work on a myriad of areas in international trade. I was lucky to be exposed to sanitary and phytosanitary measures, intellectual property rights, gender rights, environmental protection and indigenous rights CTIL is, without a doubt, the best place in India to gain hands-on exposure to international trade and investment law. I believe there is nowhere else in the country where one can engage so deeply with the practical aspects of international law.

I am especially grateful to Prof. James Nedumpara, who has been both my professor at O.P. Jindal Global University and the Head of CTIL. His vision in establishing CTIL and his tireless efforts to make it accessible to young lawyers are a testament to his belief in building a strong pool of international law experts in India. As I move on to pursue my LL.M. at Harvard University, I carry with me the invaluable experiences and lessons I gained at CTIL. I owe much of my growth to my time there.

After completing my Master's in International Trade and Investment Law, I joined the Centre for Trade and Investment Law (CTIL), which has been instrumental in shaping my professional journey. CTIL provided an extensive exposure to multilateral and bilateral trade agreements and a unique opportunity to work closely with the Ministry of Commerce and various other government ministries. Beyond policy-related work, CTIL is deeply engaged in academic research, publications, presentations, and conferences. It actively fosters an intellectually vibrant environment, where I've had the privilege of participating in panel discussions alongside eminent scholars and industry leaders.

CTIL also offers an international dimension to its work by involving young lawyers in Free Trade Agreement negotiations, WTO Ministerial Conferences, policy deliberations with line ministries, and collaborative reports with the private sector, such as PwC India Pvt Ltd. For aspiring trade and investment lawyers in India, there is truly no better place than CTIL to gain comprehensive and meaningful experience in this field.



**Ms. Sai Sumana Chamarty**  
International Trade and  
Investment Lawyer



**Mr. Sarthak Raj**  
LLM Candidate  
Leiden University, Netherlands

I joined CTIL as a Young Professional in 2024 with a desire to work in areas of trade and investment laws and to understand how trade policy functions. At CTIL, I was able to hone my research and drafting skills. Under the mentorship of Prof. James Nedumpara and with help of my colleague, Mr. Kailas Surendran, we were also able to launch Compass - CTIL's monthly investment law newsletter. I got an unmatched opportunity to work on India's most recently concluded negotiations on the India United Kingdom Comprehensive Economic and Trade Agreement (CETA). I also had the opportunity to work on India's engagement with WTO's Investment Facilitation for Development (IFD) Agreement. Having spent almost two years at the Centre, I can confidently say that CTIL is undoubtedly the place in India to work closely on the government's trade and investment policies. CTIL actively supports the development of policy decisions that influence India's position in the global landscape.

# Internship Opportunities

CTIL's internship programme provides a valuable platform to students across law schools in India to gain knowledge and have a hands-on experience of contemporary issues related to trade and investment policy. Interns at CTIL work on a range of issues in international economic law and policy, including the WTO covered agreements, preferential trade agreements, international trade regulations and international investment law, as well as on ongoing trade disputes.

CTIL believes that honing the right skillset goes a long way in creating holistic future-ready international trade lawyers. Desirable skills like identifying the problem at hand, exploring and interpreting the applicable law, analysing the legal implications and proposing solutions are important for students to evidence their employability at prestigious research and policy organizations.

At CTIL, the internship programme offers an environment for the students to develop the requisite skills as part of an effort to create young budding lawyers. While the students work on tasks related to international trade law and policy research, they also get an opportunity to be a part of various capacity building programmes and workshops at CTIL where they get a chance to interact with experts from academia, policy and industry. CTIL also conducts monthly presentations where the students present their research on contemporary issues in International Economic Law. The faculty and researchers at CTIL provide constructive feedback which is beneficial for further research thereby providing a learning opportunity to the students.

## CTIL CTEI INTERNSHIP PROGRAMME

The Permanent Mission of India to the WTO, Geneva (PMI), the Centre for Trade and Economic Integration at The Graduate Institute, Geneva (CTEI), and Centre for Trade and Investment Law, Indian Institute of Foreign Trade, New Delhi (CTIL) signed a Memorandum of Understanding (MOU) to collaborate and cooperate in the field of international trade and investment law for academic, research, training, and capacity- building activities. As a flagship programme under the MoU, CTIL has created an internship programme exclusively for the students from The Graduate Institute, jointly selected by CTEI and CTIL. Under this Programme the interns get an opportunity to work on research-based assignments allotted by their mentors at CTIL as well as interact with the officials of the PMI in Geneva. This exposure is catered to the research-interests of students as they get to work on tasks assigned to them by the PMI as well.

## INTERNSHIP COMMITTEE



Priyansha Hajela



Advait Rao



Vijay Kumar Rai



Reenu

## CTIL Intern's Feedback

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I had a highly fulfilling internship at CTIL, I gained knowledge about investment, trade, and environmental regulations on a global scale. It was an educationally enriching experience and I got to explore how international investment and trade law works in practice. The office atmosphere was welcoming and the resource library was of great help. I was fortunate to have a wonderful mentor who, despite his busy schedule, took the time to explain tasks and introduce me to new knowledge patiently. His guidance played a crucial role in my learning journey.

**Ms. Harshita Calla**  
LLM in International Law  
Geneva Graduate Institute

I had quite an intellectually rewarding internship at CTIL. I gained practical exposure to WTO rules, Free Trade Agreements, tariff and non-tariff barriers to trade and India's crucial interests in the field of International trade. Through CTIL I had exposure to a very technical branch of law and on the workings of the policy makers who draft rules and regulations for India in this field. The office atmosphere was welcoming, everyone was eager to answer any questions we had and the resource library was of great help. I was fortunate to have wonderful mentors who, despite their busy schedules, took the time to clear my doubts, help me with research and gave me meaningful work. I am truly grateful to CTIL for this opportunity.

**Mr. Arnav Mathur**  
2nd Year, B.A. LL.B. (Hons.)  
National Law School of India University, Bengaluru.



My internship at CTIL was an immensely enriching experience. It allowed me to explore areas not typically covered in our college curriculum and therefore allowed me to understand the practical applications of the GATT and GATS. Additionally, I was able to deepen my understanding of international investment law, including investment facilitation and promotion. The work environment was supportive, and the resource library was invaluable. I was fortunate to have mentors who patiently guided me despite their busy schedules. Collaborating with knowledgeable and enthusiastic co-interns made the experience even more rewarding.

**Ms. Aditi Saxena,**  
5th year B.A.,LL.B. (Hons.),  
NALSAR University of Law, Hyderabad



## CTIL Intern's Feedback



I had an extremely fruitful one month at CTIL. I got the chance to work on various aspects of international trade law directly affecting India, which gave me a fascinating perspective on how our country interacts with others at an international level. The tasks assigned to me were very interesting to work on. My mentors were very kind and took out time to evaluate my performance, and give me feedback. My interactions with my co-interns were also insightful and I am grateful that CTIL gave me a platform not only to work and learn but also to connect with people in different stages of their careers.

**Ms. Kusha Grover**

3rd Year, B.A. LL.B. (Hons.)

Rajiv Gandhi National University of Law, Punjab.

My Internship at the Centre for Trade and Investment Law (CTIL) in July 2025 was an immensely enriching experience that deepened my academic and professional interest in International Trade Law. I am sincerely grateful to the organisation for the opportunity and to my mentors for their constant guidance and support. At CTIL, I gained valuable insights into the workings of the WTO, its agreements, and global trade relations. Also, attending expert-led conferences and panel discussions further broadened my understanding of key developments in the field. The opportunity to work in a research-driven setting with access to extensive resources added immense value to my internship and fostered both intellectual growth and practical insight.

**Ms. Shradha Shankar**

3rd Year B.B.A. LL.B. (Hons.)

Symbiosis Law School, Pune.



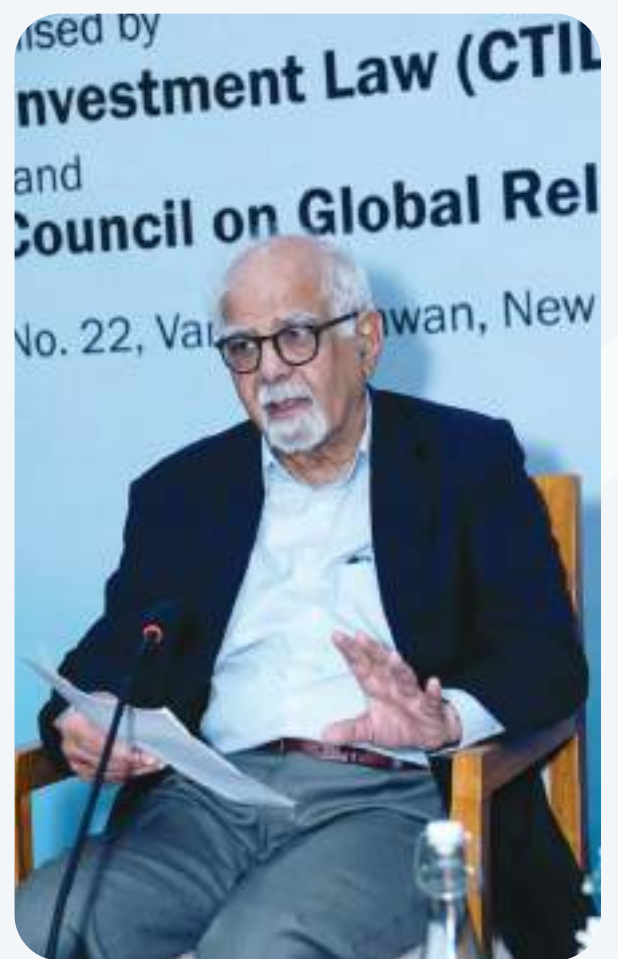
As a fourth-year law student, my primary objective in interning at CTIL was to gain a practical understanding of international and how it influences policymaking, negotiations, and dispute resolution at both national and global levels. The internship offered me exactly that and more. The working environment was calm, supportive, and intellectually stimulating. I was given engaging research tasks that aligned with my interests, and the regular feedback from mentors was constructive and helped me improve significantly. This experience not only deepened my interest in trade law but also gave me clarity and confidence to pursue it as a serious career path.

**Mr. Saurav Tiwari**

4th Year, B.A. LL.B. (Hons.)

Dharmashastra National Law University, Jabalpur.





# Global Models for Realizing Sustainable and Inclusive Digital Trade through RTAs

September 11, 1:30 PM CEST, Room B



**James Nedumpara**  
Centre for Trade and Investment Law



**Mira Burri**  
University of Lucerne



**Deborah Elms**  
Hinrich Foundation



**Henry Gao**  
Singapore Management University



**Katrin Kuhlmann,**  
Center on Inclusive Trade and Development,  
Georgetown University

#WTOPublicForum



CTIL at the WTO Public Forum 2024 – contributing ideas and perspectives on shaping the future of global trade.

# CTIL TEAM

## HEAD & PROFESSOR



**Dr. James J Nedumpara**

## FACULTY & RESEARCH TEAM



**Shailja Singh**  
Consultant/Associate  
Professor



**Sattwik Shekhar**  
Consultant/Assistant  
Professor



**Shiny Pradeep**  
Assistant Professor



**Sunanda Tewari**  
Consultant/Assistant  
Professor



**Aparna Bhattacharya**  
Consultant/Assistant  
Professor



**Sparsha Janardhan**  
Associate



**Ridhish Rajvanshi**  
Senior Research Fellow



**Ashutosh Kashyap**  
Associate



**Sugandha Sharma**  
Associate



**Priyansha Hajela**  
Associate



**Advait Rao**  
Associate



**Pranav Narang**  
Associate



**Mohit Yadav**  
Associate



**Albeena Wali**  
Associate



**Amshuly Chandran**  
Associate



**Vishishth Malhotra**  
Associate

# CTIL TEAM



**Ashita Jain**  
Associate



**Virender Chandel**  
Associate



**Krishna Bhattacharya**  
Associate



**Shana Sharma**  
Associate



**Jamshed A. Siddiqui**  
Associate



**Tanvi Praveen**  
Associate



**Sujaya Sanjay**  
Associate



**Tathagata Choudhury**  
Associate



**Ankit Garg**  
Associate



**Imjot Kaur**  
Research Fellow



**Preetkiran Kaur**  
Young Professional



**Tarun Guddu**  
Young Professional



**Akanchha Srivastava**  
Young Professional



**Udita Sharma**  
Young Professional



**Amaan Ahmed**  
Young Professional



**Kailas Surendran**  
Young Professional



**Snehal U. Kanzarkar**  
Young Professional



**Samarth Nayar**  
Young Professional



**Anmol Singh**  
Young Professional



**Anshdha Sharma**  
Young Professional

# CTIL TEAM



**Sharona Mann**  
Young Professional



**Harshit Kothari**  
Young Professional



**Ananya Shukla**  
Young Professional



**Harshita Calla**  
Young Professional

## ADMINISTRATION TEAM



**Jitender Das**  
Sr. Admin. Exec.



**Sanjeet K. Mishra**  
Sr. Admin. Exec.



**Parmod Kumar**  
Sr. Admin. Exec.



**Sita**  
Finance Executive



**Roohi Khan**  
Sr. Admin. Asst.



**Vijay Kumar Rai**  
Admin. Asst.



**Anil Kumar**  
Personal Assistant



**Komal Tyagi**  
Personal Assistant



**Reenu**  
Personal Assistant



**Shubham Kashyap**  
Personal Assistant



**Arun Kumar**  
MTS



**Neeraj Kumar**  
MTS



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ANNUAL MAGAZINE



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