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## Trade Diplomacy in the Era of Globalization: Legal Dimensions and Policy Implications

Shreya Yadav

Research Scholar

Department of Law, United World School of Law, Karnavati University

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### Abstract

Globalization has also altered the imagery of the trade diplomacy and relegated it not only to the limited domain of knowledge of tariff negotiations, but also to the multidimensional status of law, politics, and state. The paper entails an examination undertaking of multilateral, regional and bilateral trade diplomacy growth, which is particularly in connection to the legal foundation and policy objectives of the matter. Beginning with the GATT to WTO history, it explains the strengths and shortfalls of the multilateral regime and the rise of regional and bilateral policies such as the RCEP, AfCFTA and India-EU FTA. New legal areas are revealed to the discussion, including digital trade, environmental standards and EU Carbon Border Adjustment Mechanism, integration of labor rights and in view of the state of intellectual property under TRIPS. The core balances of power, issues of regulatory politics and the middle-power alliance is demonstrated through case studies to reveal how it obtains an outcome on a system that is becoming more fragmented. The point made in the paper is that despite the centre stage legal frameworks still remain at the core of the actualisation of predictability and fairness, trade diplomacy must address the emerging challenges such as the sovereignty question, inclusiveness, and even sustainability. The conclusion demonstrates the need to change the institution, new forms of governance, and equitable participation of the developing economies to make trade diplomacy relevant in age of globalization.

**Keywords:** Trade diplomacy, globalization, WTO, regional trade agreements, legal frameworks.

### Introduction

Globalization has altered the nature of international relations and has restructured how states, regional blocs and multilateral institutions relate to one another in the quest of economic prosperity. Overall, globalization is characterized by the growth of interdependence of the national economies due to trade, finance, technology, and people and ideas flows (Zwack et al., 2024). Trade has been the most apparent and even the most controversial aspect of globalization in the modern age. Although the opening of markets has led to never seen before growth and efficiency in markets, it has also created a tension among sovereign states, particularly when national interests come in conflict with the requirements of international trade regimes (Rodrik, 2011). As a result, trade diplomacy, trade negotiation, mediation and administration of trade relations among states has come to be an inseparable instrument of foreign policy. It is not restricted anymore to the tariff discussions but to issues as digital trade, intellectual property and environmental protection, a manifestation of how far the globalization has brought its powers to bear on trade regimes.

The impacts of globalization with regard to trade diplomacy are varied. On the one hand, one of the shifts was a step towards a more unified market and efficiency and consumer welfare (Etienne, 2024). On the other hand, it has also exposed the economies to the international hazard of economic meltdowns, supply chain and trade conflicts. One can refer to the international financial crisis, which took place in 2008, and recent coronavirus infections as illustrations of the degree of interdependence of global economies, and how fast global trade-related incidents in a specific place can reach the entire planet (Evenett, 2020). Such incidences reaffirm the principles of diplomacy as a driver of stability, mediation of various disputes and development of mechanisms aimed at securing global trade. Furthermore, the aims of the trade diplomacy

have also beyond economic gains and taken on the challenge of human rights, climate change and sustainable development as it is said that economic interdependence is more or less tied up with the other extensive political and legislative matter (Bhagwati, 2004).

In a situation of such a complication, legal structures underline the international trade. The regulations and standards as well as the institutions whereby states negotiate, declare as well as enforce their trade commitments are provided within the international trade law. Lack of such forms of legal frameworks imperils the trade diplomacy to partiality, pressure, irreliability (Jackson, 1997). Trade diplomacy became an enforceable legal obligation that is enshrined in the General Agreement on Tariffs and Trade (GATT) developed in 1947 and its subsequent trade organization the World Trade Organization (WTO) created in 1995. The concepts that have been formalized under these systems including Most-Favored Nation (MFN) treatment, national treatment and nondiscrimination that have so far become the pillars of trade relations (Matsushita et al., 2003). Besides, the WTO dispute settlement system has offered niche system to resolve trade disputes and this qualifies it to become one of the best institutions in terms of international economic law.

Various bilateral and regional agreements ensure that states can fulfill their conflicting promises and maintain stability and predictability in their business policies (BOWN ET AL., 2017). The African Continental Free Trade Area (AfCFTA) and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) are two examples of such agreements. These agreements establish legal rules that sometimes compete with WTO rules and other times work with them in coordination. Legal frameworks are not limited to reference to multilateralism alone; their role is much wider.

Legal norms exist and can be upheld, which makes it easier for states to adjust their commitments and settle disputes in a way that makes trade diplomacy more than just political bargaining. The small states also have the power to protect their rights against the economies and are much stronger at making the relationship between the trading nations fair (Shaffer et al., 2020).

Nonetheless the flaws of the traditional legal systems have also been demonstrated by globalization and there has been a trend towards more complex multi-layered types of government. Traditionally, trade diplomacy was conducted on the multi-lateral negotiation level, specially in the framework of the GATT/WTO. However, multilateral negotiations have not provided any solution and the situation is exemplified by the stalemate of the Doha Development Round, and states have turned to regional and bilateral approaches (Baldwin, 2016). Such expansion of trade agreements is indicative not just of the difficulties involved in achieving a consensus among 164 members of the WTO, but also of the appetite of states to adapt agreements to more closely fit their own economic and strategic interests.

The introduction of new issues to the trade negotiation agenda complicates the task of multi-level governance as well. New trade effects have increasingly encompassed ideas of digital trade, environmental regulation, labour rights and intellectual property rights, which is well outside the boundaries of ancient tariff and quota issues (Aaronson, 2018). All these phenomena make more pronounced the growing integration of trade diplomacy and internal regulatory policy and international law organizations, which require the involvement of states in both not only compensatory, but also regulatory character diplomacy. The case of the European Union Carbon Border Adjustment Mechanism (CBAM) reveals that the concept of climate policy has been integrated into

trade policy and poses the question of whether the latter should be lawful in the WTO and establish the patterns of global trade (Mehling et al., 2017). Similarly, the cross-border data flows and arguments on digital sovereignty bring out the collision of trade law with the control of cyberspace, which is a pointer of a new frontier in trade diplomacy (Aaronson et al., 2018).

Finding the legal frameworks that govern trade diplomacy's operations and properly assessing its evolution in the age of globalization are the goals of this study. These days, trade diplomacy has assumed many forms, and negotiating tariffs or quotas is no more an easy process. These days, it covers complicated topics including intellectual property preservation, labor and environmental regulations, and digital trading. This chapter attempts to explain how the development of common and bilateral ancient trade agreements led to their transformation into multi-level governance systems. Additionally, it claims that as nations started to compete politically and financially, they renegotiated new laws and procedures to revive international economic ties.

The second major goal is to clarify how the nations utilize the law as the foundation for managing their economic dealings in order to make international trade more important, legitimate, and secure. Since it dictates how to hold discussions and resolve disputes when there is a conflict in national interests, the law is essentially at the heart of trade diplomacy. This chapter also explains how bilateral discussions, regional trade agreements, and multilateral organizations like the WTO have contributed to this legal framework. Additionally, these institutions have frequently been deemed ineffectual, particularly when it comes to emerging issues like digital sovereignty, corporate practices related to climate change concerns, and rising geopolitical tension.

Studying contemporary corporate diplomacy practices is another goal, particularly as they relate to superpowers, developing nations, and growing economies. Globalization has been a two-edged sword. On the one hand, it has made integration more possible, but on the other, it has made the gap between opportunities and the degree of engagement of nations in international commerce more pronounced. For this reason, this chapter emphasizes how much the legal system supports growth, inclusivity, and sustainable development.

This chapter has been structured so that this trade may offer a comprehensive perspective of the potential advancements in diplomacy. It outlines the present trends in trade diplomacy and offers actionable solutions to encourage change using a combination of case studies, legal frameworks, and theoretical frameworks. Its improved goal is to convey the key ideas in the integrated framework in addition to assessing previously prepared information. Policymakers, scholars, and activists will find this framework useful in comprehending and addressing emerging globalization-related corporate diplomacy concerns.

## **2. Theoretical Foundations of Trade Diplomacy**

### *Concept of Trade Diplomacy*

At its most basic level, business diplomacy is just a discussion of agreements that allow the exchange of goods and services, but over time, its form has become quite complex and extensive. Business diplomacy is a strategic process through which states discuss, administer, and implement international trade relations to fulfill their political and economic objectives. The idea came into the limelight during the post-World War II period when trade was now seen as a tool of economic recovery as well as a mechanism of preserving peace among countries. Trade diplomacy goes way beyond the tariff talks today and is nowadays

concerned with investment flows, digital markets, intellectual property and environmental standards (Milner, 2003). The development of the term is indicative of the fact that trade as a foreign policy instrument cannot be detached as a wider diplomatic approach.

The development of the trade diplomacy in international relations follows the same pattern as the change in the traditions of mercantilism to liberalism and, more recently, to the complicated interdependence. Trade was regarded by mercantilist traditions as a zero sum game and the states tried to increase their exports at the expense of having fewer imports. The liberal thinkers on the contrary focused more on mutual benefit in the form of free trade which prologued the theoretical basis of trade collaboration in the 20<sup>th</sup> century (Winham, 1986). The modern period is a synthesis in which states find trade diplomacy as an instrument to not only seek efficiency and growth but also as a tool of strategy to realize a geopolitical agenda. This twofold role, the economic and political, is what causes trade diplomacy to be one of the most dynamic fields of the statecraft in the modern global governance.

Other related ideas, such as trade negotiations and economic statecraft, should be understood by business diplomacy. The practice of using economic tools (such restrictions, aid, or investment incentives) to accomplish political goals is known as the economic state art (Blanchard et al., 2008). Business diplomacy, on the other hand, is a very modest but highly institutionalized profession that primarily operates via the establishment of legally binding agreements and communication. The core of commercial diplomacy is collaboration and finding a common ground, whereas the economic state art is founded on the majority of pressure or explanation. commercial diplomacy encompasses more than just commercial discussions; it also involves methods for resolving conflicts,

forming alliances, and integrating trade into foreign policy. Business diplomacy is therefore a process as much as an outcome. In order to advance the political and economic objectives of the states, this entails the strategic management of corporate relationships.

### *Globalization and Trade*

The most significant influence on the theoretical underpinnings of trade diplomacy has been globalization. Cross-border trade in people, capital, products, services, and technology has expanded due to globalization, creating a level of mutual dependency never before seen in human history. Business diplomacy is explained by interdependence theory, which also offers important frameworks for comprehending international relations. The effectiveness of unilateral action is diminished by the growing economic and institutional interdependence among nations, according to Keohane and Nye's (2012) Complex Interdependence model. According to this viewpoint, corporate diplomacy is a tool for reducing transaction costs, reducing the propensity for risk, controlling mutual dependency, and preparing institutional frameworks for collaboration.

One of the main ideas of globalization, market liberalization, has also had a significant effect on trade diplomacy. Deregulation, privatization, and the elimination of tariffs and non-tariff obstacles have created a global market in which nations nevertheless dispute their respective circumstances. Although this liberalization has increased efficiency and prosperity, it has also increased competitiveness and exposed home sectors to foreign forces. Accordingly, corporate diplomacy frequently has to strike a compromise between the demands of external openness and internal protection (Hopewell, 2019).

Most of the time, governments utilize corporate diplomacy as a shield to handle pressure from

domestic politics and preserve their standing in the international system.

The conflict between national sovereignty and international sovereignty and integration has been made clear by the globalization movement. While globalization restricts this power by requiring nations to adhere to international norms and regulations, sovereignty grants states the authority to regulate economic activity inside their borders. Commerce agreements, for instance, are commitments that may restrict a state's ability to levy tariffs, provide subsidies to a region, or establish regulations that may be viewed as impeding commerce. According to JR (2015), this has exposed the notion that nations must give up part of their sovereignty in order to reap the rewards of global integration. Because they desire to participate in the global commercial system while yet maintaining opportunities for growth, developing nations find this pact especially significant.

Sovereign and integration issues are evident in current trade conflicts and discussions. People are more concerned about losing influence over their economic policies, as seen by the growth of nationalism and the revival of environmentalist policies in industrialized nations. However, the significance of global industrial networks and the integration of supply chains demonstrate that separating oneself from globalization is not only difficult but also detrimental in a number of ways. Thus, corporate diplomacy functions at the intersection of integration and sovereignty, striking a balance between national government needs and the reality of international economic interdependence.

### *Legal Views*

His legal side is business, which keeps diplomacy going. The framework that governs corporate ties is international law, which establishes guidelines, norms, and processes to regulate state behavior. Because they are founded on customary principles like *pacta sunt*

servanda (agreements should be honored), business agreements are legitimate. They also help to stabilize the international system, which otherwise may have been in disarray (Alvarez, 2011). Laws also offer dispute settlement procedures, which lessens the likelihood that a commercial disagreement may escalate into a political or military war. According to this perspective, trade diplomacy is entirely contained within the framework of international law, which both supports and restricts state initiatives.

Business diplomacy is becoming more and more institutionalized, as seen by the evolution of trade law from the General Agreement on Tariffs and Trade (GATT) to the World Trade Organization (WTO). When GATT was created in 1947, it offered a short-term framework for lowering tariffs and regulating trade. This job was occasionally completed via dialogue tours. Although GATT was criticized for having inadequate implementation mechanisms and being more than just tariffs, it did play a significant role in advancing trade liberalization (Wilkinson, 2006). Since its founding in 1995, the WTO has grown significantly in both size and influence. The WTO reinforced the rule of law in international commerce by establishing a robust dispute resolution system that included appeal rights. It was obvious that this approach differed from GATT.

In addition to enforcing the trade rules, the WTO broadened its purview to encompass intellectual property, services, and agricultural commerce. This growth demonstrated how complicated globalization is growing and how regulations are needed to regulate many aspects of the economy. Through clauses like Most-Favored Nation (MFN) and National Treatment, the WTO institutionalized the notion of imbalance, which has since grown to be the cornerstone of contemporary corporate diplomacy (HOKMAN ET AL., 2009). In addition to regulating state behavior,

these values uphold justice and pretense, which makes business diplomacy legitimate and stronger.

Over the past few decades, the WTO's shortcomings have been increasingly apparent. The Doha Development Round's impasse and the WTO's Appellate Body's lack of advancement demonstrate how ineffective multilateralism is under geopolitical pressure. In order to address problems that could not be settled at the international level, nations turned to bilateral and regional trade agreements. This breakdown points to a major shift in international law: while multilateral institutions continue to play a key role, the proliferation of disjointed legal systems has created a multi-level governance structure where business diplomacy must navigate a challenging maze of norms and commitments (Zangl, 2008).

The flexibility and tenacity of international law are reflected in the historical evolution of commercial diplomacy. Despite the significant issues with populism, protectionism, and technology, legal frameworks offer a means of managing talks, resolving conflicts, and fostering international cooperation. Since the law not only shapes state-to-state relations but also establishes the parameters and possibilities of international economic regulation, its legal components are crucial to comprehending the theoretical underpinnings of business diplomacy.

### **3. Multilateral Trade Diplomacy: The WTO Framework**

#### *Historical Background*

The history of multilateral trade diplomacy is closely linked to the institutional legacy of the 1944-founded Bretton Woods System. In collaboration with the World Bank and the International Monetary Fund (IMF), the projected International Trade Organization (ITO) was viewed as the third pillar to govern the global economy. However, the US Congress's resistance prevented ITO from ever being established.

As a temporary accord of this organization, the general fee and trade agreement (GATT) was created in 1947 with the intention of lowering economic barriers (Irwin et al., 2008).

Trade relations were governed by the GATT, which expanded over the following 5 decades, every 10 years changing its negotiation round to the Kennedy Round (1964-1967), Tokyo Round (1973-1979), and the Uruguay Round (1986-1994). The current multilateral trading system was created as a result of these accords, which progressively decreased tariffs and raised concerns about non-tariff obstacles.

The establishment of the World Trade Organization (WTO) in 1995 significantly altered the ways in which nations cooperated on trade. While GATT was simply a transitory pact with limited institutional ability, the World Trade entity (WTO) was created as a permanent entity with greater authority and stronger implementation capacity than GATT (Jackson, 1997). Along with extending trade regulations, the Uruguay Round also included other domains including intellectual property and services. This growth demonstrated that the complexity of globalization is increasing, necessitating more inclusive legal systems. Additionally, the WTO established a legally enforceable dispute resolution mechanism, extending trade diplomacy solely from the legal system and making it a rule-based institution.

The WTO framework is based on three primary legal principles: the Bonding Controversy Settlement System, National Treatment, and Most-Favored Nation (MFN). In order to prevent discrimination in international commerce, the MFN theory states that if one member receives commercial benefits, all other members should also receive the same benefit (Hokman et al., 2009). According to the National Treatment principle, discrimination against foreign goods is prohibited as soon as they are introduced into the local market. The concept of Level Playing Field is

reinforced by this notion. When combined, these ideas encourage fair and transparent business practices and lower the possibility of trade fragmentation. A robust dispute resolution system was developed to institutionalize these ideas, providing companies with a way to legally settle disagreements, so they wouldn't require ventilatory procedures right away.

One of the most significant new ideas in international economic law is the WTO dispute resolution mechanism, or DSM. This contrasts with the GATT system, which was mostly founded on diplomatic negotiations and frequently gave strong nations the ability to halt judgments they disagreed with. A staged dispute settlement procedure is established under the WTO's Dispute Settlement Understanding (DSU): 1. Consultation 2. Panel Adjudication (panel counseling) 3. Review of Appellates (Appellate Review) 4. Permission to retipate, if necessary. Because it provides smaller nations with an official forum to assert their rights against larger economies, this formal procedural system makes the system more prior and justifiable.

Many cases have been filed in DSM, which has been operating efficiently since its inception. More than 600 issues involving intellectual property, environmental protection, tariffs, and subsidies have been added by 2023 (WTO, 2023). This system's quasi-judicial nature, where panels and appellate bodies render judgments that are legally binding on the parties involved, has reinforced the rule of law in commercial diplomacy. The judicialization of corporate ties, according to scholars, has reduced pressure and unilateralism in international commerce (Zangl, 2008).

However, there are several criticisms of this system. First, the length and complexity of the dispute resolution procedures raise questions about their accessibility for developing nations with especially weak legal systems (Busch, 2000). Second, big economies have a big impact on how disagreements

turn out, which makes people feel unbalanced. As an example, smaller economies may technically compete with large powers, but in practice they may not be able to effect rulings or to meet the expenses of retaliation. Third, the lack of activity of the Appellate Body since 2019, as a result of blocking the appointment of judges by the United States, has damaged trust in the credibility of the system. The result of this crisis is that some commentators believe that the WTO is under an existential threat of losing its core function in governing global trade (Shaffer et al., 2020).

The examples of cases point to the pros and cons of the DSM. The case of EC-Bananas III saw the WTO declare against preferential treatment of African, Caribbean and Pacific banana imports by the European Communities which had a strong indication of nondiscrimination (Davey, 2005). The decision provided an example of how the DSA can cope with complicated trade policies, but their application in practice led to a political conflict between the EU and the U.S. Likewise, the case of the US-Steel Safeguards in 2003 showed how the system can limit the protectionist policies. U.S. safeguard tariffs on the importation of steel products were declared illegal under the WTO rule, and consequently, they were eliminated threatening to be countered with targeted retaliation by the trading partners (Sykes, 2003). In recent times, the US China disputes on tariffs and subsidies have challenged the capability of the DSM to manage the disputes between the two largest economies in the world. Although decisions have helped to demystify legal requirements, there are still political controversies in the enforcement and this shows the weaknesses in legal processes in extremely strategic conflicts. Nevertheless, all these difficulties do not mean to deny the DSM its own place in trade diplomacy. However, there is an urgent need to carry out reforms in order to revive the Appellate Body and the issues of accessibility and fairness.

### *Policy Implications*

In the case of smaller economies, WTO gives them a voice to have their voices heard and guarantees them their rights, which would be otherwise ignored during bilateral negotiations. MFN means that trade concessions agreed upon by bigger states are extended to everyone and therefore provides smaller states with benefits that they would not attain on their own (Steinberg, 2002). Besides, the DSM enables them to legally oppose discriminatory actions as exhibited in a number of cases that were filed successfully by developing nations.

In reality, though, legal and financial capacity level differences restrict the degree to which smaller economies can maximize use of the system. Other factors such as the expenses of litigation, the legal expertise required and the political risks of taking on states with political power usually deter small members of the organization to become litigants. Minimal progress has been made by capacity-building efforts (including the Advisory Centre on WTO Law) in dealing with these obstacles, yet structural inequalities persist (Horn et al., 2011). In the case of larger economies, the WTO system grants credibility to their trade policies, but restricts unilateral policy-making, which leads to pressures whenever domestic politics incline toward protectionist policies.

The stalemate of the Doha Development Round is an example of how incompatible policy interests fit within the WTO. The Doha Round was launched in 2001 with the aim of giving priority to the needs of developing countries with particular emphasis on agricultural subsidies, special safeguard mechanisms and better market access. However, the talks have not been successful because of ongoing differences between the developed and developing members especially on the agricultural reform and industrial tariffs (Narlikar, 2010). The inability to complete the Doha Round has weakened the belief of the WTO

delivering any meaningful reforms and thus many states have sought to use regional and bilateral agreements as alternatives.

Multilateralism is greatly impacted by this fragmentation of trade regulation. Regional trade agreements, on the one hand, provide nations some degree of flexibility in addressing concerns like digital trade and environmental requirements. However, the danger associated with such agreements might undermine the WTO's core function, resulting in numerous responsibilities and jeopardizing the nondiscrimination principle. Thus, the WTO will have to deal with two significant obstacles: 1. Increase the efficacy of your conflict resolution procedure. 2. To win back the stakeholders' trust so that it may continue to serve as the primary forum for business discussions. The WTO's significance in the evolving field of trade diplomacy may decline if these issues are not fixed.

#### **4. Regionalism and Bilateralism in Trade Diplomacy**

##### *Emergence of Regional Trade Agreement (RTAs)*

The last thirty years of the late twentieth and early twenty-first centuries have seen a significant rise in regional commercial agreements, or RTAs, which has altered the character of trade diplomacy. RTAs are agreements between two or more nations that are designed to facilitate trade and investment between members. While the European Union (EU) is the most advanced model of regional integration, having evolved from a coal and steel union to a political and economic association, the World Trade Organization (WTO) is an example of the multilateral approach. The EU has demonstrated the depth and efficacy of regionalism by eliminating tariffs among its members and standardizing rules, standards, and competition policies (Damro, 2012).

In the same manner, the North American Free Trade Agreement (1994) had become a milestone in the

history of regional trade diplomacy after uniting the economies of the United States, Canada and Mexico. The progressor of it, the United States Mexico Canada Agreement (USMCA) put into force in 2020, preserved many of the elements of NAFTA but modified the elements on digital trade, labor and environmental standards (Tessarek, 2021). The Association of Southeast Asian Nations (ASEAN) has undertaken integration efforts in Asia, including the ASEAN Free Trade Area (AFTA), and the groundbreaking Regional Comprehensive Economic Partnership (RCEP) signed in 2020, making the country the largest free trade bloc in the world at almost 30 percent of global GDP (Aiman et al., 2025). Africa has also not been left behind as regionalism was adopted with the introduction of the African Continental Free Trade Area (AfCFTA), which is expected to cut trade barriers among 55 members of the African Union by over 50% (Songwe et al., 2019).

Although they are advantageous, RTAs are rather challenging in terms of law and institutions, especially their overlap with multilateral trade regulations. RTAS is recognized by the WTO under Article V of the Gats and Article XXIV of the GATT. Nonetheless, Bhagwati (2008) referred to these agreements as a "spaghetti bowl" since they now number in the hundreds and form a web of overlapping promises. Legal gray areas are frequently created by this intricate framework, where commitments made under RTAS do not align with WTO regulations or conflict with one another. Different rules of origin in RTAS, for instance, have the potential to disrupt global value chains and contravene the WTO's impregnable-funding theory. While free trade agreements (RTAs) might benefit multilateralism by opening up businesses that are now locked in the WTO, they can also result in less uniform and universal governance.

### *Bilateral Trade Diplomacy*

Bilateral trade diplomacy has also been a major trend with states seeking customized agreements to suit certain strategic and economic goals alongside regionalism. The FTAs between states frequently enable states to deal with sensitive topics or sector-specific interests that are hard to negotiate in bigger multilateral or regional agreements. As an illustration, the proposed India-EU Free Trade Agreement indicates the interest of India in receiving increased access to services and qualified professionals in the European markets, whereas the EU demands more serious promises in the field of intellectual property rights and protection of investments and environmental protection (Khorana et al., 2013). However, negotiations have been characterized by extended periods as there have been differences in interests and the conflict between the development interests of India and the regulatory needs of the EU.

The second case is the U.S. Japan Trade Agreement of 2019 that was mostly about agricultural products and digital trade, as well as some industrial tariffs (Ares et al., 2020). Although small in comparison to general FTAs, this bilateral agreement indicated the strategic significance of Japan to the U.S as a partner in Asia-Pacific, especially in the balancing of the economic development of China. This means that bilateral institutions don't just have economic roles; they also have geopolitical roles that bring alliances together and help with foreign policy goals.

However, bilateral trade diplomacy is marked by significant power asymmetries. Big economies like the EU, the US, and China also tend to set the rules for negotiations, which means that smaller partners have to give in. For instance, U.S. bilateral agreements often have stricter rules about intellectual property rights, labor rights, and dispute resolution than the WTO does (Drezner, 2008). These disparities raise the question of equality and the ability of weaker states to genuinely

exercise sovereignty in bilateral negotiations. Instead of maintaining the equilibrium of the global trade system, bilateralism (bilateralism) has the potential to split it into centers and spokes of economic power.

### *Legal & Policy Tensions*

Trade diplomacy has also raised new legal and policy issues at the bilateral and regional levels, particularly when WTO-Plus responsibilities are taken into account. These are the responsibilities that WTO accords do not require. These often include topics including digital trade, state procurement, competition law, and investment protection. For instance, the WTO has made relatively little progress on environmental protection, but the Comprehensive and Progressive Agreement on Trans-Pacific Partnership (CPTPP) has high-level pledges on the topic and labor and public sector initiatives. Such agreements guarantee regulatory uniformity and the incorporation of contemporary trade components, but they are also punitive as they impose a number of requirements on non-partner nations.

Intermission between trade and domestic regulation is growing, as seen by the expansion of WTO-Plus rules. This has sparked a discussion over sovereignty, with states fearing they are losing their authority to enact policies for growth, control business, or safeguard the public interest. Streams that might restrict their industrial strategies or their ability to manage sensitive regions are frequently opposed by developing nations. The Investor-State Dispute Settlement (ISDS) currents, for instance, are a feature of the majority of bilateral and regional agreements that enable foreign investors to directly contest governmental decisions. According to Harten (2007), this calls into doubt the freedom of regulators and democratic accountability.

## **5. Emerging Legal Dimensions of Trade Diplomacy**

### *Digital Trade & E-commerce*

Digital trade and e-commerce have revolutionized trade diplomacy strategies and are now the most significant topic of discussion in digital trade negotiations. The exchange of products and services across borders using digital channels, including cloud computing, e-commerce, data services, and digital platforms, is referred to as digital trade. As global connection grows, digital trade has emerged as a significant component of global trade; nonetheless, its governance remains unorganized (Leblond et al., 2018).

Today, data sovereignty—that is, nations' rights to manage the data produced in their territory—is a significant legal concern. Numerous nations, including the European Union, China, and India, have passed legislation pertaining to data localization, claiming that personal information must stay inside their borders. Although these actions are justified from the perspectives of national security, privacy, and cyber security, they severely hinder cross-border data flow, which is essential for international e-commerce (Chander et al., 2015). The need for open digital markets and the tension between claims of national rights over data are currently among the most significant concerns for trade diplomacy.

Digital trade has also been complicated by privacy rules. The General Data Protection Regulation (GDPR) by the EU has become the international standard and has affected the laws on data protection across the world. The GDPR however has brought in conflict with nations that consider such regulations to be trade barriers due to the extraterritorial scope. As an illustration, American technology firms have been complaining of compliance fees whereas the developing nations are worried that they will be locked out of the digital markets because of the strict guidelines (Greenleaf, 2012). It is thus the role of trade diplomacy to strike a balance between the privacy

rights and the business requirements of digital trade, individual protection against business interests.

In a move to overcome these problems, there is an attempt in the WTO arena. Over 80 members supported the Joint Statement Initiative (JSI) on e-commerce since 2017 and tried to create the international principle of the issues of data flows, electronic contracts, and digital customs duties (WTO, 2020). Even though it remains under negotiation, the initiative is an appreciation of the reality that digital trade is in need of multilateral governance. Still, there is no agreement because members disagree on how far to liberalize data flows. Countries in the third world are afraid of being stuck with bad rules that make it harder for them to control the new digital industries. On the other hand, developed economies want more open cross-border information. These two different views show how hard it can be to make laws that protect both the global nature of digital trade and the sovereignty of individual countries.

#### *Trade Rules concerning Environmental and Climate*

Environmental sustainability is now another important part of trade diplomacy. This shows that climate policy is becoming more and more a part of trade agreements. The Carbon Border Adjustment Mechanism (CBAM), which the European Union set up in 2021, is one of the most important changes. The CBAM taxes imports that have a lot of carbon in them, like cement, steel, and aluminum. This is to stop carbon leakage, which happens when companies move to a weak jurisdiction (Mehling et al., 2017).

The CBAM legally casts doubts on compatibility with WTO rules. Although the measure by the EU is justified as per the principles of nondiscrimination, the opponents claim that it can breach the requirements of the Most-Favored Nation (MFN) and National Treatment as per GATT. Advocates argue that CBAM has a legal foundation in the form of Article XX of

GATT which gives exemptions on actions taken concerning environmental protection. It is however not yet clear as to whether CBAM will pass the legal test in the WTO dispute settlement system. Countries with a lesser developed economy, especially, claim that this is an act of green protectionism, which would influence their exports disproportionately and would not consider their low capacity to shift to low-carbon industries (Cosbey et al., 2019).

The wider issue is that of how to reconcile trade liberalization and environmental sustainability. On the one hand, the trade agreements that are connected with climate can encourage more eco-friendly practices on the international level. A number of new FTAs, including the US–Mexico–Canada Agreement (USMCA), and EU–Japan Economic Partnership Agreement, have an environmental chapter where parties pledge to implement international climate commitments. However, in most cases, the provisions do not have stringent enforcement mechanisms hence questioning their usefulness. In addition, incorporation of environmental regulations with trade negotiating agreements poses a threat of politicizing the climate policy and developing new trade disputes.

Equity concerns also can be identified in the intersection of trade and sustainability. Carbon-intensive exports and industrial expansion are the sources of revenue and development of many developing countries. Introduction of trade related environmental standards that cannot be supported properly can contribute to the worsening of global inequalities. The trade diplomacy has thus had to contend with the task of formulating law systems that are a motivation to a sustainable environment coupled with transitional support to the fragile economies. The issuance of CBAM is an example of how challenging it can be to balance environmental objectives with trade requirements in a manner that can be legally supported, yet politically approvable.

### *Standards of Labour and Human Rights*

Human rights and labor standards have now made an appearance in trade diplomacy, where attempts are being made to link social justice with economic globalization. The International Labor Organization (ILO) has historically handled labor rights independently. However, they are now included in corporate agreements because of the growing concern of race-to-the-bottom practices, in which nations curtail their labor rights in order to compete with one another (Römer et al., 2021).

The right to organize the Sangh, forced work, underage labor, and employment discrimination are among the legal foundations of international labor standards that have been created by ILO conferences. A number of recent trade agreements have incorporated these conferences, and the parties are obligated to uphold and execute fundamental worker rights. For instance, Mexico must enhance its rights to collective bargaining and working conditions in accordance with the USMCA's labor standards (Hafner-Burton, 2009). Similar to this, EU trade agreements frequently contain labor and human rights clauses, and specific commercial benefits are only granted in response to adherence to social norms.

Fair Trade initiatives demonstrate the growing confluence of trade and labor rights. These programs aim to guarantee that producers in developing nations receive fair compensation and have access to safe working conditions. The fair-trade accreditation can have an indirect impact on consumers' choices and corporate operations, despite the fact that these initiatives are not legally enforceable. Its impact is also evident in corporate diplomacy, since these programs offer incentives driven by the market to adhere to labor-related regulations.

However, it also has a lot of major issues. Critics contend that labor clauses in corporate contracts are

frequently merely formalities that are improperly adhered to and have little bearing on actual operations. Because they see binding labor rules as a covert protectionist goal that might limit their capacity to create goods at low rates, developing nations frequently resist them. Incorporating labor restrictions into corporate agreements also raises the issue of sovereignty because some states view this as going against their domestic labor laws. These strains highlight how challenging it is to strike a balance between human rights and economic interests, particularly in the context of the global trading system where power is unequally distributed.

#### *Intellectual Property Rights (IPR)*

Another problematic legal aspect of trade diplomacy is the intellectual property rights (IPR), especially after the agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) became a part of WTO. TRIPS sets minimum standards on protection of IPR, patents, copyrights, trademarks and trade secrets. With the standardization of regulations among member states, TRIPS has greatly broadened the horizons of trade diplomacy into the sphere of innovation, pharmaceuticals, and digital technologies (Chon, 2012).

The TRIPS agreement has become a very controversial one particularly concerning access to medicines. Developing nations cite this as a reason why strict patent protection prevents them the opportunity to offer affordable healthcare and this is especially true in times of epidemics when the country faces a nationwide health emergency. The most notable example of this tension was observed during the COVID-19 crisis when India and South Africa were the loudest advocates of a temporary waiver on some of the provisions of TRIPS to enable wider manufacturing of vaccines and medical supplies (Zaman, 2021). Although in 2022 the WTO finally endorsed a narrow waiver, the discussion showed

significant divisions between developed and developing WTO members on striking a balance between innovation incentives and the need to protect human health.

Outside of the field of healthcare, IPR concerns have taken center-stage during technology transfer, digital content and artificial intelligence disputes. Developed countries tend to demand increased IPR protection in bilateral and regional agreements, even beyond the requirements of TRIPS -so-called TRIPS-plus (Sell, 2010).

## **6. Power Politics and Trade Diplomacy**

### *Major Power Rivalries*

Trade diplomacy is significantly impacted by power politics in the contemporary international system, and major economies have employed economic instruments to further their strategic objectives. The US-China trade conflict serves as an excellent illustration of how commercial competitiveness may impact trade law and diplomacy. The U.S. has put tariffs on billions of dollars' worth of Chinese goods since 2018, saying it's because of unfair trade practices, stealing intellectual property, and forcing technology transfer. In response, China imposed its own tariffs, which led to a full-blown trade war. The two countries explained their actions in terms of the World Trade Organization (WTO), but the court cases showed how the rules for many countries could stop big countries from acting alone (Bown, 2021).

The WTO Dispute Settlement Body ruled in 2020 that the U.S. tariffs on Chinese imports went against basic trade rules, like Most-Favored Nation (MFN) and bound tariff commitments. However, the decision didn't have much of an effect in the real world because the U.S. said it didn't have the authority to do anything about it and that the WTO wasn't well-equipped to deal with China's non-market practices (Wu, 2016). It was a rebellion that showed how people were no longer

following the rules of a system that was backed by political will. The trade war didn't just affect tariffs; it also affected Chinese tech companies like Huawei and Tik Tok. This shows once again how trade diplomacy is becoming more and more mixed up with issues of digital sovereignty, national security, and technological dominance.

Instead, the European Union (EU) has tried to use what academics call "regulatory diplomacy," which means using its own rules for the internal market to change international standards. The EU has created a "Brussels effect" by using tools like the General Data Protection Regulation (GDPR) to make companies and non-EU countries follow its rules in order to stay in the market (Bradford, 2019). Environmental standards are another tool that the EU uses for regulatory diplomacy. The Carbon Border Adjustment Mechanism (CBAM) and other similar policies try to bring European ideas of sustainability to the world of trade. Though these measures are presented as being in line with WTO rules, they tend to create tensions with other trading partners, who think they are extraterritorial rules that limit domestic policy making powers. By so doing, the EU is using its position as a market to instill its regulatory preferences in international trade norms and it does so not by imposing tariffs or sanctions but by exerting its influence by law and standards.

All these instances underscore the increasing tension between U.S. dependence on coercive statecraft in the economy, and the EU dependence on regulatory statecraft, and China simultaneously seeks to influence new trade regulations, such as the Belt and Road Initiative (BRI) and its increasing influence in digital trade governance. The trade diplomacy has therefore been a stage of rivalry amongst the major powers where law, regulation, and economic leverage meet.

#### *Developing Countries*

Though the big power politics take the stage, the developing world encounters its own challenges in trade diplomacy, most of them find it difficult to walk the fine line between developmental requirements and the international trade commitments. The G-20 and BRICS (Brazil, Russia, India, China, South Africa) are some organizations that have become relevant in terms of giving the developing economies a voice. The emerging economies, including India and Brazil, within the G-20, have agitated reforms in agricultural trade by maintaining that subsidies in the deterministic countries is distorting international markets and undermining their farmers. Meanwhile, BRICS has been a club to advance multipolarity within the context of the global governance and to insist on the reform of international agencies, such as the WTO, so that they become more representative (Hopewell, 2016).

The Global South too has devised counter measures to oppose or refashions the prevailing trade standards. An example is the G-33 (comprising developing nations in the WTO) coalitions that have advocated special safeguard measures in agriculture so that they can secure food security and rural livelihoods. In the same breath, the African Group in the WTO has been lobbying on greater flexibilities in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), especially as far as access to medicines is concerned. These undertakings illustrate that developing nations adopt the process of coalition-building as one of the approaches to diplomacy to address the asymmetries in the trading system.

However, the fight between the need to develop and the world trade regulations is still sharp. WTO agreements frequently impose limits on policy space over industrial policy, subsidies and state intervention—the instruments historically employed by the developed countries in their development. As an example, limits to agricultural subsidies conflict with the fact that food security and poverty reduction in

many developing economies depend on agricultural subsidies. In addition to that, strict terms in bilateral or regional agreements, including intellectual property protection or labor standards, can present costs that are more than the institutional capability of the developing countries (Shadlen, 2005).

These tensions were additionally revealed as a result of the COVID-19 pandemic. Developing nations urged a TRIPS waiver in order to enable greater vaccine manufacturing, which they presented as a matter of public health necessity. Although in 2022, a limited waiver was ultimately granted, the lack of speed in the negotiation process highlights how challenging it is to reconcile the global trade rules with the pressing needs of development. The given episode reflects how developing nations are still limited in the opportunity to use the trade diplomacy, even though there is more coalition-building and involvement in forums such as BRICS and the G-20.

#### *Middle Powers and Alliances*

Outside the big and emerging economies, middle powers are significant agents of trade diplomacy as issue-based negotiators. The examples of this approach include India, Brazil and South Africa with their diplomatic capital concentrated on specific issues of strategic relevance instead of their leadership in the whole trade agenda.

In the WTO India has frequently been a champion of food security and developing issues. As an example, in the Bali Ministerial Conference in 2013, India was at the forefront in ensuring that a peace clause was added such that developing countries could continue with their programs of holding food stocks publicly despite their inconsistency with the WTO rules on subsidy limits (Narlikar, 2010). Simultaneously, India has had a more reserved approach to regional integration, opting to pull out of the Regional Comprehensive Economic Partnership (RCEP) in 2019 over trade

imbalances with China and domestic industry protection. This two forks policy is indicative of the compromise in multilateralism by India toward the development flexibilities and choice of regional or bilateral negotiations.

Brazil has become one of the most active in agricultural trade diplomacy, by defying U.S. and EU subsidies in the WTO dispute settlement system. The case of Brazil–U.S. cotton dispute (20022010) demonstrated the ability of Brazil to create a more equal playing field with stronger economies by applying legal procedures (Halliday et al., 2015). Other than agriculture, Brazil has also taken sides with other middle powers to demand a more fair world order under the BRICS.

South Africa has, however, taken the role of representing Africa in the international trade process, focusing on developmental issues like access to medicine, equitable agricultural policies and increased involvement of the least-developed countries. South Africa has promoted coalitional diplomacy through the African Union and BRICS, thus making sure that African voices are incorporated in more extensive trade talks (Li, 2019).

The Indian, Brazilian, and South African experience (the collective effort of India, Brazil, and South Africa) demonstrates how the middle power is capable of defining the trade diplomacy through coalition-building. Through the co-ordination of their positions regarding important matters, such states enhance their weight, and in many cases, they tend to punch above their weight in global trade governance. Through their strategies, the middle powers show that despite the overwhelming influence of the major powers in the system, they can make a big impact by concentrating on the negotiations of the issues concerned and using the institutional mechanisms.

## 7. Case Studies in Trade Diplomacy

### *US–China Trade Disputes: Tariffs, Technology, and WTO Rulings*

The U.S.-China trade wars are one of the most prominent events in the history of trade diplomacy, which explains the potential of geopolitical competition to disrupt the multilateral trading framework. The war began in 2018 when the US put tariffs on Chinese goods worth more than \$250 billion because of unfair practices like stealing intellectual property, transferring technology through force, and giving government money to key industries (Bown, 2021). China put tariffs on some of its own goods, which led to a trade war that hurt global supply chains and made investors less confident.

The arguments went further than tariffs to the technological field. The USA implemented sanctions on Chinese companies such as Huawei, claiming that national security is at risk because of the 5G technology. The embargo of semiconductors and technology transfer restrictions proved the fact that trade diplomacy became more and more combined with the issues of security and technological superiority (Wu, 2016). China acted by stepping up its drive towards technological independence; an indication that the relationship in delicate areas would become uncoupled in the long term direction.

The WTO had little to do at legal level. In 2020, the WTO panel concluded that the U.S. tariffs on Chinese goods were in the breach of the fundamental WTO principles, such as the principle of the Most-Favored Nation (MFN) and the tariff binding commitments (WTO, 2020). Nevertheless, this decision did not have many consequences in that the U.S. rejected the conclusions of the panel saying that WTO was not in a position to handle the state organized economic system in China. What the episode brought to light is the wearing out of obedience to WTO decisions when it

goes against the strategic interest of the major powers. It also demonstrated how weak the multilateral system is in limiting unilateral actions. Finally, the U.S.China conflicts illustrate the weaknesses of legal institutions in reducing power-related trade wars and the problems of balancing economic interdependence with national security needs.

The Carbon Border Adjustment Mechanism (CBAM) of the European Union can demonstrate that trade diplomacy is made more and more environmentally and climate-driven. Introduced in 2021, CBAM levies carbon-intensive imports (steel, cement, and aluminum) based on equalizing the price of carbon paid to EU producers in the Emissions Trading System (ETS) with the same amount paid to foreign exporters (Mehling et al., 2019). The purpose of the mechanism is to avoid carbon leakage which is the process of industries moving the production to other jurisdictions with less stringent climate regulations.

CBAM is revolutionary but controversial, in terms of trade diplomacy. Proponents assert that it will promote global emission reductions by incentivizing trading partners to adopt more robust climate policies. However, the developing world and major exporters like China, India, and Russia view CBAM as a discriminatory and protectionist system that raises questions about its adherence to WTO law (Cosbey et al., 2019). CBAM may not follow the MFN and National Treatment principles of GATT. The EU says it's okay because GATT Article XX allows exceptions to environmental protections. However, it's unclear if CBAM would hold up in any legal challenges at the WTO.

The CBAM case shows how climate and trade are connected. Now, trade diplomacy means not only getting into a market but also feeling responsible for the environment. It shows how hard it is to balance climate goals with trade obligations, especially for developing economies whose exports depend on

carbon-intensive production. When the WTO hears the case, CBAM may already set a precedent for how to find the right balance between trade liberalization and sustainability. The case also shows how the EU uses regulatory diplomacy to spread its climate rules around the world by using the market.

#### *RCEP and AfCFTA Regionalism and Inclusivity in Trade Law*

The African Continental Free Trade Area (AfCFTA) and the Regional Comprehensive Economic Partnership (RCEP) can be seen as the opposite and no less important cases of regionalism in trade diplomacy.

The world was made smaller in the free trade arena with RCEP signing 15 countries of the Asia-Pacific region, including China, Japan, South Korea, as well as ASEAN members, with a total of nearly 30% of the global GDP (Römer et al., 2021). The agreement brings together the bilateral trade arrangements that have existed and harmonizes rule of origin that promotes the integration of the supply chains within the continent of Asia. One of the key characteristics of RCEP is inclusiveness as it unites both developed and developing economies. Nevertheless, its opponents believe that it is shallow in its approach to such matters as labor rights, environmental standards and intellectual property protections. It is strong with consolidation of the regional economic linkages, yet it is weak with lack of ambitious WTO-plus provisions.

#### *The India-EU Free Trade Agreement*

The proposed India-EU Free Trade Agreement (FTA) illustrates the complexities of bilateral trade diplomacy between asymmetrical partners. Negotiations have repeatedly stalled since 2007 because of disagreements over very sensitive issues like agriculture, services, intellectual property, and environmental standards (Khorana et al., 2019). In India, these issues include protecting the interests of small farmers, allowing flexibility in the production of pharmaceuticals, and

keeping the policy space needed to achieve digital sovereignty.

In the case of the EU, there is a greater commitment to intellectual property rights, environment and liberalization of investments. Sovereignty issues also formed the focus of the negotiating position of India. India opposes the terms that it feels curtail its powers to control critical areas with regard to developmental and social goals. To illustrate, the demands by the EU to have pharma patent laws strengthening collide with the fact that India is a key manufacturer of cheap generic drugs. Equally, digital trade provisions on cross-border data flows cast doubt on the question of digital sovereignty of India and its authority to control domestic data ecosystems.

The halted talks help highlight the challenge of aligning different interests between developed and developing economies in bilateral diplomatic talks. In the case of India, the compromise should be between economic benefits related to increased access to the market and the political necessity to protect sovereignty and space in the developmental policy. To the EU, it is non-negotiable to make sure that the FTA does not undermine its overall values of sustainability, labor rights, and regulation coherence. The case indicates the role of issues of sovereignty and sensitive sectors in undermining bilateral agreements where the two countries share common economic interests.

#### **8. Conclusion and future work**

Due to the interconnectedness of economic, political, legal, and regulatory factors, trade diplomacy has grown increasingly complicated in the age of globalization. Many governments have used various tactics to increase their influence, stability, and growth under the WTO's multilateral framework. Since they offer institutional methods of predecessor and conflict resolution, the legal structure for these efforts continues to play a fundamental role. However, new

issues including geopolitical conflicts, sovereignty concerns, digital trade, environmental sustainability, and worker rights are now constantly putting strain on existing arrangements. The region's achievements and shortcomings are reflected in the US-China relationship, the CBAM, the RCEP, the AFCFTA, and the India-EU free trade agreement. This demonstrates how the outcomes of commercial diplomacy may be impacted by disparities in strength, innovative regulation, and sovereignty. All of these developments demonstrate that corporate diplomacy is now a crucial tool for discussing global principles, addressing development needs, and managing systemic risks. It is no longer only about lowering tariffs.

In order to facilitate both inclusion and fragmentation, business diplomacy must think about its future roles. Enhancing the WTO dispute resolution process and reviving multilateral discussions are essential for the rule-based system to flourish. At the same time, making sure that labor standards, digital trade, and climate change policies are all a part of a framework that preserves the harmony between national sovereignty and international norms. Third-world nations, particularly those that belong to organizations like BRICS, G-20, and AFCFTA, will keep pressing for policy independence and fair opportunity. This will guarantee that the new business regime's inclusiveness stays at its core. New concepts that can assist unite disparate parties and new issues, such hybrid laws, multilateral agreements, and adaptive governance, must also be taken into consideration. In the face of increasing complexity, corporate diplomacy's future will rely on how it is optimized and advances in order to justify, sustain, and cooperate with the global economy.

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