International Trade after the Trump 2.0 Shock:

Conference Proceedings

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International Trade after the Trump 2.0 Shock:

Conference Proceedings

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KDI School of Public Policy,

OBREAL, and

Institute of Korean Studies at Freie Universität Berlin

Preface and Acknowledgements

This is a proceedings of papers presented at a conference held in Berlin, Germany, on May 28-29, 2026, co-organized by KDI School, OBREAL Global Observatory (Obreal), and Free University of Berlin, on the theme of *International Trade after the Trump 2.0 Shock*. Although the conference title appears to focus on recent changes in international trade since the inauguration of the second Trump Administration in 2025, the origin of the conference goes back to a workshop held in Barcelona in October 2001 under the title of *The Regulatory Framework of Globalisation*, organized by Ramon Torrent, then Director of the Observatory of Globalisation at the University of Barcelona. Wonhyuk Lim, then a fellow at the Korea Development Institute (KDI), met Ramon Torrent for the first time at the workshop, and quickly agreed to collaborate on a joint project, bringing together international experts on trade and investment issues. Subsequently, joint workshops were held in Seoul in September 2002, Barcelona in July 2003, and then Barcelona in March 2004 to produce a KDI monograph titled *Multilateral and Regional Frameworks for Globalization: WTO and Free Trade Agreements* (https://www.kdi.re.kr/research/reportView?&pub_no=9916) . After a historical overview of the origins and evolution of the multilateral trading system, it looked at the global context of changes that were taking place and provided various perspectives on the coexistence of WTO most-favored-nation principle and preferential regional trade agreements. Although Lim and Torrent electronically communicated off and on over subsequent years, it was not until the summer of 2025 that they had a chance to meet again in person. Much had changed, including the progress of work on Sagrada Familia in Barcelona, but their deeply shared concern about the multilateral trading system had not changed, and they quickly agreed to organize a conference on international trade again. Eun-Jeong Lee, Director of Korean Studies at the Free University of Berlin, graciously agreed to be a third co-organizer, providing the venue as well as political economy perspectives on the topic.

Recall that 2001 had three momentous events for globalization. The first momentous event was the terrorist attack on September 11, which led to the securitization of economic policy and two disastrous wars and nation-building efforts by the United States in Afghanistan and Iraq. The second key event was the launch of the Doha Development Round, based on the emerging security-development-trade nexus. The third key event was China's accession to the WTO, whose significance was not as appreciated at the time as the first two events, especially in America and Europe. Although there were already books coming out in Japan and Korea with titles like "China shock," multinational corporations were content to make profit in China, without paying much attention to what was happening back home in the manufacturing sector and local communities. They did not understand the significance of China's rise as the world's factory, and its historical resurgence more broadly.

It is interesting to reflect on what has happened over the past 25 years with regard to these three momentous events. First, the securitization of economic policy and geopolitical upheavals have intensified. Under the heading of "economic security," countries use trade and investment measures to safeguard critical technologies, materials, and personnel and try to diversify risk—or even decouple from whom they regard as adversaries. Second, the multilateral trading system is in a critical condition. The Doha Development Round is in indefinite holding pattern, with WTO member countries unable to reach unanimous consent given their diverging interests. The WTO dispute settlement system has broken down, with the United States blocking the appointment of new judges to the Appellate Body, and Special and Differential Treatment has become a deeply divisive issue, with a contentious debate on what "breathing space" developing countries deserve to be accorded and what is quid pro quo for those developing countries who give up their Special and Differential Treatment. Third, the China shock has become a popular topic in international trade discussions, and is increasingly used as a pretext to justify protectionist measures, within the broad context of strategic competition between the United States and China. These trends raise the risk of creating the sort of competing blocs that set the stage for the Great Depression and World War II. Creating such competing blocs is not preordained, however, and countries should make concerted effort to avoid repeating the same mistake. This forms the background of the conference.

Acknowledgements from each of the co-organizers

No project of this magnitude can go forward without adequate financing. As far as KDI School's financial contributions are concerned, particular thanks are owed to international cooperation programs that place Korea's policy challenges in a comparative context and address them through international research cooperation. KDI School also acknowledges the participation of Korean and international scholars and experts who presented insightful papers at the conference. This project also had the benefit of high-quality administrative support. Particular thanks are extended to Jihye Park, Senior Specialist of the International Cooperation Division at KDI School, for her invaluable work before, during, and after the conference.

Obreal acknowledges the physical and online participation of the WTO Chairs Programme (both Chairholders, or Chair researchers, and members of its Advisory Body) and Latin American researchers (physical or online also). All their contributions have finally been produced in written form and are included in the proceedings. Obreal's contribution to the organization of the conference would not have been possible without the work of Marina Larrea, its Senior Coordinator for Higher Education Policy and co-coordinator of the HAQAA-3 project. Most importantly, Obreal acknowledges and is grateful for the support of the Catalan Government (Government of the Generalitat de Catalunya) that has allowed the physical participation of a number of presenters.

For the Institute of Korean Studies at the Free University of Berlin, co-organizing this conference represented an important step in broadening the scope of its research. Korean Studies has traditionally centered on history, literature, society, and politics, but questions of political economy have become

increasingly indispensable to understanding Korea and its place in the world. Korea's transformation from one of the poorest countries in the world into an advanced industrial economy was achieved within, and in many ways enabled by, an open and rules-based international trading system. It was therefore especially meaningful for the Institute to take part in a conference that situates the Korean experience within the broader framework of world trade and the global economic order, at a moment when that order faces its most serious challenges in decades. Holding these discussions in Berlin added a further dimension. The city's own history bears witness both to the costs of a world divided into competing blocs and to the possibilities that open up when such divisions are overcome, a lesson that resonates with Korea's continuing division and with the concerns that motivated this conference.

The Institute is grateful to KDI School and Obreal for the opportunity to join them as a co-organizer, and to Wonhyuk Lim and Ramon Torrent for inviting the Institute into a collaboration with such a long and distinguished history. It thanks all presenters, discussants, and participants, including colleagues from the Free University of Berlin and other institutions in Berlin, whose contributions brought together perspectives from trade law, economics, and political economy. Special thanks go to Seunghwan Ryu and Suhon Lee and student assistants of the Institute of Korean Studies for their dedicated work on logistics and on-site coordination. It is our hope that this conference marks the beginning of a continuing dialogue in which Korean Studies engages actively with the questions that shape the world economy.

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CONTENTS

Preface and Acknowledgements ····· i

Contributors ····· iv

CHAPTER 01. Revisting the GATT, the Creation of the WTO, and Their Relations with the Rest of Trade Agreements: A Contribution to Innovative Policy-Oriented Analysis ····· 1
(Ramon Torrent, OBREAL Global Observatory, Spain)

CHAPTER 02. Back to the Future? Trade Governance in Uncertain Times ····· 10
(Pierre Sauvé, World Trade Institute, University of Bern)

CHAPTER 03. Plurilateralism: A New Agenda for International Economic Law? ····· 19
(Georgios Dimitropoulos, WTO Chair, HBKU Doha)

CHAPTER 04. The Post-Trump Order: Why There Is No Turning Back ····· 27
(Roberto Bouzas, Universidad de San Andrés, Argentina)

CHAPTER 05. The Domestication of International Economic Law ····· 34
(Kehinde Folake Olaoye, WTO Chair, HBKU Doha)

CHAPTER 06. From Geoeconomics to Economic Security: Impacts on WTO ····· 43
(Vera Thorstensen, WTO Chair, FGV, Brazil)

CHAPTER 07. Economic Security for Whom? Inclusion and Exclusion in the New Geopolitics of Trade ····· 49
(Amrita Bahri, WTO Chair, Instituto Tecnológico Autónomo de México)

CHAPTER 08. Modern High-Tech Trade Networks: BRICS and G7 in the New International Order ····· 55
(Ignacio Silva Neira and Jennifer Pédussel Wu, Berlin School of Economics and Law)

CHAPTER 09. The Impact of Trump 1.0 Tariffs on China's Export Upgrading: A Global Value Chain Perspective ····· 66
(Yeongwon Choi and Wonhyuk Lim, KDI School)

CHAPTER 10. How Can Africa Benefit from WTO Reform? Conclusion of the Yaoundé Academic Conference ahead of MC14 ····· 77
(Manfred Kouty, WTO Co-Chair, International Relations Institute of Cameroon)

CHAPTER 11. African Economic Integration in a Shifting International Trade Order: Threats, Opportunities and Responses ····· 86
(Henok Asmelash, University of Birmingham, UK)

CHAPTER 12. The WTO Dispute Settlement System in an Era of Geopolitical Fragmentation: An Interim Solution for Africa ····· 95
(Adelia Jansen Van Rensburg and Jeanette Visagie, WTO Chair, North-west University, South Africa)

CHAPTER 13. The China-US-EU Competition in Latin America ····· 106
(Adrián Bonilla, FLACSO Ecuador)

CHAPTER 14. The Overlapping of Bilateral, Plurilateral and Multilateral Trade Arrangements: The Chile – Korea Case ····· 112
(Dorotea López, WTO Chair, Universidad de Chile, and Camilo Aguirre, Korean Studies Program Coordinator, Universidad de Chile)

CHAPTER 15. Can WTO Reform Save the Multilateral Trading System? ····· 120
(Peter Van den Bossche, Xi'an Jiaotong University)

CHAPTER 16. Sustainability, Trade, and the New Processes and Production Methods: Challenges for WTO Law ····· 125
(Mandy Meng Fang, City University of Hong Kong)

CHAPTER 17. Reforming the WTO Regime on Special and Differential Treatment of Developing Countries ····· 131
(Sherzod Shadikhodjaev, KDI School)

CHAPTER 01

Revisiting the GATT, the Creation of the WTO, and Their Relations with the Rest of Trade Agreements: A Contribution to Innovative Policy-Oriented Analysis

Ramon TORRENT[1]

1. Introduction

We have known for decades that politico-academic correctness was hindering the ability of literature to analyze, from a policy-oriented perspective, the international trading system. Most literature seemed kidnapped by an approach that conceived continuous and endless trade liberalization as an end in itself and as the only instrument for the good management of globalization.

At present, everybody recognizes that this literature needs revision. But no convincing alternative approach has earned wide acceptance. Appeals to geopolitics, geoeconomics and so-called economic security are external to trade policy and do not seem to offer a good analytical foundation for policy-oriented thinking on its international framework. And without a sufficient analytical foundation, policy design and implementation risk becoming a mess of improvised and contradictory decisions, dressed in presumptuous language.

This piece intends to contribute to the development of such an alternative approach. While its ultimate purpose is policy-oriented, its immediate objective is strictly analytical: to contribute to an understanding of the facts (including the legal facts) as they are, and not as some would like them to be, and suggest some lines of thought. It concentrates mainly on tariffs because tariffs are the main instrument of Trump 2.0 shock (the theme of the Berlin May 2026 KDI-FUB-OBREAL Conference), but also because of other, even more important, reasons, which will become clear as the piece proceeds and in particular at the beginning of the last section ("First line of thought …").

The piece takes up and revisits many arguments that were already put forward 20-25 years ago in collective initiatives.[2]

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[1] The author is an honorary professor of Political Economy and International Economic Law at the University of Barcelona, Spain, and a former director of External Relations in the Legal Service of the Council of the European Union. He is currently the President of Obreal Global Observatory (Obreal).

[2] In particular those of KDI and OBREAL/U. Barcelona, mainly the September 2002 workshop on *The Evolving WTO Regime and Regional Economic Cooperation: Implications for Northeast Asia* and the publication that stemmed from it: *Multilateral and Regional Frameworks for Globalization: WTO and Free Trade Agreements* (W. Lim and R. Torrent, eds. Korea Development Institute, December 2005).

2. WHAT WE HAVE KNOWN FOR DECADES ABOUT THE MULTILATERAL TRADING SYSTEM BUT WAS NOT SUFFICIENTLY RECOGNIZED

2.1. We have always known what the main logic of GATT and the multilateral trading system was when it was created and during its very successful first few decades of life. **Quoting John H. Jackson,**[3] **we knew how to understand GATT: two main principles embodied in its Articles I and II (MFN and Consolidation of concessions) plus just a Code of Conduct for the conduction of international trade policy. And we knew that none of these two main articles/principles imposed an obligation to continuously and endlessly liberalize trade**.

We knew that the Most-Favoured Nation (MFN) obligation (the principle of multilateralism) imposed by its very first article defines "how" a State should approach its economic relations with other states.[4] But it does not define the "what" of these relations or how much these relations should be liberalized.

We knew how GATT, in its art. II, addressed the issue of the "what" through an imaginative idea: embodying the principle of consolidation of concessions. The best way to present it is through a very useful pedagogic trick: to draw on the blackboard a spiral that opens from less (in the center) to more (in the outer side) liberalization and ask the audience to explain on it GATT's logic. Most often, if not always, the answers point to the opening of such spiral. However, this is not the right answer: the ultimate sense of the GATT is to impede that beyond a certain point the spiral gets rolled back towards its center by protectionist measures. This is, in fact, the content and the result of its article II: the definition of a trade-liberalization floor (consolidated in a schedule of concessions) that cannot be perforated.

And we knew that GATT does not have at its disposal any powerful legal mechanism that obliges to open the spiral of trade liberalization. The only obligation imposed by GATT (by GATT's Code of Conduct, in Jackson's terminology) on its Members in this direction is that of participating in the negotiations that could be initiated without prejudging their outcome. In other words: from a liberalization perspective, what is powerful in GATT is its static aspect (the obligation of not going backwards imposed by Article II) and not its dynamic one (the possibility of launching negotiations with a view to further liberalization).

And we knew why these two principles embodied in arts. I and II are the main pillars of GATT: Because, combined (and combined with some agreement restricting the use of monetary weaponry – the original IMF agreement**-), they were conceived as a powerful instrument to prevent the reappearance of trade wars between capitalist blocs** led by "big powers", the trade wars that devastated the world for decades, in particular during the Big Depression that preceded World War II (how familiar this objective looks now!!! …).

[3] Jackson, John H. *The World Trading System: Law and Policy of International Economic* Relations. 2nd ed. Cambridge: MIT Press, 1997, chapter 2. Of course, one must always refer to Jackson's foundational *World Trade and the law of GATT (A Legal Analysis of the General Agreement on Tariffs and Trade)*. The Bobbs-Merrill Company, 1969.

[4] See Annex I for a clarification on MFN and non-discrimination.

2.2. We knew that the Uruguay Round of GATT negotiations did not bring the multilateral trading system "from the GATT to the WTO", as, quite astonishingly, has been repeated for 30 years. What it did was, first, to create a quite powerful institutional system in which GATT and the other agreements on trade in goods remained the most important set of substantive agreements; and, second, to add to the GATT other agreements, including one on services (GATS) whose practical positive effect is very disputable and, in any case, cannot compare to that of GATT and the other agreements on trade in goods. These new agreements created "noise" and made people forget that the Uruguay Round was successful mainly because it allowed for the "return" of agriculture and textiles to GATT disciplines.

GATS, in particular, created an enormous amount of confusion by misrepresenting foreign direct investment as "trade" and rebaptizing it as "commercial presence", so that cars produced by subsidiaries of US companies in Germany are "German" for GATT but services provided by subsidiaries of US companies in Germany remain "US-american" for GATS. So astonishing (again) as undisputable and hidden in most literature.

And it has not been emphasized that TRIPs, the agreement on Trade-Related aspects of Intellectual Property rights, the other main addition stemming from the Uruguay Round, has, first, no relation to international trade in many of its provisions; and, second, when such a relation exists, the obligations it imposes are on restricting trade, not on liberalizing it.

2.3. We knew that forcing the launch of the Doha Round of WTO negotiations by leveraging deadly terrorist attacks was a huge mistake, and that, at the time, the motto should not have been "more" but "better"; and the objective should not have been "further liberalization" but the "4 Cs approach": Consolidation of the Uruguay Round positive results; Completion, in particular with the accession to the WTO of China and Russia and the finalization of the respective transitional periods; Coherence with the developments that were taken place (or should have taken place) in the field of international economic relations, but also with the proliferation of bilateral and regional trade agreements promoted in the very first place by the European Community and its Member States; and Knowledge (Conocimiento/Connaissance in the other two WTO official languages).[5]

2.4. Once the Doha Round was launched, we knew that it was a mistake not to find a way to finalize it instead of leaving it to rot and delegitimize the WTO, which would have been possible if the EU and the US had not tried to use it as an instrument to force the reduction in the tariffs effectively applied but had kept to the main GATT logic; focusing not the effective tariffs but the consolidated concessions (the object of art. II) as some developing countries were proposing.[6]

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[5] Some of the materials prepared for the IADB/BID Regional Trade Dialogue held in Washington DC on May 2001, well before the launch of the Doha Round, put forward this "Cs" strategy. See: http://dx.doi.org/10.18235/0007898 , page 14.

[6] See the book edited by R. Bouzas *Después de Doha: la agenda emergente del sistema de comercio internacional,* Madrid ; Barcelona : Marcial Pons : Cátedra Internacional OMC / Integración Regional, 2007, which takes as point of departure the materials of the International Conference held in 2006, in the framework of an EU-funded project, in which some developing countries, and in particular the illustrious Argentinian chief negotiator, amb. Nestor Stancanelli, put forward very forcefully and convincingly this thesis.

2.5. And we knew that the mainstream approach of grounding on the "substantially all trade" criterion the discussion of the compatibility of bilateral "regional" trade agreements with the multilateral order led nowhere and did not take into account what was really happening. And we knew that other alternative approaches were available.[7]

2.6. All this was known but was not recognized because there was a naif (at best) and malicious (at worst) belief that continuous and endless trade (and more in general, economic) liberalization was not only the best approach to economic policy but would bring humankind to "the end of history" (*"liberalization tous azimuts" "para una globalización desbocada"* in the other two WTO official languages).

3. WHAT WE HAVE KNOWN FOR DECADES ABOUT THE FOUNDATIONS OF TRADE POLICY BUT WAS NOT SUFFICIENTLY RECOGNIZED

3.1. We knew all along (provided Ricardo's Principles were studied, which they were not) that **Ricardo's argument in favour of trade liberalization works through imports, not through exports. And that it cannot be restricted to a static argument on allocation of resources but is inherently dynamic by linking trade liberalization to economic growth through investment**.[8] And we knew, in particular after Piero Sraffa was able to "multisectorialize" Ricardo's argument developed in a one-sector model (corn), that this argument does not apply to all imports but to those having a direct effect in the rate of profit: i.e. means of production and components of the real wage ("basic goods" in Sraffa's terms, and "more or less basic" as Sraffa's prodigious analytical capacity taught us to distinguish through the multipliers of its standard system).[9,10]

3.2. We also knew all along that trade policy is only one of the components of overall economic policy and cannot be assessed in terms of its effects on the citizens of a country independently from the accompanying internal policies in all other areas.

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[7] See chapter 5 in the book referenced in footnote 2, *Multilateral and Regional Frameworks for Globalization: WTO and Free Trade Agreements.*

[8] In a very simplified version, Ricardo's argument goes as follows: If you consider the real wage as given, importing corn for the real wage allows you to reduce the production of it in England in less productive lands and tilts the distribution of the surplus towards profits (available for investment) and away from rent of land (which will be addressed to consumption).

[9] Piero Sraffa, *Production of commodities by means of commodities*, Cambridge U. Press, 1960.

[10] Sraffa's highly sophisticated analysis demonstrates the correctness of a) one commonsense idea and b) the entire Ricardo's dynamic argument:

a) Technical progress is much more important and positive when it takes place in sectors ("basic sectors") whose output is used as means of production by many (at the limit, all) sectors (and the same applies to products composing the real wage); and the extent of this use allows to grade sectors as "more or less" basic.

b) As foreign trade can play the same role of technical progress because it allows for a reduction in the quantity of productive resources used to obtain one unit of product (through imports instead of producing it domestically), the same argument applies to Ricardo's (very correct) dynamic argument on foreign trade and its effects on the rate of profit and investment. **So, not all imports play the same role. And if this is so, why treating all of them equally?**

3.3. But we also know that these two considerations have been carefully hidden. Ricardo's theory of comparative costs has been reduced to a theorem on static allocation of resources; and trade liberalization has been dogmatically preached as a stand-alone policy.

4. WE HAVE KNOWN FOR DECADES ONE CONTEXTUAL FACT WHOSE UNAVOIDABLE CONSEQUENCES ON TRADE POLICY WERE NEGLECTED. BUT THE FACTS ARE STUBBORN …

4.1. US President John F. Kennedy said already in 1961 *"We must face the fact that the United States is neither omnipotent or omniscient--that we are only 6 percent of the world's population--that we cannot impose our will upon the other 94 percent of mankind--that we cannot right every wrong or reverse each adversity--and that therefore there cannot be an American solution to every world problem"* [11]

35–40 years later, **we knew that the percentage of US (and Europe's) population on world population was continuously diminishing (US population is now only a 4,12% of world population); and we knew that the rate of economic growth in China was much higher than in the US and Europe**. But these basic and fundamental facts were also neglected, not only in political discourse but also in economic analysis. What Kennedy said in 1961 was completely forgotten: After the disintegration of the Soviet Union, "history had come to an end" and the US/Western Europe hegemony was viewed as uncontested and eternal.

I worked in Brussels during the last phase of the Uruguay Round negotiations and followed them from a privileged position in the Legal Service of the EU Council (at the time, the EEC Council). I was not directly involved in the negotiations (left to the European Commission) but participated in the very frequent meetings of the Council Committee on International Trade (the famous, at the time, 113 Committee) in which the most experienced senior officials of Member States met with the European Commission negotiators to discuss the development of the negotiations. I can assure you that at no moment (no moment at all !!) any vaguely correct prediction of what we are experiencing now (including the resurgence of China) [12] was put forward.

4.2. But, of course, facts are stubborn. And **we've discovered in the 2020s that China has become the first economy in the world. What a surprise !!!**… But the capacity of denial is so unlimited that most experts, and politicians that follow the advice of experts, still refuse to accept the undeniable fact that, at present, China is much more "pro-multilateralist" that the US or the EU.

[11] November 16, 1961, Speech at the University of Washington: https://www.jfklibrary.org/node/11671

[12] I was taught by my colleagues in the KDI, 25 years ago, the "reemergence" terminology to be applied to China. They did already know well then what in the US and Europe still comes, astonishingly again, as a sort of surprise.

5. LET'S AT LEAST PROPOSE FIVE LINES OF THOUGHT

5.1. First line of thought: The GATT is not an agreement on economic (not even on trade) governance

As I have insisted upon, GATT (and GATT-related agreements) remain the essential pillar of the WTO on issues of substance. **But the GATT is a General Agreement on TARIFFS and Trade. This is very often forgotten.** Two consequences stem from it:

- **Issues like geoeconomics, geopolitics and national security are legitimate matters for discussion. But the WTO (and GATT and GATT-related agreements) are not the place or framework to find solutions to the problems they raise.** WTO and GATT should not be made to pay the price of the inability of the international community to adequately address these issues (and others, like the reform of the international monetary system), in particular during the 2007/2008 economic crisis and its immediate aftermath, which offered an excellent opportunity to address them.
- **The GATT, and the entire WTO, should not be overloaded with "trade and …" issues for whose solution it is not endowed. This overloading only creates frustration and delegitimizes both GATT and the "and… issues".**[13] Here again, GATT and the WTO should not be made to pay the price of the inability of the international community to adequately address these "trade and …" issues.

5.2. Second line of thought: distinguishing between two very distinct policy issues: liberalizing trade and not de-liberalizing it.

5.2.1. I've already explained that the obligation imposed by Art. II is not that of liberalizing international trade but that of NOT DE-LIBERALIZING IT further that a certain limit that is not necessarily the same for all members: the one determined in each respective Schedule of Concessions. This is to be emphasized once and again because even very valuable collective exercises keep assuming as a premise *"allant de soi"* (going without saying) that *"The original focus of the GATT was on reducing tariffs"*,[14] which, as explained above, is plainly untrue.[15]

Liberalizing or de-liberalizing international trade cannot be discussed in terms of a static comparison between a "more liberal" and a "less liberal" international trade regime; they are dynamic processes completely different in their effects. To mention only an essential difference: Looked at from the perspective of other countries, the benefits of liberalization are hypothetical (they depend on the behaviour of old and new exporters to the country that liberalizes); contrariwise, the

[13] I.e. This recommendation runs opposite to the Villars Framework's approach, mentioned in the next footnote.

[14] Page 11 in one of the main introductory sections (Conceptual Building Blocks of a Reformed Trade System) of the *Villars Framework for a Sustainable Global Trade System*, Version 2 (https://remakingtradeproject.org/villars-framework).

[15] It can be useful and meaningful to discover how Google's AI (mainstream's voice?...) falls into the same two errors I've just criticized. It presents GATT as follows (looked at on the 13th of May 2026*)*, emphasis added*: The General Agreement on Tariffs and Trade (GATT) is a 1947 treaty designed to boost post-WWII economic recovery* ***by reducing international trade barriers like tariffs and quotas****. It promoted non-discriminatory trade (most-favored-nation principle) and* ***was replaced by the World Trade Organization (WTO) in 1995****, which now manages the rules. [1, 2, 3]*

damage caused by de-liberalization is certain and identifiable: current exporters are hurt: de-liberalization creates conflict. If one advantage can be attributed to Trump's 2 measures is the pedagogical one: they have made this clear. Nobody is asking the US to be "more liberal"; the issue is preventing and fighting its de-liberalization.

5.3. Third line of thought. Once it is understood, at the analytical level, that liberalization and de-liberalization are two very different policy issues, a relevant question arises: if they are different, why should we treat them equally at the international level?

- First, people and experts in international trade tend to forget that liberalization processes are mainly the result of internal policy changes, not of international negotiations (and that one of the main reasons for entering international agreements is just "to lock in" these internal policy changes).
- Second, we must recognize the fact that the application of the MFN obligation to liberalization measures has become void by the proliferation of bilateral and regional agreements.

So, it is maybe better to adapt the theory to the facts and recognize that the MFN obligation must be strictly upheld for de-liberalization measures but not for liberalizing ones, to be left to national policies and bilateral and regional agreements (as we are in fact already doing). And it is even more important to recall that GATT's main objective is not "further liberalization" but to prevent trade wars between "big powers", an objective as important now as it was in 1947.

5.4. Fourth line of thought: looking to the real economic facts and not to the number of overlapping trade agreements.

Focusing too much on the multiplication of bilateral and regional agreements that overlap with GATT is misleading because we all know that many (if not most) bi-plurilateral and regional trade agreements are mainly exercises of political public relations more than real attempts to regulate international trade. Propaganda exercises present these agreements in terms of how many tariff lines they cover, hiding that

- there is no effective trade in most of these lines;
- what matters are the exceptions to full liberalization, and
- there was already a high degree of liberalization achieved in the framework of GATT or through unilateral measures prior to the signature of the agreements.

Therefore, **it is absolutely needed to enhance our knowledge of the (not so big) effects of bi-plurilateral/regional agreements on international trade by comparison to those (still much greater) of GATT, as the multilateral framework for it; and we must emphasize GATT's role.**

5.5. Fifth line of thought: Emphasizing a need of extreme importance: the provision of knowledge plus training

Finally, I'll close this presentation by emphasizing a need that was highlighted in the conclusions of the international academic conference recently held in Yaoundé, Cameroun, on the 19th and 20th March, ahead of the 14th WTO ministerial conference.[16] **What is indispensable is to broaden and deepen (and improve) knowledge and training on the issues discussed in this presentation, because, in terms of WTO's DDG Amb Dr. X. Zhang, "no policy can succeed without the foundation of knowledge and the promise of training" ("right" knowledge and "good" training, I would just add).**

Some could argue that this proposal is contradictory with the piece's own arguments, which make ample use of the expressions "we knew, we've known for decades". I'll be more precise now. These expressions are short-cuts. The right expression should have been something like "It was very easy to know…". But the fact is that what was very easy to know was willingly or unwillingly ignored and replaced by wrong assertions.

Some could also argue that the proposal is naif because it relies on the willingness of the academic community to revise the foundations of their teaching and their research. Here, I'm willing to accept the criticism. But I feel it is necessary not to take the easy way of making just the evolution of the world economy and the inability of the political class the only culprits of the present critical situation. The political class operates on the (wrong?) analysis offered by the academic community, which also gives (wrong?) orientation to economic deciders. So, we all must accept collective responsibility. Naif? Maybe …

ANNEX I.- A CLARIFICATION ON MFN AND NON-DISCRIMINATION

Google's AI asserts that "The General Agreement on Tariffs and Trade (GATT) is foundational to global trade law, heavily built upon the twin pillars of **Most-Favored-Nation (MFN)** and **National Treatment (NT)**, both designed to ensure **non-discrimination** between nations and products".[17] So, this is a sort of mantra similar to the "from GATT to the WTO", also preached by Google's AI, that I have criticized before when referring to the creation of the WTO.

Therefore, I must insist on the thesis that the two pillars of GATT are (ONLY!) the consolidation of concessions (art. II) and Most Favoured Nation Treatment (MFN – art.I). **National Treatment is not a pillar of GATT, which is precisely based on the discrimination between national products**, which enter the market "directly" without having to cross a trade barrier, **and foreign imported products**, which have to cross a border (i.e. customs, with all that this crossing implies).

National Treatment in GATT's art. III (an article of the Code of Conduct, in Jackson's interpretation, not one of the two founding principles) is much best interpreted as a "don't cheat provision": do not reintroduce through discriminatory application of internal rules the barriers that you have eliminated in the border. Once this general meaning is understood, the door is open to interpret whether the notion of

[16] https://www.wto.org/english/news_e/news26_e/chair_19mar26_333_e.htm ; https://obreal.org/es/iric-obreal-multilateral-trading-system/

[17] Looked at on the 22nd of June 2026 at 15.30 CEST.

"like products" means the same in the different paragraphs of the article or to the discussion of any other sophisticated niceties.

One of the systemic differences between GATT and GATS lies precisely in the role played in GATS by the National Treatment obligation, which in GATS appears as a stand-alone obligation – not just a "don't cheat" provision related to the main obligations(in fact, a possible stand-alone obligation, subject to whether or not it has been introduced for one or more sectors in the respective Schedules of Commitments of the different WTO members).

CHAPTER 02

Back to the Future? Trade Governance in Uncertain Times[1]

Pierre Sauvé[2]

1. Background

The World Trade Organization held its fourteenth ministerial meeting in March 2026 in Yaoundé, Cameroon. Dubbed as a 'Turning Point' ministerial designed to revive the world trade body's sagging spirits and place it on a determined reform path, MC14 evidenced the depth of discord lying at the very heart of global trade governance. MC14 showcased how frustrating the quest for constitutional change can be among a club characterized by an ever-increasing diversity of collective preferences, capacities and needs. The Yaoundé Ministerial may well have produced a turning point towards the bygone days of relative reciprocity, arguably not the outcome many had hoped for. Is the WTO heading back to a future, pre-Uruguay Round, modus operandi of closed plurilaterals? Or will continued reform gridlock prompt coalitions of willing members to bypass the WTO altogether by striking stand alone agreements, as was done in Yaoundé for e-commerce? Is such regime reversal desirable or sustainable?

2. A trading system in crisis

There can be little doubt that the multilateral trade order faces its deepest, system-threatening, crisis today. Three of its core functions – negotiating rules, opening markets and adjudicating disputes – have largely ceased to function or to function properly, essentially leaving only the WTO's *monitoring* and *deliberative* functions alive, via a relatively toothless trade policy review process and a far from satisfactory notification track record in the former case and with key Members increasingly prone to clip the Secretariat's ability to explore novel trade frontiers in the latter case.

However deep, the multilateral trading system's current travails are hardly new. Already in January 1989, at the World Economic Forum's annual gathering in Davos, MIT Professor Lester Thurow proclaimed the death of the GATT, seeing it replaced by a system of managed trade dominated by regional trading blocks. A few years later, on the margins of an OECD Ministerial meeting, another distinguished trade economist – Columbia's Jagdish Bhagwati, bemoaned the dawn of a new global

[1] This note has been prepared for '*International Trade after the Trump 2.0 Shock'*, a conference co-organized by the Free University of Berlin, the Korean Development Institute and OBREAL in Berlin, Germany, on 28-29 May 2026. The author is grateful to Wonhyuk Lim and to conference participants for useful discussions and comments.

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trading system infested with preferential termites![3] That such observations could just as easily be uttered today attests to the long-standing nature of the WTO's systemic travails.

The many challenges that confronted trade ministers in Yaoundé predate the shocks emanating from the Trump administration's nostalgic and unilateralist embrace of import-substituting industrialization. A successive litany of G7, G20 and WTO Ministerial statements have for years recalled the urgent necessity of reforming the WTO with a view to preserving the multilateral *acquis* while also adapting global trade norms to rapidly evolving geo-economic, ecological, technological and security landscapes.

The harsh reality is that scant progress has been achieved to date on the reform front. Advances have been limited to harvesting the lowest of low hanging fruits, consisting of a range of (nonetheless useful) 'reform by doing' steps targeting improved WTO Committee procedures alongside a largely unenforceable (even if symbolically welcome) set of predominantly hortatory disciplines on illegal, unregulated and unreported fishing and on services domestic regulation. Meanwhile, an increasingly diverse and divided membership has proven incapable of agreeing on the more substantive set of reform priorities regarding how decisions are made, rules agreed, markets opened, new or improved trade disciplines implemented and disputes adjudicated.

This chapter explores whether and how WTO Members could generate genuine progress on a reform agenda liable to impart forward-looking momentum to a global trading system mired for too long in institutional statis. The risks the WTO confronts are real, as sustained gridlock is fuelling increasingly anchored perceptions of normative and judicial irrelevance among key constituencies in business and policy-making circles.

3. What ails the multilateral trading system?

Prescriptive responses to the crisis in multilateral trade governance need to rest on a lucid diagnosis of what ails the global trading system and a clearer appreciation of the factors lying behind the WTO's current existential predicament.

For starters, the WTO's crisis needs to be seen and understood against a broader canvass – that of the gradual erosion of multilateralism in all its facets, in a marked decline in the willingness of hitherto benign hegemons to tolerate free riding by newly-emerging powers, and by the progressive ebbing of shared efforts at international cooperation in pursuit of global public goods.

The multilateral order was arguably not designed for a world of heightened (and often weaponized) uncertainty, increasingly contested and rivalrous geopolitics and its far-reaching geo-economic implications and accelerating climate and technological change. Nor was it designed for a world in which the market for voice and agency in rule-making has become significantly more contestable among an increasingly heterogeneous membership!

[3] See Bhagwati, Jagdish (2008), *Termites in the Trading System: How Preferential Agreements Undermine Free Trade,* Oxford: Oxford University Press.

In just a few years, the world has witnessed at warp speed a shift from what one could call '*la mondialisation heureuse'* (e.g. carefree globalism)[4], resting as it did on an international division of labor predicated on the confident pursuit of 'just in time' efficiency, to a world of fragmentation and national (in)security-inducing precautionary conduct with far reaching consequences on the very geography and texture of cross-border trade and investment flows.

The political economy of hegemonic decline

A reasonable place to start in assessing the WTO's travails concerns what one could deem the political economy of hegemonic decline, which is centrally at play in the WTO's unfolding drama. Imperial decline is rarely a pretty sight, proceeding slowly at first before suddenly accelerating and prompting nostalgic yearnings for how things once were but alas will never again be!

Just as yesterday's rule makers – particularly the US-EU transatlantic *Directoire* - can no longer singlehandedly call the shots, the world's newly emerging trade powers continue to shun meaningful WTO commitments. This is perhaps best evidenced by ongoing debates on reforming special and differential treatment (S&DT) and tackling the distortions arising from 'unlevel' and unduly mercantilistic trade playing fields. Yet with voice and agency should come heightened responsibility. Leading developing countries need to assume deeper responsibilities, show greater flexibility on new issues, and display a readiness to redress what for many remain weak overall levels of binding commitments. A good start was made by China's decision to prospectively renounce S&DT privileges. More can and needs to be done, and by a broader set of emerging countries.

A changed ideological environment

The WTO is also buffeted by a markedly changed ideological environment. The Uruguay Round's conclusion largely coincided with the apex of Washington Consensus policy prescriptions. While such an ideological moment was likely more exception than norm, it nonetheless delivered a multilateral trade order replete with negotiating asymmetries across a deepened and widened set of disciplines. What's more, the unprecedented normative expansion ushered in by the Uruguay Round was brokered in the virtual absence of technical assistance and aid for trade supplied to the system's poorest and weakest members.

The Uruguay Round produced an uneven political equilibrium which no longer holds as the very exceptional 'end of history' dynamic that underpinned the Marrakesh Agreement has progressively frayed. The cursor between market and state, which the Uruguay Round so decisively nudged in the market's direction, has today moved decidedly back towards the latter. This is epitomized by a marked shift towards state intervention and industrial policy activism, itself a response to the technological and trade challenges from emerging countries, none more so than China. Such a shift has exposed the limits and contradictions of trade rules brokered in markedly different times.

[4] See Minc, Alain (1997), *La Mondialisation Heureuse*, Paris: Plon Editions.

A Tinbergen problem?

The WTO, and trade policy in general, also arguably suffer from a Tinbergen problem of assigning to trade liberalization and rule-making roles that it alone cannot - and should not – be expected to assume. The inevitable – and often necessary - adverse distributional consequences of market opening (to use a cinematic analogy, there will, indeed MUST, be blood, otherwise no structural adjustment allowing developing countries to share in trade's development dividends could ever materialize) were not addressed through proper adjustment policy support in rich countries. Such policy failures have, not surprisingly, fueled populism-inducing political discontent in many quarters, particularly in OECD member countries. In hindsight, and most vocally in the United States given the weakness of its social safety net apparatus and unique trade adjustment programs that specifically target trade as a source of labor market unrest, insufficient attention has been paid to those most likely to be adversely affected by the twin forces of accelerating technological change and mounting import competition from developing country producers moving up (as they should) technological ladders.

A legacy of broken promises

The WTO further suffers from a legacy of broken promises and unfinished agendas, both of which hinder efforts at tackling pressing new challenges. Examples of legacy challenges include the vexing question of public stockholding and special safeguard measures in agriculture; imbalanced Uruguay Round rules, such as the TRIMs Agreement, whose disciplines sit uneasily alongside the industrial policy measures enacted today by a growing set of countries at all income levels; as well as the lapsing of carve-outs and/or flexibilities for subsidies directed to the legitimate pursuit of environmental and regional development aims. MC14 has added to the list of legacy issues by failing to extend the moratorium on TRIPs non-violation complaints and that governing the (non-)imposition of customs duties on electronic transmissions.

The inability to fix problems that have long gone unattended or which Ministers once pledged to resolve is problematic as the issues concerned often remain important priorities for Members accounting for the bulk of the WTO's membership. Such gridlock, not surprisingly, lessens the appetite needed to tackle latest frontiers in trade governance.

The trading system's lurch behind borders

Starting with the Uruguay Round, WTO rulemaking shifted increasingly inland, away from the border even as unprecedented efforts at making the border more user-friendly have been deployed thanks to the Trade Facilitation agreement, arguably the most important outcome secured in the WTO's first three decades of existence. The trading system's inland lurch has taken trade rules deep into the regulatory realm of nations in areas such as health and environmental standards, the regulation of services markets, digital governance and intellectual property protection norms. Such an evolution has increasingly come to be seen – all too often erroneously - as menacing the sovereign regulatory choices nations make. And yet WTO rulemaking is not about the 'why' of regulation but rather, and often timidly, about the 'how'

of domestic rulemaking, nudging countries *whenever possible* to pursue legitimate public policy aims in the least trade and/or investment restrictive manner.

WTO members on the whole have done a poor job of affirming how transparent, non-discriminatory and proportionate domestic regulation is a sovereign duty in responding to instances of market failure rather than a right conferred - or taken away - by international treaties. As in the case of investment law, where needed reforms to Investor-State Dispute Settlement procedures remain a pressing matter, the narrative of trade policy and rules being tantamount to widespread deregulation has taken root, with chilling impacts on Members' readiness to resume market opening efforts, none more so than in services markets, where regulation – and not tariffs – is the negotiating currency.

The tyranny of consensus

The tyranny of decision making by explicit consensus further ails global trade governance. The WTO arguably suffers not so much from the democratic deficit many NGOs and anti-globalizers allege but rather from an *excess* of democracy. It does so by affording every one of its 166 members a right of veto over negotiated outcomes. The tyrannical properties of WTO decision-making were on full display in Yaoundé, preventing large majorities of members from moving forward on a number of pending issues, among which the e-commerce moratorium and plurilaterally brokered disciplines on investment facilitation.

Searching for a fix

The question then becomes how to fix the consensus problem lest a critical mass of like-minded members decide, as was done for e-commerce at MC14, to implement (even if provisionally) the agreement on a plurilateral and non-MFN basis wholly outside the WTO system.

Calls for members to handle consensus 'responsibly' will likely not cut it in a rules-based order. WTO members will have little choice than to consider ways out of the consensus quagmire via opting in and out clauses, critical mass criteria, limited reciprocity/MFN outcomes – in effect a return to 'closed' Tokyo Round codes, and ultimately voting, which its rules allow despite the professed unwillingness of Members to generate negotiated outcomes in such a manner.[5]

The WTO confronts a paradox: that of the *legitimizing attributes* of near universality, with 22 countries still seeking admission to a club many would argue is in seriously poor health. But no members have to date expressed an interest in exiting the world trade body. Such legitimizing features coexist alongside the *paralyzing attributes* of decision-making by explicit consensus. Such coexistence is clearly unsustainable and solutions will need to be found to facilitate greater decision-making flexibility. Harvard's Robert Lawrence foresaw this dilemma two decades ago in a prescient article in which he argued for a 'club of club'/variable geometric construct consisting of a multilateral umbrella under

[5] See Ungphakorn, Peter (2021) 'Voting in the WTO? It won't happen', in *Trade ß Blog*, (May19), available at tradebetablog.wordpress.org

which plurilateral coalitions of like-minded members could cooperate and pursue common aims.[6] Post Yaoundé, WTO Members keen to prevent a further unraveling of the multilateral trading system will need to draw on such ideas in advancing proposals on the issue of consensus, arguably the biggest systemic challenge the WTO faces.

Pursuing less than fully non-discriminatory aims

A big question post Yaoundé is under what circumstances should less than fully reciprocal – i.e. MFN-minus - outcomes be allowed beyond the ability of WTO Members to pursue preferential trade ties under GATT Article XXIV and GATS Article V? Critical mass criteria come to mind, whether expressed as a predominant share of world trade or as a share of members. An alternative would be a return to the closed plurilateral codes practiced in the Tokyo Round, whereby treaty privileges are only enjoyed by signatories and denied to non-signatories, albeit with scope made for non-members to join such compacts via open accession clauses.

There is little doubt that the WTO's current crisis owes in important ways to the greatly diminished tolerance for free riding by the trading system's historical hegemons, none more so than the US as it sees its technological and military supremacy threatened by China's sustained rise. An important consideration in reverting to the Tokyo Round practice of closed reciprocity concerns the distinction that needs to be made between pure rule-making agreements, which are typically about own-country investments in *improved domestic governance*, and negotiated outcomes where *market access* considerations – and therefore potential free-riding, are at play. Examples of the former include agreements governing trade facilitation (TFA), services domestic regulation (SDR) and investment facilitation (IFDA) agreements, while examples of the latter encompass agreements on agriculture and non-agricultural market access, services, e-commerce, subsidies (including for fisheries), government procurement, and new or expanded disciplines on state-owned enterprises and on the potential negative externalities emanating from industrial policies.

Restoring the WTO's adjudicative functions

Fixing the WTO's broken dispute settlement system must also remain a priority. A rules-based system is only as credible as its enforcement capabilities, and none threaten one of the WTO's core *raison d'être* and legitimacy more than its now all but toothless dispute settlement system.

The current blockage affords the United States and other non-signatories of the Multi-Party Interim Appeal Arbitration Arrangement (MPIA) *de facto* immunity from prosecution at a time of mounting recourse to WTO-inconsistent measures. Prospects for meaningful DSU reform appear so intractable that it did not make it on the MC14 agenda despite its centrality to the WTO's future. Rather, calls were heard encouraging members whose trade relations continue to be conducted on a most favored nation treatment basis to join and make fuller use of the MPIA and for discussions on DSU reform to resume

[6] Lawrence, Robert Z. (2006), 'Rulemaking amidst growing diversity: a club of club approach to WTO reform and new issue selection', in *Journal of International Economic Law,* Vol. 9, No. 4, (December), pp.823-835.

among WTO Members in Geneva. Established in 2020 in the aftermath of the WTO Appellate Body's dissolution, the MPIA includes just over a third of the WTO membership (61 of 166 members, spanning multiple regions and levels of development). It has to date rendered judgements on two appeals.[7]

A lessened appetite for market opening

A further question is what to make of the clearly lessened appetite that WTO members profess towards opening markets in both goods and services markets and how this sits alongside the greater revealed preference to do so on a more fragmented (and potentially trade and investment distorting) basis within preferential trade agreements? Is such aversion cyclical or structural in character, and what happens if the current resurgence of protectionist and anti-competitive conduct cannot be arrested or reversed, anchored as it seems in nationalist industrial policy imperatives that show few signs of abating?

Alongside the conclusion of the ITA-2 talks in 2015 freeing up trade in an expanded set information technology-related goods and the asymmetrical opening of markets of newly acceding members, the WTO has produced no meaningful liberalization advances in its 32 years of existence. Is such statis sustainable, particularly at a time of mounting WTO inconsistent unilateralism? If managed preferentialism comes to define the norm as the dominant means of opening markets, on what terms will the world's poorest and weakest counties trade given their markedly lessened participation in preferential compacts, particularly those brokered with more advanced countries and the greater development dividends such agreements have been shown to produce?[8]

A soft law WTO?

What is one to infer regarding the rising incidence of soft law outcomes in WTO rulemaking - a new trend in a club long known for producing hard law constructs, alongside a markedly lessened appetite for binding and enforceable outcomes holding states accountable before international systems of dispute resolution? Examples include trade and investment facilitation, and services domestic regulation. Does this portend a WTO whose most central function will in future concern its monitoring (e.g. TPR), deliberative and regulatory convergence-inducing attributes among highly diverse policy making communities endowed with vastly diverse implementation capacities? Is the WTO set to become a global OECD, with norms as mere unenforceable recommendations, or with Trade Policy Review-induced naming and shaming? The membership's rising (and accession-induced) diversity suggests that the scope for global normative convergence remains weak at best, fueling increasing demands for WTO+ advances within like-minded preferential constructs.

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[7] The two appeals adjudicated by the MPIA to date are: DS611: China – Enforcement of Intellectual Property Rights (EU complainant) and DS591: Colombia – Anti-Dumping Duties on Frozen Fries from Belgium, Germany and the Netherlands (EU complainant).

[8] See World Bank (2005), *Global Economic Prospects 2005: Trade, Regionalism and Development*, Washington, D.C.: The World Bank.

Tackling the trade and development interface

Efforts to decide who should qualify for special and differential treatment (S&DT) sit at the core of the WTO's development agenda. The agenda for MC14 was centrally about two key issues: consensus and S&DT. Ministers failed to advance workable solutions on both fronts.[9] Focusing attention on how best to respond to the trade aspirations for countries accounting between two-thirds to three-quarters of the WTO's membership obviously needs to command greater attention, not least because of the legacy issues noted above but also because trade governance takes place today in circumstances that bear little resemblance to the conditions that prevailed when the Uruguay Round was concluded. What is needed is fresh thinking on how best to afford greater agency and voice to marginalized members – Small Island Development States (SIDs), least developed countries (LDCs), net food importing countries, climate vulnerable states – while getting them off the 'exemption' fence.

Recurring calls to exempt members from agreed rules raise legitimate questions regarding the very rationale behind such countries' membership. This begs the question of what the WTO, alongside multilateral and regional development institutions, can realistically do to address the very real supply side constraints its weakest or most vulnerable members face, challenges which a changing climate and technological acceleration are magnifying in the midst of a marked decline in flows of official development assistance. Reversing the current signs of Aid for Trade fatigue is a daunting and yet necessary challenge if meaningful progress in tackling the acute supply side constraints weighing on the trade performance of a significant number of members is to be secured.

Arresting the unilateralist drift and mercantilism-induced global imbalances

Other questions worth debating include whether and how to arrest mounting recourse to WTO inconsistent unilateral measures taken on national security grounds? This once more begs the question of whether the US trade policy shift is structural or cyclical in nature? Are the current storms the new normal in trade governance we all need to adjust to? While one cannot ignore the rising salience of national security concerns and how geo-political rivalry rooted in the quest for technological and military supremacy lie behind recent trade policy positioning, there is no denying that this is likely something the trading system cannot do much about even as it is a direct victim of it.

In a similar vein, is there anything the WTO can do to rein in Chinese mercantilism and its corresponding ability to squeeze out competition at both the low and high ends of technological frontiers? Is this not a task for the IMF and its focus on correcting global imbalances? The impact Chinese policies are exerting on developing countries and their ability to leverage trade for growth and development is in many regards just as worrisome as the US lurch towards inward-looking protectionism.[10]

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[9] See Sauvé, Pierre (2022), 'Special and differential treatment as if it could be reformed', *in Journal of World Trade*, Volume 56, No. 6, pp.879-898.

[10] See Chatterjee, Shoumito and Arvind Subramanian (2026), 'China's mercantilist squeeze on developing countries', *PIIE Working Paper* 26-7, (11 May), Washington, D.C.: Peterson Institute for International Economics, available at piie.com

Is the WTO at risk of mission creep?

Finally, to what extent, and in what areas, is the WTO at risk of mission creep? If negotiated outcomes increasingly feature soft law outcomes, need they all be transacted at the WTO? For instance, what role can or should the WTO play in disciplining the potential for negative externalities arising at the interface of trade and climate change policies? How and to what extent should the WTO have a say on how trade policy measures are leveraged for purposes of climate adaptation and mitigation? Similarly, what role can the WTO play in addressing the trade-related implications of AI diffusion, supply chain resilience (OECD-type best practice recommendations or hard law rules?), access to critical minerals, reducing the costs of remittances and industrial policy more broadly (what impact on existing disciplines governing subsidies, TRIMs, IP and product standards)?

4. Concluding thoughts

This chapter has arguably raised more questions than it has advanced credible answers on the way forward in global trade governance. Many such answers remain unclear and will call for more resolute engagement and a sense of cooperative compromise among WTO members if the multilateral trading system is to adapt to a rapidly changing world with the WTO at its core.

The need to impart greater flexibility into the functioning of the multilateral trading system and create an umbrella under which plurilateral cooperation is possible among credible clusters of willing members is compelling. It is also arguably the only feasible way forward.

Absent the compromises needed to move forward in this manner, trade governance will likely move backward and revert to closed forms of plurilateral reciprocity brokered outside the WTO system. Such a trend is one from which the world's weakest or poorest members stand every chance of being further marginalized.

The Yaoundé Ministerial has pushed global trade governance into uncertain territory and further undermined the WTO. Time will tell if the multiple shocks to the trading system can get key members back in cooperative mode. The proposition that a crisis should never be wasted is about to be tested in multilateral trade circles. One can only hope that genuine reform and renewal in the *modus operandi* of global trade governance is the end result of ongoing efforts at crisis management.

CHAPTER 03

Plurilateralism: A New Agenda for International Economic Law?

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Abstract

Global economic governance is undergoing a profound transformation. Traditional multilateralism, organized around universal consensus and the logic of the single undertaking, is under strain, while unilateralism and economic nationalism have re-emerged as competing tendencies. Between these two poles, a third mode of ordering has become increasingly prominent: plurilateralism. This chapter argues that plurilateralism is no longer merely a technical feature of trade negotiations but has become a broader governance strategy through which states organize cooperation under conditions of geopolitical fragmentation and technological competition. The chapter understands plurilateralism as a strategy that allows subsets of states within a broader international framework, to cooperate selectively in sector-specific areas. It assesses the risks of fragmentation and of the exclusion of developing countries, and identifies the conditions under which plurilateral initiatives can serve as a pragmatic complement to existing international structures. The central claim is that the tensions inherent in plurilateral governance – between flexibility and fragmentation, and between pragmatism and legitimacy – will define the future agenda of international economic law.

Keywords plurilateralism; international economic law; World Trade Organization; joint statement initiatives; digital economy; club governance; multilateralism; legal fragmentation; developing countries

1. Introduction

International economic law is being reshaped at a moment of profound transformation in global economic governance. The question this chapter asks is relatively simple but increasingly important: can plurilateralism provide a new agenda for international economic law? Traditional multilateralism is under strain.[1] Bilateral and regional initiatives continue to proliferate, and at the same time new forms of economic cooperation are emerging that do not fit neatly within the classic categories through which international economic governance has traditionally been understood. The consequences are felt with particular force in the field of trade, where the restructuring of supply chains, the return of industrial

[1] On the crisis of the multilateral legal order more broadly, Lukasz Gruszczynski, Marcin Menkes, Veronika Bílková and Paolo D Farah (eds), *The Crisis of Multilateral Legal Order: Causes, Dynamics and Implications* (Routledge 2022).

policy, and renewed tariff competition have unsettled the assumption that economic rules are universal and best made for all states.

Against this background, this chapter suggests that plurilateralism is no longer simply a technical feature of trade negotiations. It has increasingly become a broader governance strategy – one that reflects how states today seek to organize cooperation under conditions of geopolitical fragmentation, technological competition, and the paralysis of multilateral institutions.[2]

Two related concerns motivate this inquiry, one more policy-oriented and the other more intellectual. The first is the weakening, and in some areas the near-collapse, of international cooperation. States increasingly struggle to coordinate through universal, multilateral frameworks, particularly in fields such as trade and tax policy, supply chain management, technological governance, and data regulation. In each of these areas, the pace of change and the sensitivity of the underlying interests have outstripped the capacity of consensus-based institutions to respond. Even close allies have pursued divergent regulatory and economic strategies. Governments have not, however, abandoned international cooperation altogether; rather, they increasingly seek more flexible and selective forms of it, involving smaller groups of states organized around specific sectors, issues, regulatory objectives, strategic interests, and/or geopolitical alliances.

The second concern is conceptual: whether there exists an alternative between two extremes: on the one hand unilateralism and economic nationalism, and on the other traditional multilateralism, based on universal consensus and uniform obligations, which trade lawyers associate with the logic of the single undertaking,[3] under which nothing is agreed until everything is agreed. Plurilateralism appears to occupy an intermediate space between these two poles. The rise of plurilaterism is not merely a conceptual development; it is also an empirical one, visible in the expansion of non-traditional frameworks of international economic cooperation.

The chapter proceeds as follows: Section 2 develops a qualitative definition of plurilateralism and distinguishes it from neighbouring instruments and modes of governance. Section 3 traces the development of plurilateralism within the World Trade Organization(WTO), from the Tokyo Round codes to the Joint Statement Initiatives, while Section 4 follows its expansion beyond the WTO, and indeed beyond trade itself. Section 5 examines the principal concerns the phenomenon raises – above all fragmentation and the potential exclusion of developing countries – and identifies the conditions under which plurilateral initiatives succeed. Section 6 turns to the digital economy, the domain in which the significance of plurilateralism becomes clearest. Section 7 concludes by reflecting on plurilateralism as a form of 'unilateral multilateralism' and on its place in the future agenda of international economic law.

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2 Georgios Dimitropoulos, Richard C. Chen and Julien Chaisse, 'Plurilateralism: A New Form of International Economic Ordering?' (2025) 26 *Journal of World Investment & Trade* 1, 2–3. This chapter draws largely on this article and on the contributions to the Special Issue on Plurilateralism that it introduces, published in (2025) 26(1–2) *Journal of World Investment & Trade*.

3 Marrakesh Agreement Establishing the World Trade Organization (entered into force 1 January 1995) 1867 UNTS 154, art II:2.

2. Defining Plurilateralism

Traditionally, plurilateral agreements have been defined in public international law quantitatively, as agreements involving more than two states but fewer than the near-universal participation associated with multilateral treaties. On this view, what makes an agreement plurilateral is simply the number of its parties.[4] That definition, however, captures little of what is distinctive about the contemporary phenomenon. This chapter therefore adopts a narrower and more qualitative understanding.[5] On this view, plurilateralism is a governance strategy that allows subsets of states, within a broader international framework, to cooperate selectively in sector-specific areas. What matters is not the number of participants but the function the arrangement performs: the selective, sectoral organization of cooperation among a willing group, nested within and possibly oriented toward a wider multilateral order.

Plurilateralism is not an entirely novel ideait has appeared under a variety of labels across different settings. It overlaps with what has been called 'variable geometry' – the practice, familiar from European integration and increasingly invoked in debates on the reform of the multilateral trading system, of allowing states to participate in common projects at different depths and speeds.[6] It is closely related to 'differentiated integration', in which a single institutional framework accommodates varying degrees of commitment among its members – an experience from which the WTO has been urged to draw lessons.[7] It resembles club governance, in which a smaller group of states organizes cooperation around shared interests and internalizes the benefits of coordination.[8] And it echoes the open method of coordination (OMC) developed within the European Union. The OMC is, a softer technique of alignment that proceeds through benchmarking, the exchange of best practices, and peer review rather than through binding uniform rules.[9] What these labels share is the intuition that cooperation need not be universal to be meaningful, and that smaller, purposive groupings can advance coordination where consensus among all is unattainable.

Plurilateralism differs from both preferential trade agreements (PTAs), on the one side, and purely informal coalitions, on the other. PTAs typically operate as exceptions to multilateral trade rules,[10] and

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4 For broader, quantitative accounts that treat agreements among any subset of the WTO membership as plurilateral, see Meredith Kolsky Lewis, 'The Origins of Plurilateralism in International Trade Law' (2019) 20 *Journal of World Investment & Trade* 633, 635.

5 Dimitropoulos, Chen and Chaisse (n 1) 4–6.

6 Alexander C-G Stubb, 'A Categorization of Differentiated Integration' (1996) 34 *Journal of Common Market Studies* 283.

7 Dirk Leuffen, Berthold Rittberger and Frank Schimmelfennig, *Differentiated Integration: Explaining Variation in the European Union* (Palgrave Macmillan 2013); Robert Basedow, 'The WTO and the Rise of Plurilateralism – What Lessons Can We Learn from the European Union's Experience with Differentiated Integration?' (2018) 21 *Journal of International Economic Law* 411.

8 James M Buchanan, 'An Economic Theory of Clubs' (1965) 32 *Economica* 1; Robert O Keohane and Joseph S Nye, 'Between Centralization and Fragmentation: The Club Model of Multilateral Cooperation and Problems of Democratic Legitimacy' in Roger B Porter and others (eds), *Efficiency, Equity, and Legitimacy: The Multilateral Trading System at the Millennium* (Brookings Institution Press 2001).

9 David M Trubek and Louise G Trubek, 'Hard and Soft Law in the Construction of Social Europe: The Role of the Open Method of Co-ordination' (2005) 11 *European Law Journal* 343.

10 See, for example, General Agreement on Tariffs and Trade 1994 (Marrakesh Agreement Establishing the World Trade Organization, Annex 1A) (entered into force 1 January 1995) 1867 UNTS 187, art XXIV.

focus primarily on preferential market access among their members, discriminating, by design, against outsiders. Plurilateral agreements, by contrast, are often complementary to multilateralism rather than alternatives to it, and they are frequently designed to reinforce, rather than to derogate from, the broader system. Their objectives are also broader: they often concern not tariffs – though some do – but regulatory coordination, facilitation, institutional cooperation, and sectoral governance.

Plurilateralism likewise differs from informal coalitions and political groupings, in that it may generate institutionalized and potentially binding commitments rather than merely political coordination or shared declarations. Individual plurilateral agreements may, in turn, emerge from a broader plurilateral framework. In this sense, plurilateralism increasingly functions as a distinct mode of international economic governance, situated alongside multilateralism, regionalism, and informal cooperation.[11]

3. Plurilateralism in the World Trade Organization

Plurilateral agreements are not new. Their origins can be traced at least as far back as the Tokyo Round of trade negotiations in the 1970s, during which a number of side codes were negotiated among subsets of the contracting parties to the General Agreement on Tariffs and Trade(GATT). Some agreements that later became part of the WTO framework – such as the agreements on technical barriers to trade, on subsidies and countervailing measures, and on anti-dumping – initially emerged as plurilateral codes of this kind before being multilateralized and absorbed into the single undertaking during the Uruguay Round. Since the creation of the WTO, however, plurilateralism has evolved considerably, and a broad distinction can be drawn between closed and open plurilaterals.[12] Closed plurilaterals are formally embedded within the WTO agreement framework, annexed to it, and bind only participating members;[13] the Government Procurement Agreement, itself the successor to a Tokyo Round code, which opens public procurement markets among its signatories alone, is the classic example. Open plurilaterals, by contrast, operate through coalitions of willing members that extend their concessions on a most-favoured-nation basis to all members of the organization. The Information Technology Agreement (ITA), which eliminated tariffs on a range of technology products, and the Agreement on Basic Telecommunications (ABT) illustrate this model, the former being the first such agreement of the WTO era.[14]

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[11] Dimitropoulos, Chen and Chaisse (n 1) 6–8. On the relationship between plurilateralism and preferential trade agreements, see Meredith Kolsky Lewis, 'Plurilateralism and Free Trade Agreements' (2025) 26 *Journal of World Investment & Trade* 82; on the geoeconomic dimension of the phenomenon. SeeDavid Collins, 'Plurilateralism and the New Geoeconomics of International Law' (2025) 26 *Journal of World Investment & Trade* 54.

[12] Axel Berger, Clara Brandi, Manfred Elsig, Anwarul Hoda and Xinquan Tu, 'Improving Key Functions of the World Trade Organization: Fostering Open Plurilaterals, Regime Management, and Decision-Making' (T20 Policy Brief, 2020) https://g20tirn.org/improving-key-functions-of-the-world-trade-organization-fostering-open-plurilaterals-regime-management-and-decision-making/ accessed 22 July 2021.

[13] Marrakesh Agreement Establishing the World Trade Organization (opened for signature 15 April 1994, entered into force 1 January 1995) 1867 UNTS 154, art II:3.

[14] Dimitropoulos, Chen and Chaisse (n 1) 9–12. See also Bernard M Hoekman and Petros C Mavroidis, 'WTO "à la carte" or "menu du jour"? Assessing the Case for More Plurilateral Agreements' (2015) 26 *European Journal of International Law* 319.

The distinction between the two forms is more than technical. Open plurilaterals extend their benefits on a most-favoured-nation basis, they preserve the principle of non-discrimination at the heart of the multilateral system, but they also allow states that decline to participate to enjoy the results without sharing the obligations – the familiar issue of free-riding. Closed plurilaterals avoid that scenario by confining benefits to participants, but at the cost of introducing an element of discrimination into the system. The choice between the two is therefore also a choice about how a plurilateral initiative relates to the wider membership.

More recently, the joint statement initiatives (JSIs) have introduced a new and more structured phase of plurilateral cooperation within the organization. Pursued by groups of willing members outside the constraints of the single undertaking, the JSIs were launched at the 11th Ministerial Conference in Buenos Aires in 2017 and cover electronic commerce, investment facilitation for development, services domestic regulation and micro, small and medium-sized enterprises. They have already produced concrete results, including the Investment Facilitation for Development Agreement, finalized in 2023 and formally concluded at the 13th Ministerial Conference in Abu Dhabi in 2024, and the Agreement on Electronic Commerce, the text of which was stabilized in 2024. Alongside them stands the Multi-Party Interim Appeal Arbitration Arrangement of 2020, a plurilateral arrangement, not itself a joint statement initiative, that provides an interim route for appellate review in response to the paralysis of the Appellate Body.[15] Together, these initiatives demonstrate that plurilateralism has become a structured and increasingly central instrument of cooperation inside the multilateral trading system, rather than a peripheral exception to it.[16]

4. Plurilateralism beyond the World Trade Organization

Plurilateralism is increasingly expanding beyond the WTO, and indeed beyond trade itself. The Indo-Pacific Economic Framework for Prosperity (IPEF) is a leading example.[17] Its four pillars – trade, supply chains, clean economy, and fair economy – reflect a mode of governance that integrates trade and investment policy, resilience, infrastructure cooperation, and strategic coordination. The trade pillar addresses standards and the rules governing the digital economy and labour; the supply-chain pillar seeks to build resilience and to coordinate responses to disruption; the clean-economy pillar concerns the energy transition and related investment; and the fair-economy pillar addresses matters such as transparency and anti-corruption. Comparable developments include digital economy partnership agreements, such as the Digital Economy Partnership Agreement among Singapore, New Zealand, and

[15] On plurilateral responses to the appellate crisis, Weihuan Zhou and Victor Crochet, 'Confronting Fragmentation: A Quest for a Plurilateral Appellate Mechanism under the WTO' (2025) 26 *Journal of World Investment & Trade* 275.

[16] Dimitropoulos, Chen and Chaisse (n 1) 12–15. See also Maria Panezi, 'Good Will Hunting at the WTO: Is Plurilateralism Supporting or Undermining Multilateral Trade Governance' (2025) 26 *Journal of World Investment & Trade* 156.

[17] 'Indo-Pacific Economic Framework for Prosperity (IPEF)' (Office of the United States Trade Representative) https://ustr.gov/ipef accessed 3 July 2026

Chile, later joined by South Korea[18] as well as critical supply chain and semiconductor partnerships concluded among smaller groups of technologically advanced economies.

What is striking about many of these initiatives is that they move beyond traditional tariff bargaining. Their focus is increasingly on governance coordination, regulatory interoperability, industrial policy coordination, technological cooperation and, above all, the management of global value and supply chains. Rather than exchanging market access through reciprocal concessions, they seek to coordinate the rules and standards according to which trade and investment are conducted. Taken together, they reflect a broader shift in international economic ordering: away from universal rule-making, and toward more flexible, issue-specific, and strategically aligned forms of governance.[19]

5. Concerns and Conditions for Success

This development raises significant concerns. The most important are fragmentation, exclusion, and in particular the potential sidelining of developing and least-developed countries. Where rules are made among smaller groups of economies, states that lack the negotiating capacity or technical resources to join risk becoming rule-takers, obliged to adapt to standards in whose design they had no part. These concerns are not, however, unique to plurilateralism. Traditional multilateralism has not effectively accommodated development and differentiation either. The relevant question is therefore not whether plurilateralism is perfect – no mode of international economic governance is – but whether it can be designed to function as a pragmatic and adaptable complement to existing governance structures rather than as a vehicle for exclusion.

Several factors determine whether plurilateral initiatives succeed.[20] The first is sectoral focus: the most successful plurilaterals tend to be highly specialized and technically focused, concentrating on a defined field in which the participants share a concrete interest in coordination. The second is inclusivity: participation must remain open, even for states unwilling to join every aspect of cooperation; open participation is integral to the logic of plurilateralism. The experience of the Trade in Services Agreement, negotiated starting in 2013 among a self-selected group of mostly developed economies with a view to its eventual incorporation into the WTO framework, illustrates the risks of exclusion: the talks stalled in 2016. Arrangements built without the Global South are both less legitimate and less durable.[21] The third factor is clarity regarding goals and objectives: contemporary plurilaterals

[18] *Digital Economy Partnership Agreement* (signed 11 June 2020, entered into force 7 January 2021) (DEPA) https://www.mfat.govt.nz/assets/Trade-agreements/DEPA/DEPA-Signing-Text-11-June-2020-GMT-v3.pdf accessed 12 August 2026.

[19] Dimitropoulos, Chen and Chaisse (n 1) 16–18. On plurilateralism beyond trade, see Timothy Meyer, 'Plurilateralism and the Future of International Investment Law' (2025) 26 *Journal of World Investment & Trade* 219; Peter Hongler and Simon A Habich, 'Plurilateralism in International Tax Law: A Unique Chance for the UN Framework Convention' (2025) 26 *Journal of World Investment & Trade* 247.

[20] Georgios Dimitropoulos, 'Digital Plurilateralism in International Economic Law: Towards Unilateral Multilateralism?' (2025) 26 *Journal of World Investment & Trade* 116, 150-154.

[21] On plurilateral agreements and economic development, see Bernard M Hoekman and Petros C Mavroidis, 'Plurilateral Agreements, Multilateralism and Economic Development' (2025) 26 *Journal of World Investment & Trade* 31; on the

increasingly focus less on traditional market access and more on governance coordination and, eventually, institutional management, and they function best where that purpose is clearly defined from the outset. The fourth is clarity regarding participation structures — in particular, whether an arrangement is to be open or closed. This question was left unresolved at the outset of the JSI process, and the uncertain legal status of its outcomes has generated significant difficulties both during and after the negotiations, most visibly in the challenge brought by India and South Africa to the legality of the initiatives and in the contested incorporation of their results into the WTO framework.[22]

6. Plurilateralism and the Digital Economy

The significance of plurilateralism becomes clearest in the digital economy. Because digital technologies and digital markets evolves and changes far more rapidly than traditional multilateral negotiation can accommodate, states face urgent questions concerning cross-border data flows, the governance of artificial intelligence, cybersecurity, semiconductors, digital infrastructure, and platform regulation. Consensus rule-making among the entire membership of a universal institution is poorly suited to addressing problems that can change shape within months. Plurilateral frameworks offer flexibility and speed, as well as the possibility of experimentation, allowing larger groups of participating countries to develop regulatory models and to diffuse norms incrementally, at a pace and along lines that each participating country can help determine.[23]

The risks, however, remain significant. Plurilateralism may reinforce asymmetries of power, deepen legal fragmentation, and exclude countries that lack the technological or institutional capacity to participate effectively. The same flexibility that makes plurilateral frameworks attractive can, if left unchecked, entrench the advantages of those already best placed to shape the rules. For this reason, safeguards matter enormously – not only for digital plurilateralism, but for this mode of economic governance more broadly. Transparency, interoperability, openness, and meaningful participation by developing economies must remain central design principles if plurilateralism is to strengthen rather than undermine the broader international system. These are not incidental features but the conditions on which the legitimacy of plurilateral governance ultimately depends.

capacity of plurilaterals to address broader challenges facing the WTO, see Stratos Pahis, 'Can Plurilaterals Solve the WTO's National Security Crisis?' (2025) 26 *Journal of World Investment & Trade* 189.

[22] Communication from India and South Africa, 'The Legal Status of "Joint Statement Initiatives" and Their Negotiated Outcomes' (19 February 2021) WT/GC/W/819; revised as WT/GC/W/819/Rev.1 (30 April 2021), joined by Namibia.

[23] Dimitropoulos (n 19); see also Georgios Dimitropoulos, 'Law and Digital Globalization' (2022) 44 *University of* Pennsylvania *Journal of International Law* 41,

7. Conclusion

Under plurilateral governance frameworks, states pursue forms of international cooperation that advance their own strategic interests while simultaneously contributing to the gradual construction of shared international norms. A state may enter a plurilateral arrangement for reasons of advantage – to secure supply chains, to shape standards, or to protect a technological edge – and yet, in doing so, help to build rules that outlast the immediate and self-interested calculation. Plurilateralism is therefore neither a substitute for multilateralism nor a mere symptom of its decline. It is an intermediate and increasingly institutionalized mode of ordering that can complement existing structures where universal consensus is unattainable, provided that it is designed to remain open, transparent, and inclusive.

Whether plurilateralism strengthens or fragments the international economic order will therefore depend on how these design choices are made. The tension it embodies – between flexibility and fragmentation, and between pragmatism and legitimacy – is unlikely to be resolved in the abstract. It will instead be worked out through the concrete construction of plurilateral frameworks, agreement by agreement and sector by sector. In that sense, the question is no longer whether plurilateralism will form part of the architecture of international economic law, but on what terms; and the answer to that question will define the field's agenda for years to come.

CHAPTER 04

The Post-Trump Order: Why There Is No Turning Back

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1. Introduction

Although the trade policies of the Trump administrations are frequently framed as a radical break from the past, this perspective oversimplifies a much deeper reality. Trump 2.0 is rightly seen as a major breach of multilateral trade rules, characterized by sweeping unilateralism aimed at coercing trade partners into concessions. However, over-emphasizing these disruptive features obscures a gradual but consistent evolution in US trade policy incentives. While this longer-term trajectory appears less chaotic than the Trump 2.0 shock, it provides critical insight into the structural shifts underlying US trade policy and, more generally, the global trading system and offers a much firmer foundation for forecasting future trends. Ultimately, we must look beyond the immediate turbulence to understand the systemic forces at play.

This paper argues that despite the dramatic, high-profile trade initiatives of the second Trump administration, the underlying reality is one of sustained and structural evolution of the trade policy incentives of the major actors, and particularly of the architect of the postwar international trade order. By analyzing key historical milestones, this study shows a long-term shift in American priorities. The paper is organized into four sections. The first section offers an alternative, complementary perspective on China's role in the global trading system, challenging the conventional view that its behavior has been purely predatory or opportunistic following its WTO accession. The second section traces the roots of US grievances with the global trading regime back to the early 1990s. The third section explores how this discontent was compounded over the last decade by the bipartisan rise of national and economic security concerns. Finally, the fourth section outlines potential scenarios for the post-Trump trade order based on these enduring structural trends.

2. The US in the Global Trading System: The Roots of a Failed Political Agenda

While starting points are often arbitrary, they must be relevant to the central argument. This paper begins with the brief but deeply influential period when globalization appeared unstoppable and irreversible. In a study co-authored with Ricardo Ffrench-Davis two decades ago, we argued that globalization was defined by a dual dynamic.[1] The first was structural, driven by market and technological forces that

[1] Bouzas, R. and R. Ffrench-Davis, "Globalization and Equity. A Latin American Perspective", in Dinello, N. and Lynn Squire (eds), Globalization and Equity. Perspectives from the Developing World (Edward Edgar Publishing, 2005)

propelled national economies toward global integration. Indeed, the impact of technical progress on reducing economic distance and altering the spatial organization of production catalyzed internationalization and deepened interdependence. The second was a parallel, "normative" dynamic: an ambitious framework of policy recommendations designed to maximize efficiency-seeking global integration. Crucially, these two dynamics frequently overlapped in scholarly literature and policy debates, blurring the distinction between market-driven forces and politically motivated actions. Consequently, globalization was widely portrayed as a process leading not only to deeper economic integration, but also to the universal adoption of market-based institutions and Western-style political regimes. This deterministic and politically motivated vision was applied most notably to China as it rapidly integrated into the global trading system

China benefited immensely from the first dynamic of globalization. However, contrary to prevailing expectations, its adoption of the policy prescriptions central to globalization's normative facet proved far more modest and idiosyncratic. Following its WTO accession, China utilized active trade and industrial policies to take advantage of the numerous gray areas within the GATT regime—a framework that established literature has long characterized as an "incomplete contract." The Chinese economy's growing prowess, rising technological sophistication, and heterodox political-economic institutions rapidly fueled Western concerns over an uneven playing field. Domestically, China's vast pool of cheap labor, paired with the fragmentation of production enabled by the ICT revolution and rapid supply-chain development, yielded predictable results. As conventional trade theory anticipates, this combination generated large global efficiency gains alongside non-negligible adjustment pressures in some regions of the world. Ultimately, the failed expectation that China would converge toward Western-style political and economic institutions sparked a bitter backlash, particularly in the United States, where China's ascent was increasingly viewed as a direct challenge to American economic dominance. While it is common to attribute this gap between expectation and reality to a "diagnostic error" or "excessive optimism," [2] such a narrative obscures a deeper conceptual failure: the collapse of the ambitious political agenda embedded within globalization's second dynamic.

3. The Institutional Effects of the Globalization Euphoria: The Rise and Demise of the WTO

The euphoria surrounding globalization's prospects had a significant institutional side-effect: the creation of the WTO, an organization featuring an ambitious policy agenda and a renewed, more potent dispute settlement mechanism. Indeed, after overcoming substantial opposition from numerous developing countries, the Uruguay Round (UR) final agreement expanded multilateral regulatory disciplines beyond the traditional focus on goods—the original domain of the GATT—to include intellectual property rights and “trade in services”. Shortly thereafter, contracting parties established

[2] Revealing the prevalent Zeitgeist Paul Krugman candidly admited in a recent interview that he “devoted approximately zero time to worry about the risks” stemming from the consequences of the operation of agglomeration economies in China. See: https://www.youtube.com/watch?v=j2t2UI6T0jk

four working groups to examine the so-called "Singapore issues", aiming to broaden the WTO's regulatory scope even further.[3] Later, in 2001—despite a lack of significant progress on the UR's built-in agenda—an ambitious new negotiating round was launched as the Doha Development Agenda. Following years of gridlock, the Doha Round was officially suspended in 2006, inaugurating a prolonged period of institutional stagnation. In effect, more than three decades after its inception, WTO members have remained unable to reach any major new multilateral agreement.

Another controversial WTO issue concerned the functioning of the reformed dispute settlement mechanism (DSM), specifically the Appellate Body (AB)—a permanent organ established as a forum of last resort. Since the early 2010s, successive US administrations became increasingly vocal critics of the DSM's operations and certain AB procedures and determinations.[4] While some grievances were purely procedural, others were deeply substantive, targeting the role and prerogatives of the AB as well as the legal merits of its rulings.[5] Several of these substantive disputes involved China directly, either as a respondent or a complainant, with particularly critical cases addressing "zeroing" in anti-dumping investigations and the definition of a "public body" in subsidy disputes. As an initial step in 2011, the Obama administration declined to support the reappointment of Jennifer Hillman to the AB. While it stopped short of blocking a replacement at that time, the US—still under Democratic leadership in late 2016—began actively vetoing the appointment of any new judges. This systemic block led to the complete paralysis of the Appellate Body in December 2019, when its membership fell below the statutory minimum of three judges required to hear appeals.

Prolonged Uruguay Round negotiations and subsequent WTO gridlock pushed trade officials away from multilateralism toward bilateral and minilateral options. Since the early 1990s, the number of preferential trade agreements (PTAs) has surged exponentially worldwide, including in the United States. Yet, the true significance of this shift is qualitative rather than quantitative. Since many PTAs lack effective regulatory content and meaningful enforcement mechanisms -amounting to little more than political photo opportunities- merely counting them obscures their true strategic weight. In fact, the strategic relevance of this wave of (relevant) PTAs lies in three qualitative features: their deeper regulatory content, the rising share of North-South agreements, and the proactive role of the US in shaping the content of many of these deals.

In terms of regulatory content, the new agreements introduced disciplines deeper (WTO+) and broader (WTO-X) than existing multilateral rules. Analysts often interpreted this expanded coverage as evidence of members' desire to engage into deeper economic integration, creating regulatory frameworks better suited for participating in global supply chains.[6] However, a complementary, strategic motive also existed for some key participants: the expectation that these preferential deals would establish precedents for controversial regulatory issues, allowing activist countries to secure advantages in a more

[3] The topics included in the WTO Singapore ministerial were trade and investment, trade and competition policy, transparency in public procurement and trade facilitation.

[4] USTR, *Report on the Appellate Body of the WTO,* 2020

[5] USTR, *Report on the Appellate Body of the WTO*, 2020

[6] The so-called "21st century regionalism". See: Baldwin, R (2011), "21st Century Regionalism: Filling the Gap between 21st Century Trade and 20th Century Trade Rules", https://ssrn.com/abstract=1869845

favorable, asymmetric bargaining environment. Crucially, the growth of North-South PTAs was directly linked to unprecedented US activism in preferential negotiations. In fact, PTAs had been completely absent from the US trade policy playbook since the creation of the GATT. The turning point came in the mid-1980s with the US-Canada Free Trade Agreement (CUSFTA)—the first driven by explicit trade incentives—which was soon expanded to include Mexico under NAFTA.[7] This activist approach spanned almost every administration from Ronald Reagan to Barack Obama, reaching a peak under Bill Clinton. Looking at the sequence of these agreements, the US systematically deepened and broadened trade disciplines where it held "offensive" interests. Stronger provisions on services, investment, intellectual property, and digital trade underscored Washington's desire to bypass multilateral gridlock in topics where the US had “offensive” interests. This strategic regionalism culminated in the Trans-Pacific Partnership (TPP), signed in Auckland in 2016 under President Obama.[8]

4. Liberation Day: Radical Yet Predictable

The second Trump administration's aggressive use of unilateralism to extract concessions, combined with its violation of long-standing principles of the global trading regime, deeply shocked the international trade community. Viewed in perspective, however, this approach represented a more radical continuation of an otherwise consistent trajectory toward "defensive" considerations in US trade policy. These defensive incentives were further reinvigorated by the explicit, high-profile integration of national and economic security concerns into trade policy-making. This policy shift rested on two primary rationales: first, the pervasive narrative that the United States had been treated unfairly by the rest of the world; and second, the belief that China’s predatory behavior had allowed it to become the main beneficiary of existing loopholes in the international trading regime, ultimately threatening American preeminence in the global economy.

The first Trump administration made an explicit link between national security and trade, framing US trade deficits as a direct threat to national security.[9] Shortly after taking office in 2017, President Trump launched an investigation into steel and aluminum imports under Section 232 of the Trade Expansion Act of 1962, alongside another inquiry into China’s practices regarding manufacturing, services, and innovation under Section 301 of the Trade Act of 1974. In both instances, national and economic security concerns served as pivotal drivers for subsequent policy decisions. In the same vein, the December 2017 National Security Strategy defined the "America First" policy through the mantra “economic security is national security,” and in 2018, the Export Control Reform Act (ECRA) was enacted with broad

[7] The US signed its first FTA with Israel in 1985, but that agreement can hardly be explained by US economic incentives. Negotiations with Canada included topics that remained blocked for years in the Uruguay Round, such as services trade or investment. NAFTA made a step forward and included also intellectual property rules.

[8] Bouzas, R- y J. Zelicovich (2014), “La Organización Mundial de Comercio, los acuerdos mega-regionales y los usos estratégicos de regionalismo”, *Estudios de Economía Aplicada*, vol.,32 num 3. The TPP was not ratified by the US Congress and president Trump withdrew the US from the agreement immediately after taking office.

[9] See Peter Navarro’ s speech at https://www.c-span.org/program/public-affairs-event/national-association-for-business-economics-conference-peter-navarro-remarks/472648

bipartisan support.[10] This legislation tasked the Bureau of Industry and Security (BIS) with updating US export controls on emerging and foundational technologies essential to national security—such as artificial intelligence (AI), machine learning, quantum computing, and 3D printing—all of which were classified as dual-use technologies. Furthermore, the administration expanded the BIS Entity List to include numerous Chinese firms deemed harmful to US national security or foreign policy interests, thereby requiring licenses for the export of designated dual-use items. In 2019, these restrictions were broadened to encompass any foreign firm using US technology, software, or equipment to produce semiconductors for Huawei. Finally, the COVID-19 crisis underscored that China had become not only a formidable competitor to US economic preeminence but also a critical global supplier of essential goods, such as medical inputs and equipment.

Continuing along this path, the Biden administration focused after its inauguration on strengthening American supply chains, particularly those deemed most sensitive to economic and national security. A series of strategic reviews published in 2021 and 2022 documented the acute impact of the pandemic on critical networks, while emphasizing that these "structural vulnerabilities... (had been) decades in the making, the result of years of outsourcing, offshoring, and streamlining."[11] Consequently, supply-chain analysis and the identification of strategic choke points became pivotal inputs in the formulation of trade and investment policy.

Also functioning as a defensive response to the perceived threat to US preeminence, the Biden administration implemented an extensive subsidy program between 2021 and 2022. The Inflation Reduction Act, the CHIPS and Science Act, and the Infrastructure Investment and Jobs Act collectively authorized trillions of dollars in tax credits and financial incentives for clean energy, electric vehicles, and semiconductor research, development, and manufacturing. Although environmental protection and other domestic goals were framed as the primary objectives, technological competition with China and the rising influence of national security considerations played a decisive role. These defensive measures triggered complaints from foreign governments—including traditional US allies—who warned of the risks of entering a costly and acrimonious subsidies race. Furthermore, the precedents established by the first Trump administration regarding stringent export controls were both maintained and deepened by its successor.[12]

In sum, national and economic security concerns have steadily gained prominence in U.S. trade policy-making, as shown by the emergence of the "reshoring," "friend-shoring," and "near-shoring" neologisms, the focus on critical supply-side bottlenecks and the implementation of aggressive subsidy policies. In this context, “Liberation Day” looks like a radical, yet predictable, escalation of ongoing trends.

[10] Bown, C.P. (2020), Export Controls: America’ s Other National Security Threat, PIIE; https://www.piie.com/sites/default/files/documents/wp20-8.pdf

[11] National Economic Council and National Security Council (2024), 2021-2024 Quadrennial Supply Chain Review

[12] See CRS 48642 (2025), US Export Controls and China: Advanced Semiconductors*;* https://www.congress.gov/crs-product/R48642

5. What Lies Ahead?

Following this extensive evidence, there now appears to be a widespread consensus that the international trading regime is undergoing a profound transformation. But where is it heading? While anticipating the future is impossible, the recent past highlights structural dynamics that allow us to project the most likely scenarios. One reality remains certain: there is no turning back. The US-China economic rivalry will not recede, the perception that American economic preeminence is being challenged by a rising power will persist, and the dominant role of national security, economic resilience, and anti-coercion considerations in US trade policy-making is unlikely to ebb. How will these enduring trends shape the future of international trade relations?

A benign perspective suggests that the world trading system is already undergoing a restructuring centered on the spontaneous rebuilding of a rules-based multilateralism. This system-in-the-making is portrayed as "driven by the expansion of existing regional trade arrangements, especially the EU and major Asian regional free trade agreements, [... which] have worked well for years, survived the World War Trade, and involved neither protagonist."[13] Based on Richard Baldwin's "domino theory of regionalism," such a reorganization is presented as occurring on autopilot. According to this narrative, governments' search for predictability and market access has seemingly driven them to deepen and widen "existing pools of predictable commerce" through a combination of restraint (to prevent escalation), bunkers (to reduce vulnerability), and bridges (to preserve openness).[14] The key insight is that this bottom-up configuration is emerging from domino dynamics and self-interest rather than deliberate, top-down design, as had been the case in the immediate postwar period. Because global supply chains are designed and operated by multinational corporations, this benign interpretation anticipates that they will remain broadly similar. Self-interest is supposed to compel governments and firms toward interoperability. The uncoordinated magic of the market will once again be at work, reducing the risk that the system slides into fragmentation.[15]

However, this "solar-system scenario"—in which large, rules-based trade blocs act as new centers of gravity for their peripheries—leaves one major question unanswered: will the United States and China simply remain bystanders, or will they actively strive to build their own trade blocs?[16] Moreover, the persistence of national and economic security incentives in trade policy-making may shift the balance toward a less benign configuration. Lawrence, Bressand, and Ito previously envisioned such arrangements in a scenario termed "imperial harmonization," where peripheral nations gravitate around two or more dominant poles. Under this framework, peripheral countries import deeper integration rules from the central poles in exchange for predictable market access and supply-chain participation.

[13] See Baldwin, R. (2026), World War Trade. Conflict, Containment and the Emergent World Trading Order, https://cepr.org/publications/books-and-reports/world-war-trade-conflict-containment-and-emergent-world-trading (page 5).

[14] Ibid. page 69

[15] This scenario is reminiscent of the "invisible hand" dynamics suggested in the closing volume of a Brookings Institution-sponsored research program on Integrating National Economies published thirty years ago. See: Lawrence, R., A. Bressand and T. Ito (1996), A Vision for the World Economy. Openess, Diversity and Cohesion, Washington DC: The Brookings Institution

[16] Baldwin acknowledges this as a major risk.

However, a divergence in these deeper integration rules, compounded by now-prevalent security concerns, is likely to hinder convergence among the poles, threatening to derail the global regime into fragmentation. While self-interest may encourage voluntary participation in these arrangements, self-interest is inextricably linked to context and available alternatives. Gruber's concept of "go-it-alone power" is instructive here: peripheral countries may face a purely defensive incentive to participate in these blocs—even if the outcome leaves them worse off—simply because the original *status quo* has been unilaterally dismantled by more powerful actors.[17]

The fact that scenarios put forward thirty years ago are still relevant today testifies to the prolonged, structural, and unfinished transformation of the global trading system. The perception that economic integration has heightened national economic vulnerabilities, combined with a profound shift in the relative power of major global actors, has led to a renewed ascendancy of national and economic security concerns in trade policy-making. Addressing the systemic effects of this shift has become one of the most pressing challenges facing the international trading regime. Amidst a fragmented landscape, characterized by a deficit of political leadership and supply of coordination, market incentives and shared interests are highly unlikely to suffice on their own.

[17] Gruber, L. (2000), Ruling the World: Power Politics and the Rise of Supranational Institutions, Princeton University Press

CHAPTER 05

The Domestication of International Economic Law

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1. Introduction

For decades the international economic order has been built on a rules-based multilateral order and recognition of the World Trade Organization as the primary institution for negotiating cross-border trade rules. Largely, state participants have adhered to and followed the principles which uphold trade without discrimination, lower trade barriers, promote fair competition, and economic development. However, in the last few years, we have witnessed the erosion of these principles. In the words of the WTO Director General, 'the world trading system is experiencing the worst disruptions in the past 80 years.'[1] This paper argues that one of the principal effects of the Trump 2.0 shock is an unprecedented domestication of international economic law especially trade law. Under Trump 2.0[2] a new type of domestication of international economic law is occurring. The relationship between domestic law and international economic law rules is being reordered. This is occurring in two main ways. First, the US is using new reciprocal trade agreements with selected jurisdictions to receive commitments that contracting parties will make changes to their domestic laws. These commitments aim to serve US domestic needs. Second, as a result of economic coercion diplomacy, some states are making changes to their domestic laws. Related to this is the observable trend that states like China are enacting domestic laws to regulate foreign trade related issues. To a large extent, in this new domestication era, states try to comply with the established rules of the international economic order. However, new forms of domestication in international trade law undermine the multilateral trading order and successes of international economic law. The arguments made in this paper are based on an analysis of reciprocal trade agreements signed by the US since 2025 and new 'trade' laws enacted in Brazil, the EU and China.

2. Domestication and the Crisis of the Global Trading Order

International economic law scholars have not been oblivious to the role of the 'domestic' in international economic law. Previous studies by prominent scholars have focused on salient issues including: the role of the WTO Appellate Body in shaping domestic policy[3], the relationship between trade law and regional

1 'MC14 Opens in Yaoundé with Call to Reinvigorate WTO in Time of Crisis' (26 March 2026) <https://www.wto.org/english/news_e/news26_e/mc14_26mar26_344_e.htm > accessed 2 July 2026.

2 See, Robert L Howse, 'The World Trade Organization After Trump' (2026) 43 Arizona J Int'l & Comp L 73, 75.

3 Deborah Z Cass, 'The 'Constitutionalization' of International Trade Law: Judicial Norm-generation as the Engine of Constitutional Development in International Trade' (2001) 12 European Journal of International Law 39, 74.

law,[4] how the world trading system overcomes 'protectionism by insulating export-interests from domestic politics'[5] and how states amend domestic laws to comply with WTO rulings.[6] Writing on the 'revolution of international economic law' soon after the establishment of the WTO, Joel P Trachtman stated:

> The transformed perspective of international economic law does not reject domestic values, it absorbs them. This transformed perspective recognizes that just as we must "think globally and act locally", we must also think locally and act globally. Thus, domestic values can be maximized through international action. In this sense, all politics is domestic, at least in its origins. Increasingly often, however, it is necessary to enter the market of international relations to maximize domestic values, such as wealth, employment, and environmental protection. [7]

This idea that domestic values are absorbed into international economic law remains true. However, in the last few years this is occurring in new ways. The term "domestication" has been used by legal scholars to explain shifts that are taking place in international economic governance.[8] The most prominent dissection of domestication has been made by Julien Chaisse and Georgios Dimitropoulos in a 2023 journal article in which they describe domestication as 'process of development of domestic rules instead of, or sometimes in parallel to the rules of international (economic) law.'[9] They describe domestication as a process involving 'devolution from the international to the domestic, i.e. a transition from the use of international to domestic legal instruments for the regulation of cross-border trade and investment flows.'[10]

Chaisse and Dimitropoulos made their arguments during the Biden presidency arguing that 'domestication of IEL is not necessarily incompatible with the core values of IEL.'[11] While their arguments on the combability of domestication with IEL accurately reflected to a large extent the state of the world in 2023 pre-Trump 2.0 and trends in international investment law, a new form of domestication is defying the international economic order like never before. In the field of international investment law, domestic laws have been used by domestic states to attract foreign investment and to protect public policy concerns. In international trade law, domestic laws play a different function. In

4 Thomas Cottier and KN Schefer, 'The Relationship between World Trade Organization Law, National and Regional Law' (1998) 1 Journal of International Economic Law 83.

5 Joost Pauwelyn, 'The Transformation of World Trade' (2005) 104 Michigan Law Review 1, 57.

6 Richard G Shell, 'Trade Legalism and International Relations Theory: An Analysis of the World Trade Organization' (1995) 44 Duke Law Journal 829, 832.

7 Joel P Trachtman, 'The International Economic Law Revolution' (1996) 17 U Pa J Int'l Econ L 33, 51.

8 Tianjie Gu, 'Beyond BITs: The Evolving Relationship between Domestic Investment Law and ISDS in the Era of Domestication' (2025) ICSID Review-Foreign Investment Law Journal siaf015; Anastasios Gourgourinis, 'Domestic Investment Incentives in International Trade Law' (2023) 22 World Trade Review 35; Lin Yating, 'Deciphering China's Selective Adaptation to Investment Treaty Regime: A "Domestication" of International Investment Law Perspective' (2025) 26 The Journal of World Investment & Trade 429; Georgios Dimitropoulos, 'Multilateralism, Towards Unilateral: Digital Plurilateralism in International Economic Law' (2025) 26 Journal of World Investment & Trade 116, 117; Julien Chaisse, 'Investment Facilitation Agreements and Treaty Function Reordered: A Theory of Procedural Treaty Design' (2025) 74 International & Comparative Law Quarterly 841, 866.

9 Julien Chaisse and Georgios Dimitropoulos, 'Domestic Investment Laws and International Economic Law in the Liberal International Order' (2023) 22 World Trade Review 1,2.

10 ibid 7.

11 ibid 9.

recent studies, other international scholars have examined the role of domestication. It has been argued that in a post-liberalization order, the WTO is well-suited for an era whereby states are 'actively experimenting with a return to strong domestic economic governance.'[12] It has been also observed that the US is 'weaponising the networked global economy for geopolitical and domestic economic objectives.'[13] Domestication has led to concerns that states may may adopt similar domestic rules and enact unilateral anti coercion instruments copying the European Union.[14] Domestication has been observed in the regulation of cross-border aspects of the digital economy and the impact of domestic regulation on international agreements.'[15] This paper builds on the excellent observable trends already identified by scholars like Chaisse and Dimitropoulos.[16] It goes a step further by examining new trade agreements signed by the United States and the reinforcement of domestic law in jurisdictions like the European Union and China.

In the last few years, which coincide with Trump 2.0, a new international economic law 'revolution era'. It is an era characterized by trade wars[17], technology wars, plurilaterism[18] geoeconomic tensions[19], national security and economic security[20], economic coercion, chokepoints, rising protectionism, structural shifts in global value chains, acceleration of digital and green transitions, stronger national regulations, race for critical minerals, and industrial policy.[21] As a result a new type of domestication is occurring in two main ways with the US and China being the major reasons why these changes are occurring. First, the US is using and weaponizing tariffs to sign new international trade agreements in which negotiating parties agree to make changes to their domestic laws to meet the domestic needs of the US. Second, jurisdictions like Europe are developing 'backup' domestic laws to regulate trade outside the WTO rules-based order. The implication is that although states like Brazil, China and Canada have instituted dispute settlement consultations at the WTO regarding import duties imposed by the US[22], domestic law is being used as a faster means of protecting states from the overreach of the US. In

12 Robert Howse and Joanna Langille, 'Continuity and Change in the World Trade Organization: Pluralism Past, Present, and Future' (2023) 117 American Journal of International Law 1,3.

13 Pinchis-Paulsen, Mona and Dan Ciuriak, The Case for WTO Collective Action (June 27, 2025) at 5. LSE Legal Studies Working Paper No. 19/2025, Available at SSRN: https://ssrn.com/abstract=5327566

14 Wolfgang Alschner, 'Recalibration, Shielding and Containment: How the World Trading System De-risks from China and the United States' World Trade Review (2025), 24, 498, 505.

15 Niels Lachmann, 'Chasing the Elusive Bird?: The Technological Development of the Digital Economy and International Trade Law's Susceptibility to a Pacing Problem' (2025) 26 The Journal of World Investment & Trade 479, 484.

16 Julien Chaisse and Joanna Lam, World Investment & Trade: Shaping the Narrative for a Sustainable Future (2024) 25 The Journal of World Investment Trade 1, 7.

17 Ming Du, 'International Economic Law in the Era of Great Power Rivalry' (2024) 57 Vanderbilt Journal of Transnational Law 723.

18 Georgios Dimitropoulos, Richard C Chen and Julien Chaisse, 'Plurilateralism: A New Form of International Economic Ordering?' (2025) 26 The Journal of World Investment & Trade 1.

19 Pierre-Hugues Verdier, 'International Finance and the Return of Geopolitics' (2025) 119 American Journal of International Law 229.

20 Harlan Grant Cohen, 'The International Order, International Law, and the Definition of Security' (2026) 47 Michigan Journal of International Law 1, 6.

21 Georgios Dimitropoulos, 'Industrial Policy and the New Internationalism: After the Liberal International Order' (2025) 57 Cornell International Law Journal 295; Yong-Shik Lee, 'Revival of Industrial Policy Implications for International Trade Law' (2025)34 Minnesota Journal of International Law 237.

22 DS640:United States - Tariff Measures on Goods from Brazil, Request for Consultations by Brazil (11 August 2025); DS638: United States — Universal and Country-specific Additional Duties on Imports from China, Request for

response to these disputes, the US has argued that 'issues of national security are political matters not susceptible to review or capable of resolution by WTO dispute settlement' and that essential security is self-judging.'[23]

3. America First Trade and Investment Agreements

America First Trade and Investment Policy which is a major contributor to the domestication of international economic law has been characterized by increased tariffs. It has also been characterized by tariffs as a bargaining chip, economic coercion and conditionalities, equity stakes and ownership in strategic companies, commercial strategy, unilateral export controls, domestic reshoring, and expanding market access for U.S. exporters. Under Trump 2.0, the US approach to international trade agreements has changed. The US has signed Reciprocal Trade Agreements (RTAs), memorandum agreements as part of the Pax Silica, and Prosperity Deal agreements with selected countries.

Under the Trump 2.0 administration, Reciprocal Trade Agreements (RTAs) have emerged as a new type of international economic agreement. Since 2025, the US has signed RTAs with Ecuador[24] Bangladesh[25], Guatemala[26], Indonesia[27], Argentina, El Salvador, Taiwan[28] Cambodia[29] and Malaysia.[30] The US has also signed an interim agreement regarding reciprocal and mutually beneficial trade with India[31] and a framework agreement with the European Union. With the exception of the Taiwan RTA, the RTAs signed by the US adopt very similar texts. All agreements aim to 'promote economic growth and strengthen their economic partnership through increased alignment on national and regional economic security matters.'[32] The agreements create non-reciprocal obligations as contracting states agree to communicate with the United States before entering into a new digital trade agreements that jeopardizes essential U.S. interests.[33] A new form of domestication is obvious in the commitments made in these agreements. The agreements are part of a trend which show how governments are 'developing domestic

Consultation by China (4 April 2025); DS637: United States — Additional Duties on Imports of Automobiles and Automobile Parts from Canada, Request for Consultations by Canada (3 April 2025); DS635: United States — Additional Import Duties on Steel and Aluminium Articles from Canada, Request for Consultations by Canada (13 March 2025); WT/DS634/2 United States - Additional Import Duties on Goods from Canada - Request for Consultations by Canada (5 March 2025); DS633: United States — Additional Tariff Measures on Goods from China-Request for Consultations by China (5 February 2025).

23 *DS637: United States — Additional Duties on Imports of Automobiles and Automobile Parts from Canada,* Communication from the United States (11 April 2025).

24 Agreement between the United States of America and the Republic of Ecuador on Reciprocal Trade (13 March 2026).

25 Agreement between the United States of America and the People's Republic of Bangladesh on Reciprocal Trade (9 February 2026).

26 Agreement between the United States of America and the Republic of Guatemala on Reciprocal Trade (30 January 2026).

27 Agreement between the United States of America and the Republic of Indonesia on Reciprocal Trade (19 February 2026).

28 Agreement between the American Institute in Taiwan and the Taipei Economic and Cultural Representative Office in the United States on Reciprocal Trade between the United States of America and Taiwan (signed 30 January 2026).

29 Agreement between the United States of America and the Kingdom of Cambodia on Reciprocal Trade (28 January 2026).

30 Agreement between the United States of America and Malaysia on Reciprocal Trade (26 October 2025).

31 United States-India Joint Statement (6 February 2026).

32 US-Indonesia RTA(2026), preamble; US-Bangladesh RTA (2026), preamble; US- Taiwan RTA (2026), preamble.

33 US-Indonesia RTA(2026, art 3(3).

frameworks for economic security, aiming to manage vulnerabilities arising from economic interdependence' and translating …domestic agendas into new forms of international diplomacy and governance.'[34] Generally, parties agree not to impose digital service taxes which discriminate against US companies.[35] Parties agree to maintain customs duty, quota, prohibition, fee, charge, or other import restriction measures on a good or service of a third country with equivalent restrictive effect as the measure adopted by the United States where the United States provides a notification that such measures is relevant to protecting the economic or national security of the United States.[36]

Under the US-Taiwan RTA, Taiwan agrees to promulgate additional regulatory measures to prevent diversions of advanced semiconductors and related equipment, machine tools advanced computing items, and other critical technologies to "covered nations". Taiwan also agrees to align its export control rules with the US especially the U.S. Foreign Direct Product Rule on semiconductors and related technology.[37] Complementary actions with conditionalities under the US RTAs embody domestication. States agree to explore establishing inbound investment screening mechanism for critical minerals and critical infrastructure.[38]

The Strategic Partnership Agreement Between the Government of the United States of America and the Government of the Democratic Republic of the Congo (SPA) was signed in December 2025. Unlike the RTAs described above the US-DRC SPA, aims to increase US private sector investment in the DRC's mining sector.[39] The SPA aligns with US ambitions in 'building secure, reliable and durable supply chains for critical minerals, safeguarding its national security, supporting reindustrialization, and maintaining competitiveness in strategic.'[40] It is a unique agreement which consolidates foreign investment, security, defense, protection of critical infrastructure objectives, trade with the domestic trade and investment priorities of the US. This is built on four pillars of cooperation: economic; security and defense; scientific, technological, and educational cooperation and institutional and governance cooperation.[41] Under the SPA, the DRC agrees to 'pursue and enforce domestic policies and measures that strengthen good governance, transparency, and respect for international law and that reinforce its role as a reliable and trusted strategic partner of the United States.'[42] The DRC also commits to amend within 12 months, Law No. 13/005 of 11 February 2014 on the fiscal, customs, parafiscal, non-tax revenue and foreign exchange regime applicable to collaboration agreements and cooperation projects. DRC also agrees to undertake legislative and constitutional reforms to align its domestic legal framework with the SPA. This include a renewable fiscal stabilization clause for an initial period of ten

34 Sarah Bauerle Danzman, Victor A Ferguson, Markus Wagner and Mikael Wigell, 'International Economic Security Law? Debating Recent Economic Security 'Agreements' (2026) Law & Geoeconomics (9 June 2026).

35 US-Indonesia RTA (2026), art 3 (1); US-Bangladesh RTA (2026), art 3(1); US- Guatemala RTA (2026), art 3(1).

36 US-Indonesia RTA (2026), art 5(1)(1).

37 US-Taiwan RTA (2026), art 5(2)

38 US-Malaysia RTA, art 5(2)(3); US-Indonesia RTA (2026), art 5(2)(2).

39 US-DRC SPA (2025), preamble.

40 ibid.

41 ibid, art 3 (2).

42 ibid, art 3 (4).

(10) years.[43] The US has also signed a trade and investment agreement with Ukraine for the establishment of a United States-Ukraine Reconstruction Investment Fund.[44] Ukraine cannot invoke domestic law as justification for failure to perform its obligations under this Agreement.[45]The European Union has also agreed to provide flexibilities in implementation of the Carbon Border Adjustment Mechanism (CBAM).[46] The EU has agreed to propose changes to due diligence and climate-transition-related obligations under the Corporate Sustainability Due Diligence Directive (CSDDD) and the Corporate Sustainability Reporting Directive (CSRD)[47]

International economic agreements with conditionalities are not a new development.[48] For example, in older agreements like the NAFTA, Canada and Mexico committed to alter their investment screening laws. In the African Growth and Opportunity Act and under the EU-ACP SAMOA agreement, developing contracting parties commit to enact comprehensive and inclusive domestic climate policies to accelerate the implementation of the Paris Agreement[49] and protect human rights.[50] What is unprecedented under the new RTAs described above is commercial conditionalities which are related to domestic law in contracting parties. These conditionalities attempt to turn trade treaties into bilateral contract arrangements away from most-favored nation and reciprocal treaty arrangements. Notably, although China's trade policy is supported by commercial frameworks like the Belt and Road Initiative and newly negotiated framework agreements on economic partnership for shared development, these 'trade agreements' don't come with conditionalities that expressly infringe on the domestic law on contracting parties.[51] Instead, since December 2024, China will apply zero tariffs to 33 African states with which it maintains diplomatic ties.[52]

43 ibid, art 12 (2)(a)

44 Agreement between the Government of the United States of America and the Government of Ukraine on the Establishment of a United States-Ukraine Reconstruction Investment Fund (signed 30 April 2025, entered into force 23 May 2025).

45 ibid, art 2 (3).

46 Joint Statement on a United States-European Union Framework on an Agreement on Reciprocal, Fair, and Balanced Trade (21 August 2025), para 11.

47 bid, para 12.

48 Katharina L Meissner and Lachlan McKenzie, 'The Paradox of Human Rights Conditionality in EU Trade Policy: When Strategic Interests Drive Policy Outcomes' (2019) 26 Journal of European Public Policy 1273.

49 Partnership Agreement between the European Union and its Member States, of the one part, and the Members of the Organisation of African, Caribbean and Pacific States, of the other part (28 December 2023), art 51 (1).

50 ibid, art 65 (1).

51 See, Framework Agreement on Economic Partnership for Shared Development between the Government of the People's Republic of Liberia (signed 6 September 2024).

52 The State of Council, People's Republic of China, 'China to Grant Zero-tariff Treatment to all African Countries with Dip lomatic Ties' (28 April 2026) <https://english.www.gov.cn/news/202604/28/content_WS69f0a1d7c6d00ca5f9a0aad0.html> accessed 2 July 2026.

4. New Domestic Trade Laws

Another type of domestication which is taking place is the changes that states are making to their domestic laws in response to developments in the US. This trend can be observed in the return to industrial policies. It can be also observed in new 'trade' laws enacted in the European Union, Japan, China and Canada. Notably, in June 2026, Japan adopted a Committee on Foreign Investment in the United States (CFUIS) like mechanism in its domestic screening law.[53] In June 2025, Canada rescinded the Digital Services Tax (DST) 'in anticipation of a mutually beneficial comprehensive trade arrangement with the United States' which was to be agreed on by 21 July 2025.[54]

The EU aims to ensure that its responses to US trade policies do not breach EU values and established rules of the international trading order. Union responses under the Anti-coercion instrument could include the imposition of new or increased customs duties, the re-establishment of customs duties at the most-favoured-nation level or the imposition of customs duties beyond the most-favoured-nation level, or the introduction of any additional charge on the importation or exportation of goods, which may amount, as necessary, to the non-performance of applicable international obligations as regards any tariff concessions.[55] Recently in 2026, the EU has introduced a new investment screening regulation,[56] the Chips Act 2.0[57] and the Industrial Acceleration Act which show how the EU is developing its economic security trade policy.[58]

Similar changes are occurring in China. In December 2025, the Standing Committee of the National People's Congress of China passed amendments to the PRC Foreign Trade Law. The revision signals a shift in China's trade policy. This can be observed in PRC State Council Decree No. 834, Provisions of the State Council on the Security of Industrial and Supply Chains effective March 31, 2026[59] and State Council Decree No. 835, Regulations of the People's Republic of China on Countering Unjustifiable Extraterritorial Jurisdiction Measures Imposed by Foreign States. Under Regulations of the State Council on Outbound Investment released in 2026, Investors conducting outbound investment activities 'shall not export or use goods, technology, services, and related data prohibited from export by the state, or export or use goods, technology, services, and related data restricted by the state without permission.' They are also prohibited from transferring 'goods, technology, services, and related data prohibited from export to other countries (regions) by means such as dispatching technical personnel, organizing

53 Act Partially Amending the Foreign Exchange and Foreign Trade Act (5 June 2026).

54 Department of Finance Canada, Canada Rescinds Digital Services Tax to Advance Broader Trade Negotiations with the United States (29 June 2025) <https://www.canada.ca/en/department-finance/news/2025/06/canada-rescinds-digital-services-tax-to-advance-broader-trade-negotiations-with-the-united-states.html> accessed 2 July 2026/

55 Regulation (EU) 2023/2675 of the European Parliament and of the Council of 22 November 2023 on the protection of the Union and its Member States from economic coercion by third countries, Annex 1.

56 Regulation of the European Parliament and of the Council on the screening of foreign investments in the Union and repealing Regulation (EU) 2019/452 (27 May 2026).

57 Proposal for a Regulation of the European Parliament and of the Council on a framework of measures for strengthening the Union's semiconductor ecosystem, repealing Regulation (EU) 2023/1781 (Chips Act 2.0) (3 June 2026).

58 COM(2026)100 - Proposal for a Regulation on establishing a framework of measures for accelerating industrial capacity and decarbonisation in strategic sectors (Industrial Accelerator Act)(4 March 2026).

59 Ministry of Commerce Announcement No. 24 of 2026: Release of the Measures for Security Investigations of Industrial Supply Chains (22 June 2026).

personnel to work in other countries (regions), providing technical guidance across borders, arranging cross-border training, or transferring goods, technology, services, and related data restricted for export by other countries (regions) without permission.'[60] If investors encounter trade-related investment barriers or other obstacles to investment and operation in the destination country (region), the competent department of commerce under the State Council may organize investigations independently or jointly with other relevant departments of the State Council, and relevant organizations and individuals shall assist and cooperate. Based on the survey results, relevant departments of the State Council may adjust relevant country-specific investment policies, prohibit or restrict the import and export of goods, technology, or international trade in services.[61] The State Council may prohibit or restrict their import and export activities related to China or prohibit or restrict their investment within China. [62]

In 2025, Brazil enacted Law No 15. 122 which establishes criteria for suspension of concessions commercial, investment and rights obligations intellectual property in response to unilateral measures taken by country or economic bloc that negatively impacts competitiveness Brazilian international; and makes other provisions. Covered measures include policies and actions that 'interfere in the legitimate and sovereign choices of Brazil'; measures that aim to prevent or obtain the cessation, modification or adoption of a specific act or practices in Brazil, through application or threat of application unilateral commercial, financial or investment measures'; measures that violate trade and commercial agreements and 'unilateral measures based on environmental requirements that are more onerous than parameters, norms and standards of protection adopted by Brazil.'[63] The law authorizes the executive to impose countermeasures like imposition of commercial duties and suspension of intellectual property obligation.[64] In 2026, the UK government invited responses on a proposal on whether the UK should develop new domestic laws to strengthen its trade defence toolkit to protect the UK from adverse economic pressure.[65] The proposal acknowledges that the UK already has options including diplomatic engagement and dispute settlement under the WTO, FTAs and the WTO's Multi-party Interim Appeal Arbitration Arrangement (MPIA).[66]

5. Conclusion

This short paper has provided a summary of new trends in domestication in international economic law showing how specific jurisdictions like China, Brazil and the US are using domestication to protect their

[60] Regulations of the State Council on Outbound Investment (Order No. 837 of the State Council of the People's Republic of China) (2 June 2026), art 13.

[61] ibid art 23.

[62] ibid, art 25.

[63] Brazil, Law No 15, 122 of April 11, 2025, art 2.

[64] Brazil, Law No 15, 122 of April 11, 2025, art 3 (1).

[65] UK Department for Business and Trade, Call for Input on Potential Powers to Protect the UK from Adverse Economic Pressure (9 April 2026) <https://www.gov.uk/government/consultations/call-for-input-on-potential-powers-to-protect-the-uk-from-adverse-economic-pressure/call-for-input-on-potential-powers-to-protect-the-uk-from-adverse-economic-pressure-web-version> accessed 1 July 2026.

[66] ibid, para 11.

cross-border trade interests. Although the WTO remains the main international trade law organization, domestication is gradually expanding under Trump 2.0. The long-term consequences of these agreements Post Trump 2.0 are uncertain. Ultimately, new forms of domestication may be opportunities for addressing some of the imperfections of the international trade and investment order.

CHAPTER 06

From Geoeconomics to Economic Security: Impacts on WTO

Vera Thorstensen[1]

1. Introduction

In the last decade, the world's major great powers constructed an extensive architecture of geoeconomic and security economic reactions since the Cold War. The United States deployed tariffs under Section 301, Section 232, and Emergency Economic Powers Act (IEEPA) (now under the courts); semiconductor export controls; and outbound investment screening. China responded with an Anti-Foreign Sanctions Law, critical mineral export controls, and systematic informal coercion. The European Union is discussing the Industrial Accelerator Act, adopting a Foreign Subsidies Regulation, an Anti-Coercion Instrument, and a Carbon Border Adjustment Mechanism. Japan enacted a comprehensive Economic Security Promotion Act. South Korea, India, Brazil, and South Africa each are creating distinctive defensive architectures.

This paper argues that these developments cannot be understood through the lens of geoeconomics alone. Luttwak's (1990) and Blackwill and Harris (2019) original framework captures the offensive dimension of great-power competition but fails to account for the diverse defensive and developmental responses of states that are targets or bystanders of that competition. The analysis of some develop and developing countries reveals that their strategy to establish their geoeconomic defenses and economic security policies creates a fragmented three-tier model that shows how structural position in international economics, not ideology, regime type, or geography, is the determinant of the own strategies. The proliferation of these instruments is eroding multilateral disciplines and pressing developing countries to react and look again for protection under international rules.

The issue under discussion here is the following: great power actors can play the geoeconomic game because they have the necessary endowments to be offensive; middle powers have some of the necessary endowments but can only defend themselves creating economic security frameworks to resist these threats. The following question is: what is the role that multilateral rules can play in this game? How can these countries defend themselves.

2. Conceptual Framework

Three conceptual schools converge in the contemporary geoeconomic and economic security landscape. Geoeconomics describes the offensive use of economic instruments to achieve strategic advantage,

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including trade as a continuation of geopolitics (Blackwill and Harris, 2016). Economic security denotes the defensive protection of national economic foundations from external threats (Buzan, Wæver, and de Wilde, 1998). Strategic autonomy captures the aspiration to preserve sovereign decision-making capacity under conditions of deep interdependence (Farrell and Newman, 2019). Farrell and Newman's concepts of weaponized interdependence provide the critical link: globalization created hub-and-spoke network topologies that states can exploit for surveillance (the panopticon effect) and coercion (the chokepoint effect). The US dollar clearing system, semiconductor supply chains, and digital infrastructure all exhibit these properties. However, weaponization generates counterreactions, and those reactions vary systematically with the structural position of each country in the present world.

Geoeconomics presents a large list of instruments. In trade: tariffs, licenses, rules of origin, technical barriers, phytosanitary measures, and export licenses. In investment: capital ownership, screening, and incentives. In finance: interest rates, exchange rates, and credit.

3. The Three-Tier Model

The present analysis includes a preliminary study of the geoeconomic and economic security strategies of a group of countries: US, China, EU, Japan, Korea, India, Brazil and South Africa. The objective is to understand how some developed countries and developing countries react to the challenges of the present world disorder.

The study showed that the state responses can be divided into a three-tier classification based on structural power, vulnerability profile, and policy instruments developed.

Tier 1 - Geoeconomic Projection (United States and China). These states possess the structural power to use geoeconomic instruments and weaponize interdependence offensively. They control critical chokepoints as in the US with the system of dollar clearing, semiconductor design tools, and intelligence networks. In China the control is in rare earth processing, critical mineral refining, and manufacturing capacity. Their instruments can be considered discriminatory, extraterritorial, and regime-shaping.

Tier 2 - Strategic Trade Defense (European Union, Japan, South Korea). These states (EU as one) possess significant economic weight but lack the structural power dominance to project coercive power unilaterally. They construct sophisticated defensive architectures, such as layered regulatory and legislative frameworks for trade and investments designed to deter and retaliate against economic coercion while preserving market openness. Their instruments are defensive but institutionally complex.

Tier 3 - Developmental Security (India, Brazil, South Africa). These states face structural vulnerabilities, including technology dependence, commodity concentration, and limited institutional capacity, that constrain their strategic responses repertoire. Their priority is preserving policy space for industrial development while building defensive capacity. India represents a boundary case, deploying increasingly sophisticated instruments that approach middle power actors. Brazil and South Africa are framing their economic security framework to answer the challenges.

4. Instrument Deployment Across Tiers

The examination of geoeconomics, economic security and strategic autonomy policies of these countries reveals an interesting arsenal for their trade and investment weapons.

Tier 1 countries: US and China

Trade and investment instruments have escalated significantly. US policy evolved from Trump 1.0 tariffs (2018) through Biden's October 2022 semiconductor controls and CHIPS Act (subsidies), to Trump 2.0's IEEPA-based universal tariffs (now under restrain) to Section 301on forced labor against dozens of countries. Also relevant are the Bilateral Agreements US had negotiated with the EU, Japan and Korea. China's trajectory runs from the 2014 Comprehensive National Security Concept through the 2020 Dual Circulation strategy to operational coercion: the Unreliable Entity List, Anti-Foreign Sanctions Law, and export controls on gallium, germanium, and graphite. Both states have moved beyond WTO-consistent measures to security-justified discriminatory instruments that the multilateral system cannot effectively discipline.

Tier 2 countries or group: EU, Japan, South Korea

Some countries or regions have constructed layered defensive architectures with remarkable sophistication. The EU's 2023 Economic Security Strategy coordinates six major instruments: the Foreign Subsidies Regulation, International Procurement Instrument, Anti-Coercion Instrument, CBAM, Critical Raw Materials Act, and FDI screening framework. In negotiation is the Industrial Accelerator Act. Revealing is the transformation of DG-Trade in DG-Trade and Economic Security. Japan's 2022 Economic Security Promotion Act covers four pillars, including supply chain resilience, critical infrastructure screening, technology development, and patent classification, representing the most comprehensive single legislative instrument in any democratic country. South Korea navigates in a managed vulnerability strategy, through the Supply Chain Stabilization Act, National Advanced Strategic Industries Act, and K-CHIPS Act (tax credits), balancing alliance obligations against its significant semiconductor revenue exposure to China.

Tier 3 countries: India, Brazil and South Africa

Some emerging states deploy maximum available instruments under structural constraints. India is one of the world's leading users of antidumping measures and has supplemented traditional trade defense such as safeguards with security-justified restrictions, imposing FDI screening on border-country investments, and launching significant production-linked incentive schemes. Brazil's 2024 had created the New Industry Brazil (Nova Indústria Brasil) program, a new regulation on critical mineral reserves, and expansion of food production. South Africa is leveraging critical mineral reserves. These initiatives represent developmental strategies with latent but largely unexplored geoeconomic potential.

5. The Multilateral Order Under Stratified Pressure

Facing this scenario, one can ask what the impacts for the international system of rules structured under WTO and preferential trade agreements.

A first impact is to conclude that the WTO is not being undermined uniformly. It is being eroded asymmetrically along these tier lines. Tier 1 states transcend multilateral rules by constructing parallel normative frameworks: the US through security self-judging and emergency powers, China through grey-zone coercion and rules reinterpretation. Tier 2 states instrumentalize the WTO, maintaining formal commitment while building supplementary architectures for security-adjacent policy. The most affected countries are the Tier 3 states that depend on the multilateral disciplines but cannot enforce them against Tier 1 coercion.

The second relevant impact is that the Appellate Body crisis functions as a systemic enabler for some offensive and defensive strategies: it eliminates binding adjudication risk for measures adopted by Tier 1 states; creates operational space for measures used by Tier 2 instruments even with uncertain WTO consistency, and deprives Tier 3 states of their primary enforcement mechanism under the international system. The MPIA solution offers them a diverse strategy to follow.

Governance is being fragmented through: US bilateral arrangements by the US (discriminatory tariffs, forced investments, imposed buying of armaments); and US-led specific agreements (IPEF (Indo-Pacific), Minerals Security Partnership), Security Partnership in Latin America. China created a centered arrangements for economic attraction (BRI, RCEP deepening). EU regulatory extension through preferential agreements and the "Brussels Effect" on regulation for access to its market. Tier 3 countries are structuring, with difficulties, their own regional initiatives (AfCFTA, Mercosur), and India bilaterals. However, for them, WTO survival is imperative. It is still providing a model for their trade policies and their national agreements.

6. Scenarios and Structural Constants

Four scenarios span the possibility-space through the near future:

- Competitive bipolarization, where techno-economic spheres consolidate around US and Chinese poles;
- Fragmented regionalism, where overlapping regional blocs coexist with weakened multilateral institutions;
- Managed competition, where sectoral firewalls separate strategic sectors from commercial normalization;
- Multilateral Reassertion, where an exogenous shock revitalizes collective governance under a reformed WTO.

Across all scenarios, some structural hypotheses can be held. First, the geoeconomic and security-economy nexus is permanent, with no scenario involving a return to pre-2016 situation. Second, US – China rivalries persist with structural advantages enduring regardless of institutional context. Third, technology governs scope, where the definition of "strategic" sectors expands continuously. Fourth, safeguards undergo functional transformation from temporary import relief to supply chain security instruments.

7. Conclusion

The global economic order is not simply becoming more geopolitical. It is undergoing a stratified transformation to geoeconomic world in which states at different levels of structural power are transformed by the securitization of their economic policies. They are developing diverse strategies, through their Economic Security Policies, with diverging instruments, institutions, and multilateral postures. The analysis captures this variation: the weaponization of interdependence generating offensive projection by great powers and the reaction of middle powers through fragmented strategies. This attitude forces a sophisticated defensive architecture from medium powers and presses emerging powers to develop their own economic security policies and instruments.

The central policy implication for the present international system and any attempt to the WTO revival must imply that the design for economic security institutionalization must be also tier sensitive. One-size-fits-all multilateral rules cannot accommodate fundamentally different strategic positions. Research should explore states policies and sensitiveness: tracking geoeconomic endowments, creating security policies measures, and looking for the evolution of instruments to adapt to new situations.

The institutional consequence for international governance under this fragmented world is the imperative to develop a new kind of cooperative system through the revision of trade and investment rules. They must include:

- transparency mechanism for the new trade and investment rules,
- flexibilization of safeguards rules (Art. XIX) to allow space for the reaction against new forms of trade weaponization,
- new rules for subsidies in agriculture and industries to allow agriculture and industrial policies,
- flexibilization for rules on antidumping and countervailing measures to reflect the challenges of geoeconomics,
- plurilaterals for sectors and issues to allow the different velocities of adoption,
- flexibilization for antidumping and countervailing measures,
- adaptation of preferential trade agreements to allow convergence to WTO rules

In summary, not considering international trade numbers from countries that are reticent to follow WTO rules, such as the US on unilateral measures, and China on subsidies, other countries are following WTO regulations or implementing them through preferential agreements. This shows the interest of most countries in maintaining the rules system, and more, the fear of imploding the WTO House. What is needed is flexibility under consensual rules. With cooperation and transparency, the flexibilization of existing rules can allow the trade system to survive till the new international order be imposed.

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CHAPTER 07

Economic Security for Whom? Inclusion and Exclusion in the New Geopolitics of Trade

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The language of international trade governance is undergoing a profound transformation. For decades, trade policy was primarily justified through the logic of efficiency, liberalization, and economic interdependence. Today, however, the dominant vocabulary has shifted to "economic security", "strategic autonomy", "de-risking", "friend-shoring" and "resilient supply chains". Governments have increasingly justified a number of policies on trade restrictions, industrial subsidies, export controls, investment screening mechanisms, and diversification on the grounds of national security, growing concerns over global interdependence, and geopolitical resilience. While these developments centered on achieving economic security reflect legitimate concerns arising from geopolitical fragmentation and health pandemics, they also raise a critical yet an unexplored question: *Economic security for whom? And whether economic security policies are becoming a new language for exclusion in international trade rules?*

This paper argues that the contemporary economic security policies, despite being framed as instruments of resilience and stability, are often exclusionary, marginalizing the interests and lived realities of vulnerable groups such as women, informal workers, migrants, persons with disabilities, and Indigenous communities. In doing so, these policies risk undermining the very objectives they seek to achieve, since economic resilience and long-term security depend upon inclusion, diversity, equitable participation, and the fair distribution of economic opportunities.

Understanding Economic Security Concerns

Economic security is a loosely defined and rapidly evolving concept that, to date, lacks a universally accepted definition. Traditionally associated with the notion of national security, its scope has expanded quite exponentially in the recent decades.[1] Policymakers have increasingly invoked economic security measures to address a wide range of risks and vulnerabilities that may directly or indirectly threaten their nation's economic stability, resilience and strategic autonomy.[2]

At its core, economic security refers to a state's ability to sustain economic stability and growth while protecting itself against external and internal shocks. It requires the protection of critical infrastructure,

[1] Jonathan E Hillman, 'The Rise of Economic Security, Council on Foreign Relations' (CFR, 21 January 2025) <https://www.cfr.org/articles/rise-economic-security> accessed 20 May 2026

[2] OECD, Economic *Security in a Changing World: New Approaches to Economic Challenges* (2025) <https://www.oecd.org/en/publications/2025/09/economic-security-in-a-changing-world_78f3b129.html> accessed 20 May 2026.

strategic industries and supply chains, as well as reliable access to essential resources such as energy, food, technology and critical minerals.[3] The concept may also extend to maintaining secure trade and investment flows, strengthening cybersecurity and reducing excessive dependencies on other countries.[4]

This transformation has major implications for the multilateral trading system. Economic security measures increasingly blur the distinction between economic measures and national security exception under Article XXI of the General Agreement on Tariffs and Trade (GATT).[5] The broader and more unilateral the invocation of security concerns becomes, the greater the risk that the predictability and universality of multilateral trade rules will erode.[6]

The growing prominence of economic security has been shaped by a series of major global events and crises. The COVID-19 pandemic exposed the fragility of global supply chains and the risks associated with overdependence on foreign production for essential goods such as medical equipment, pharmaceuticals and semiconductors. The Russia–Ukraine war further intensified concerns over energy and food security, demonstrating how geopolitical conflict can disrupt global markets and create widespread economic instability. More recently, escalating tensions between the United States and Iran, particularly following military confrontations and threats to shipping routes and energy infrastructure in the Middle East, have reinforced fears regarding disruptions to global oil supplies and maritime trade, further embedding security considerations into economic policymaking. At the same time, tensions between the United States and China, especially in relation to advanced technologies, semiconductors, artificial intelligence and critical minerals, have accelerated efforts by governments to adopt "de-risking" and "friend-shoring" strategies aimed at reducing strategic dependencies and securing critical resources.

As a result, governments across the world are increasingly experimenting with a wide range of policy instruments and measures that are trade restrictive. These economic security policies take multiple forms, including the diversification and "de-risking" of supply chains, restrictions on foreign investment in strategic sectors, export controls on sensitive technologies, industrial subsidies to support domestic production, and unilateral tariffs.[7]

Economic security for whom?

The economic security policies are often "inclusion-blind". This is mainly because they are driven by national security and industrial policy objectives rather than social inclusion or human rights considerations. Such policies prioritize state resilience, industrial competitiveness and geopolitical

3 Ioan-Franc Valeriu and Andrei Diamescu, 'Some Opinions on the Relation between Security Economy and Economic Security', Romanian Journal of Economics (2010) 2(40), 122.

4 N Yuzue and T Sekiyama, 'Defining economic security through literature review', Front. Polit. Sci (2025) 7, < https://www.frontiersin.org/journals/political-science/articles/10.3389/fpos.2025.1501986/full> accessed 21 May 2026

5 Valeriu and Diamescu (see note 3)

6 Daria Boklan D and Amrita Bahri, 'The First WTO's Ruling on National Security Exception: Balancing Interests or Opening Pandora's Box?', World Trade Review (2020) 19(1), 123

7 See for example, The White House, National Security Strategy of the United States (2022), <https://bidenwhitehouse.archives.gov/wp-content/uploads/2022/10/Biden-Harris-Administrations-National-Security-Strategy-10.2022.pdf?> accessed 20 May 2026; European Commission, European Economic Security Strategy (2023), <https://ec.europa.eu/commission/presscorner/detail/en/ip_25_2889> accessed 20 May 2026

alignment, and they pay little or no attention to the distributive consequences these measures can have for vulnerable economies, particularly for women, informal workers, persons with disabilities, migrants and workers in developing countries.[8] They can therefore produce new hierarchies of inclusion and exclusion within the international economic order.

Governments often focus on securing or strengthening their critical sectors such as semiconductors, energy, artificial intelligence, pharmaceuticals and critical minerals, but rarely assess who benefits from these policies and who bears their costs. Although these measures are framed as tools of resilience, they also reshape the landscape of economic participation by determining which countries, industries, and actors are considered trustworthy participants in global markets and which actors are excluded.[9]

Economic security policies are exclusionary

Economic security policies are exclusionary in several ways. First, they create new geopolitical hierarchies in international trade. Friend-shoring and strategic alignment frameworks inherently divide the global economy into trusted and un-trusted actors. Countries outside strategic alliances may lose market access opportunities, investment flows, or their positions within global value chains regardless of their development needs. Developing countries, particularly those lacking geopolitical leverage, therefore risk being further marginalized in emerging trade architectures.

Second, economic security policies often privilege large firms and industrial sectors with political influence while marginalizing smaller economic actors. Compliance with new security-related regulations such as digital security or sustainability-linked due diligence requirements requires substantial institutional and financial capacity. Large multinational corporations are often better positioned to adapt to these requirements than small and medium-sized enterprises (SMEs), women-led businesses, or informal economic actors. Hence, heavy compliance cost can clearly deepen existing inequalities in market participation.

Third, economic security policies may produce exclusionary effects across labour markets and workers. Re-shoring and subsidies are frequently justified as tools to protect domestic workers and strategic industries. However, these measures can simultaneously displace workers and communities in exporting economies that depend on global value chain integration. In sectors such as textiles, electronics, agriculture, and critical minerals, abrupt diversification or other de-risking strategies may generate severe social and developmental consequences, particularly for vulnerable populations in developing countries.[10]

A number of concrete examples can clearly illustrate how economic security policies can negatively impact the interests of vulnerable communities.

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8 Shiro Armstrong, Mireya Solís, Shujiro Urata, 'Economic Security and New Industrial Policy', Asian Economic Policy Review (2025) 20(2), 265

9 Leonard Schütte, 'Economics: Trade Off', Munich Security Report (2024), <https://securityconference.org/en/publications/munich-security-report-2024/economics/> accessed 19 May 2026

10 Amrita Bahri, Trade Agreements and Women: Transcending Barriers (Oxford University Press, 2025)

The first example can be that of critical minerals and protection of indigenous communities. Economic security policies can often produce deeply exclusionary outcomes, particularly in the global race to secure critical minerals necessary for clean energy transitions and technological competitiveness. As governments increasingly seek access to lithium, cobalt, nickel and rare earth minerals to support electric vehicles, batteries and renewable energy technologies, the protection of Indigenous communities and their rights has frequently been sidelined.[11] Many of these minerals are located on or near Indigenous lands in regions such as Latin America and Africa, leading to large-scale extraction projects that have resulted in displacement, environmental degradation and serious violations of Indigenous land and human rights.

Lithium extraction in the "Lithium Triangle" of Argentina, Bolivia and Chile has been linked to the depletion and contamination of scarce water resources that Indigenous communities depend upon for agriculture, livestock and daily survival.[12] In several cases, mining activities have proceeded without obtaining the free, prior and informed consent of affected Indigenous peoples, despite international human rights obligations.[13] Similarly, cobalt mining in the Democratic Republic of Congo has been associated with exploitative labour conditions, environmental harm and the destruction of local livelihoods, disproportionately affecting already marginalized communities.[14] These extractive projects often prioritize the economic and strategic interests of states and multinational corporations while leaving Indigenous populations with reduced access to clean water, sanitation, food security and traditional livelihoods.

Another example is that of restrictions on foreign investment, investment security policies and screening mechanisms that can also generate exclusionary consequences for marginalized groups. In recent years, many governments have expanded investment screening frameworks to restrict or closely scrutinize foreign investments in sectors such as infrastructure, technology, energy, healthcare and natural resources.[15] While these measures aim to prevent undue foreign influence and safeguard strategic assets, they frequently fail to account for their broader social and developmental impacts. In developing countries in particular, stricter investment restrictions and growing geopolitical uncertainty can reduce the flow of foreign capital into sectors that are critical for employment generation, infrastructure development and public services. This can disproportionately affect women, persons with disabilities and Indigenous communities, who are often already excluded from stable economic opportunities and rely heavily on low-skilled employment, publicly-funded social protections, and community-based development projects. For example, reduced foreign investment in labour-intensive industries such as

[11] Muhammad Sikandar Ali Chaudary, 'Lithium dreams, local struggles: Navigating the geopolitics and socio-ecological costs of a low-carbon future', Energy Research & Social Science (2025) 121, 103952

[12] Oliver Hailes, 'Lithium in International Law: Trade, Investment, and the Pursuit of Supply Chain Justice', Journal of International Economic Law, (2022) 25(1) 148.

[13] S. James Anaya, 'Mining Association Position Statement on Indigenous Peoples: Respect for Their Rights Advanced, with Some Shortcomings, Colorado Environmental Law Journal, (2025) 36(2), 197.

[14] Hailes (see note 12)

[15] Mikko Rajavuori, Kaisa Huhta, 'Investment screening: Implications for the energy sector and energy security', Energy Policy, (2020) 144, 111646.

textiles, manufacturing and services can lead to significant job losses for women, who constitute a large proportion of workers in these sectors across many developing economies.[16]

A third relevant example could be that of how export restrictions, unilateral tariffs and other trade-restrictive measures adopted in the name of economic security can have disproportionate consequences for persons with disabilities by limiting their access to essential assistive technologies, medical devices and medicines. As governments increasingly impose export controls and trade barriers on strategically important goods — including semiconductors, advanced technologies, pharmaceuticals and medical products — the availability and affordability of products relied upon by persons with disabilities can be significantly affected, particularly in developing countries that depend heavily on imports.[17]

Assistive technologies such as hearing aids, wheelchairs, prosthetics, screen readers, communication devices and accessible digital technologies often rely on complex global supply chains and imported components, and they are already quite scarce for the rapidly growing population with disability in the developing world. Export restrictions or tariffs on these products or their underlying technologies can further increase their costs, delay access and reduce availability for vulnerable populations already facing economic and social barriers.[18] For example, during the COVID-19 pandemic, export restrictions on medical supplies and pharmaceutical products disrupted global access to essential healthcare goods, disproportionately affecting individuals with disabilities and chronic health conditions who rely on continuous access to medicines and medical equipment.[19]

Final thoughts

Inclusion should not be viewed as external to economic security. Rather, inclusion is an essential component of long-term resilience and sustainability in the international trading system. Accordingly, the article proposes that the design and implementation of future economic security governance must integrate inclusion considerations because better inclusion can support the objectives of economic security policies and its non-consideration could exacerbate the current exclusion and inequality.

The current economic security strategies prioritize resilience over inclusiveness. Governments may argue that national security obligations toward domestic populations justify prioritizing resilience over inclusiveness. The problem, however, lies in how resilience is conceptualized. Current approaches often equate resilience with control, localization, and selective exclusivity. Yet resilience can also be understood in more inclusive terms. Economies that are diversified across multiple actors, regions, and

[16] Martin Russell, 'Textile workers in developing countries and the European fashion industry: Towards sustainability?' (Briefing, European Parliament), European Parliamentary Research Service, (PE 652.025 – July 2020), <https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/652025/EPRS_BRI(2020)652025_EN.pdf> accessed 21 May 2026

[17] Khater, Maya & Sayed, Karem & Imad, Dina & Chami, Yassine & Aly, Hossam, 'The role of assistive technology in reinforcing the rights of persons with disabilities to employment from a legal perspective', International Journal of Law and Management (2025), <https://doi.org/10.1108/IJLMA-04-2025-0151> accessed 20 May 2026

[18] Amrita Bahri, 'Trade Agreements and Disability Inclusion: Demystifying the Disconnect between Barriers and Policy Solutions', United Kingdom Foreign, Commonwealth and Development Office (2024)

[19] Manasvini Ramakrishnan, Pooja Gopal Poojari, Muhammed Rashid, Sreedharan Nair, Viji Pulikkel Chandran, Girish Thunga, 'Impact of COVID-19 pandemic on medicine supply chain for patients with chronic diseases: Experiences of the community pharmacists', Clinical Epidemiology and Global Health", (2023) 20, 101243.

sectors may be less vulnerable than systems dependent on concentrated industrial champions. Inclusion, therefore, should not be seen as competing with resilience; rather, it can strengthen resilience.

Security is not only about protecting states from external threats; it is also about ensuring that economic systems remain socially sustainable and politically legitimate. Policies that generate widespread exclusion, inequality, or economic marginalization may ultimately undermine the very stability they seek to preserve. Inclusion should therefore be recognized not as an obstacle to economic security but as one of its foundations. Hence, in addition to asking what economies must be protected from, it is also important to ask who is protected, who benefits, and who is left behind.

Inclusion is not a moral add-on; it is an element of long-term economic security itself. Current economic security policies are not inclusive, and future policies should be crafted with inclusion in mind.

CHAPTER 08

Modern High-Tech Trade Networks: BRICS and G7 in the New International Order

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Abstract:

This discussion paper develops a synthetic reflection on a series of research articles examining the redefinition of global trade patterns in the context of the rise of BRICS+ and its contrast with the hegemonic economies grouped around the G7. Building on a unique bilateral trade dataset and structural gravity models, this work discusses how export patterns are being reshaped across destination blocs and according to the technological content of traded goods. Particular attention is given to the differentiated insertion of Latin American and ASEAN economies, whose productive structures reveal contrasting possibilities for technological upgrading. The evidence reviewed points of persistent structural constraints. While both BRICS and G7 economies continue to demand natural resources exports from Latin America, ASEAN economies display stronger participation in high-technology manufacturing. Research and development (R&D) and industrial capabilities may support higher-technology export performance; however, their effects remain limited when countries are locked into resource-based specialization. These constraints appear especially pronounced in exports directed toward G7 markets. The paper argues that BRICS may operate as an alternative trade and geopolitical formation, not as a conventional trade agreement, thus rather as a bloc capable of shaping trade patterns outside the formal multilateral trade regime.

Keywords: China, BRICS+; trade; investment; technical goods and innovation; geopolitics

JEL Codes: F14, F53, F61, O33, O38

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1. Introduction

While the creation of the BRICS was in 2009, events have more recently precipitated a renewed enthusiasm in the international sphere regarding the potential role of this group in a context marked by geopolitical disruption, trade tensions, and growing dissatisfaction with the existing global economic order. This renewed interest has been reflected not only in the consolidation of the original BRICS countries (Brazil, Russia, India, China, and South Africa), but also in the growing willingness of other Global South countries to join or associate themselves with the group. In 2024, Egypt, Ethiopia, Iran, Saudi Arabia, and the United Arab Emirates joined the original members, followed by Indonesia in 2025, further expending the BRICS+ configuration. This enlargement opened the possibility that BRICS+ could become a relevant actor in the current international scenario, particularly as an alternative pole of coordination for developing economies.

There is much discussion in the interdisciplinary literature as to the role of China in multilateralizing its global positioning through BRICS+ and how this may contribute to a more multipolar form of global governance. At the same time, the importance of Chinese influence remains uncertain. The heterogeneity of the countries entering or seeking proximity to BRICS+, in terms of income levels, productive structures, political regimes, and development strategies, makes it difficult to define whether this grouping should be understood as a coherent geopolitical bloc, a loose diplomatic platform, a development coalition, or an emerging trade network.

Despite the enthusiasm about the expansion of BRICS+, there remains considerable uncertainty regarding the role this group could play in the reconfiguration of international order. The existing international order has been historically shaped by the liberal democracies grouped around the G7. Emerging in the early 1970s after the collapse of the Bretton Woods system, the G7 (France, Italy, Germany, Japan, United States, United Kingdom, and Canada) was formed as a mechanism for international coordination among leading industrialized economies seeking to address global instability and preserve the conditions for a new economic order (Guzman and Stiglitz, 2024). Over time, these countries consolidated their economic influence during the period associated with the Washington Consensus, promoting both liberal democratic values and a specific architecture of international economic governance, supported by institutions such as the International Monetary Fund and the World Bank.

Within this context, BRICS emerged with an ambiguous and still unsettled position. On the one hand, the group has articulated principles of South-South cooperation, demands for reform of international financial institutions, and the construction of a new global economic landscape (Cochrane and Zaidan, 2024). On the other hand, BRICS+ has not yet developed a fully institutionalized framework with a clearly defined economic, political, or trade agreements of its members. Nevertheless, BRICS+ has become increasingly relevant as a symbolic and material expression in what has been called the emergence of a new multipolar order (UNCTAD, 2026).

In the current context of institutional disorder, the trade war between China and the United States, and the potential erosion of US international hegemony, BRICS+ can be interpreted as part of a broader

process of international reconfiguration. One central dimension of this reconfiguration concerns the organization of global trade. The hegemony of the G7 is not based only on political power, but also on its position at the technological frontier and on the dominance of industrialized economies in the production and control of higher-technology goods. This position has increasingly been challenged by China and by other emerging economies such as India. In this sense, BRICS+ raises important questions about whether new geopolitical alignments can alter existing trade patterns, particularly for countries in the Global South.

This discussion paper builds on a set of research articles that examine the relationship between BRICS, G7, China, and technological trade. The discussion focuses on two broad areas. First, we examine whether BRICS and G7, as destination markets for exports, reproduce or transform trade patterns when exports are disaggregated according to their technological content, following the classification proposed by Lall (2000). This question is especially relevant for comparing regions with different productive structures. Latin American economies have historically concentrated their export baskets in natural resources and resource-based products (Silva Neira and Wu, 2026), while ASEAN economies have developed stronger participation in manufacturing exports, particularly in medium-technology sectors. Comparing these regions allows us to assess whether BRICS and G7 markets generate differentiated opportunities for technological upgrading or whether they reproduce existing patterns of asymmetric insertion.

Second, this paper discusses the role of China as a central actor within BRICS related trade transformations. China occupies a distinctive position within the bloc. It is simultaneously a technological competitor to G7 economies, a major destination for Global South exports, and a central supplier of medium- and high-technology goods. Previous work on China-BRICS trade suggests that the effects of R&D and industrial capabilities on technological exports are mediated by the productive structure of the countries involved and by their integration into Chinese-centered trade networks (Abreo et al., 2025). This points to the necessity of understanding BRICS as a geopolitical coalition and also as a possible trade formation operating outside the formal architecture of the multilateral trade regime.

The article proceeds as follows. The following section reviews the empirical strategy developed in the related research articles, focusing on structural gravity models, technological classifications of exports, and the use of indicators of R&D and industrial capabilities. The subsequent section discusses the main empirical findings across Latin American-, ASEAN-, and China-BRICS trade (Silva Neira and Wu, 2026; Abreo, Silva Neira, and Wu, 2025) and concludes by reflecting on whether BRICS+ represents a genuine alternative for technological upgrading in the Global South or whether it remains constrained by the same structural hierarchies that have historically shaped global trade.

2. Methodological approach and empirical evidence

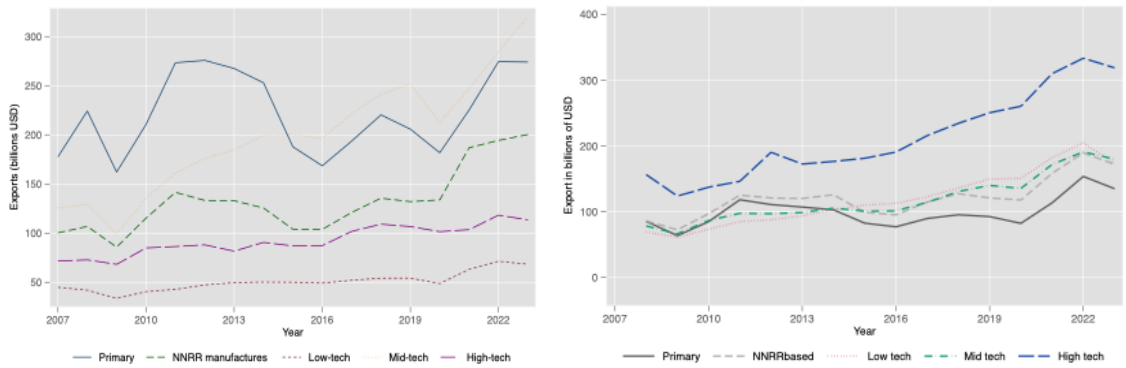
The empirical evidence discussed in this discussion paper comes from a set of related research articles that examine trade patterns between developing economies, BRICS, and the G7. Although each article

focuses on a different regional, they share a common methodological strategy. The analysis is based on the estimation of gravity equations to understand bilateral trade flows. These flows are constructed using the BLOCS database, complemented with bilateral product-level trade data from BACI and indicators of technological capabilities from UNCTAD's Frontier Technology Readiness Index (UNCTAD 2025). Exports are disaggregated according to their technological content, following Lall's classification, which distinguishes between primary goods, resource-based manufactures, low-technology manufactures, medium-technology manufactures, and high-technology manufactures (Lall, 2000). This classification allows us to examine not only how much countries export, but also what type of goods they export and whether their insertion into BRICS and G7 markets is associated with different technological profiles.

The empirical strategy relies on structural gravity models estimated through Poisson Pseudo-Maximum Likelihood (PPML). This approach allows us to estimate the intensity of bilateral exports while accounting for zero trade flows, heteroskedasticity, and standard gravity dimensions such as economic size, trade agreements, bilateral trade frictions, and multilateral resistance terms. The main contribution of our specification is the incorporation of technological and productive capabilities as determinants of trade patterns. In particular, the Frontier Technology Readiness Index (FTRI) allows us to capture countries' capacity to approach the technological frontier, while its sub-indicators (R&D activity and industrial activity) make it possible to assess whether research efforts and productive capabilities are associated with higher-technology exports. Further exposition of the methods used is available in Silva Neira and Wu (2026).

The central objective is therefore twofold. First, we evaluate the determinants of exports to BRICS and G7 markets. Second, we examine whether domestic technological and productive capabilities are associated with technological upgrading in countries' export specialization patterns. To do so, the papers analyze two regions with very different productive structures: Latin America and ASEAN economies. As shown in Figure 1, Latin American economies remain highly concentrated in natural resources and resource-based exports. In contrast, ASEAN economies have advanced further in export upgrading, with a stronger orientation toward medium- and high-technology sectors.

Figure 1: Total trade from Latin-American Economies (left) and ASEAN (right)



Source: Silva Neira and Wu (2026)

The detailed estimation results are presented in Tables A1-A3 in the Appendix. In the case of Latin America (Table A1), the results show substantial heterogeneity across technological categories and destination blocs, suggesting that the distinction between BRICS and G7 markets remains analytically relevant. Overall, the effect of R&D activity on export performance appears to be limited, particularly when explaining increases in higher-technology exports. The UNCTAD Industry Activity Index seems to play a more relevant role in several specifications, indicating that productive and industrial capabilities may be more important than research efforts alone for explaining the technological composition of exports.

One of the most persistent results concerns the role of trade agreements, where a clear distinction emerges between BRICS and G7 destinations. Trade agreements with BRICS countries are associated with higher exports in several categories, especially primary goods and most manufacturing groups, with the exception of high-technology goods. Trade agreements with G7 countries are instead associated with lower exports of medium- and high-technology goods. This result is consistent with a strand of the literature arguing that countries located at the technological frontier may reproduce their technological advantages through the rules embedded in trade agreements, intellectual property regimes, standards, and broader forms of regulatory discipline (Chang, 2003; Guzman & Stiglitz, 2024). In this sense, trade agreements may not operate as neutral instruments of market access, but instead as mechanisms that shape the type of insertion available to developing economies.

In the case of ASEAN (Table A2), the FTRI does not show significant effects on exports to either BRICS or G7 markets. Although, FDI appears to matter: when ASEAN countries receive more investment from G7 economies, their exports to G7 markets increase across several technological categories, including medium-technology goods. This pattern is not observed in the same way for BRICS. As in the Latin American case, trade agreements show a clear contrast between blocs. Agreements with G7 countries are associated with lower exports of high-, medium-, and low-technology goods, while agreements with BRICS countries are associated with higher exports in these categories. This reinforces the idea that the institutional architecture of trade matters for the technological profile of exports. Taken together, the results suggest that, despite their different productive structures, both Latin America and ASEAN face constraints when exporting more technologically complex goods to G7 markets. BRICS, by contrast, raises the question of whether a different trade architecture could create more space for technological upgrading, although the evidence remains preliminary.

Finally, Table A3 presents the results for intra-BRICS+ trade with China, in order to assess China's role within the bloc's trade dynamics. The results show that BRICS+ countries with higher FDI stocks in China import fewer medium-technology goods from China, while exporting more medium-technology goods to China. Conversely, higher Chinese FDI in BRICS countries is associated with greater imports of medium-technology goods from China. These patterns are not observed for high-technology goods. The empirical results also show positive effects of R&D and industrial activity on both imports from and exports to China, although the role of industrial activity appears stronger and more consistent. This is in line with the previous estimations, suggesting that technological trade depends on research efforts,

as well as on the existence of productive and industrial capabilities capable of translating technological capacity into trade performance.

3. Conclusions

It is clear that the geopolitics of the BRICS and the G7 are changing. Trade integration with G7 and BRICS, in contrast with other regions, such as Latin America, is highly concentrated in high value products for the ASEAN region. The overall effect of R&D on trade seems to be heterogenous depending on the destination and the type of product and there are large industrial differences among the ASEAN countries. For Latin America, trade remains resource-based; however, the trade pattern with BRICS is reproducing the same export patterns as with the G7. Industrial capacity matters more than R&D spending for moving up the value chain; thus, coordinated industrial policy is significant in encouraging industrial capacity development as well as R&D.

Interestingly, having a signed trade agreement with the G7 operates as a reduction of exports of high-tech goods, whether for Latin-American or for ASEAN economies. This difference leads to an important question as to whether the BRICS represents an alternative commercial space in which developing economies face fewer constraints for expanding exports with higher technological content. The evidence does not imply that BRICS+ automatically generates technological upgrading, nor that these markets already constitute a clear alternative to the G7. The evidence rather suggests that BRICS and its expansion may operate under different trade and institutional conditions, potentially creating more room for experimentation in export diversification and technological insertion. Furthermore, for mid- and high-tech products, there is no evidence of substitution of exports (to Latin America) between G7 and BRICS. Regarding the role of China in BRICS+, investment from BRICS countries into China is associated with a reduction in imports from China. This substitution would seem to be consistent with the idea of moving up global value chains in production.

What is able to be shown through this short exposé of various empirical exercises is that the effectiveness of R&D in promoting trade depends on the existence of an industrial base. The potential contribution to technological exports boosted by R&D depends heavily upon whether the host country has reached a certain level of technological industrial capacity. While it seems like this might be the case for ASEAN in some goods, it is clearly not yet true for Latin America.

Understanding what determines trade flows based on technological content can be crucial for shaping trade policies and providing insights for industrial policy design. We have noted that while industrial policy is „en vogue“ again, there are still strong differences regarding from where these policies arrive (G7, China, or Global South). Without industrial capacity, investments in R&D, foreign or otherwise, will not be fruitful. Thanks to Trump 2.0, we have seen the increase in self-protection measures (Wu, 2005) and yet the BRICS is far from being a completely formal institution. As a result of this exercise and the current geo-political climate, we hypothesize that the use of non-formal institutions e.g., non-traditional (trade) agreements rather than formal, will become more prevalent in the future.

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Appendix

Table A1: Results for Latin American countries using subindices of R&D activity and industry activity.

	BRICS					G7				
Variables	**Primary**	**NNRR manuf.**	**Low-tech manuf.**	**Mid-tech manuf.**	**High-tech manuf.**	**Primary**	**NNRR manuf.**	**Low-tech manuf.**	**Mid-tech manuf.**	**High-tech manuf.**
R&D index	3.31	-1.46	-3.35**	-0.33	-5.27	1.18	0.79	-1.71***	-0.42	6.83**
	(2.23)	(1.48)	(1.52)	(1.89)	(3.75)	(0.86)	(1.27)	(0.51)	(1.24)	(3.15)
Industry index	0.71	-1.93**	0.25	0.14	1.57	0.30	1.75***	0.92***	1.70***	10.89***
	(1.73)	(0.88)	(1.03)	(1.04)	(2.12)	(0.49)	(0.67)	(0.32)	(0.54)	(2.57)
R&D × Industry	-3.93	0.06	4.18*	3.22	1.66	-0.41	-3.20	0.29	0.43	-17.05***
	(3.46)	(2.71)	(2.14)	(2.70)	(3.50)	(1.58)	(2.07)	(0.85)	(1.86)	(3.56)
FDI inward stock (log)	0.15***	-0.04*	0.01	-0.02	-0.03	0.01	0.01	-0.03***	0.02**	-0.01
	(0.03)	(0.02)	(0.02)	(0.01)	(0.03)	(0.01)	(0.01)	(0.01)	(0.01)	(0.02)
FDI outward stock (log)	0.01	-0.04***	-0.02*	0.01	0.01	0.03***	0.05***	0.01**	0.04***	-0.01
	(0.02)	(0.02)	(0.01)	(0.01)	(0.02)	(0.01)	(0.02)	(0.00)	(0.01)	(0.01)
Trade agreement	1.13***	0.82***	0.20*	0.22**	0.14	-0.21***	0.20	0.23**	-0.69***	-0.75***
	(0.15)	(0.14)	(0.12)	(0.10)	(0.12)	(0.07)	(0.13)	(0.09)	(0.16)	(0.29)
Distance (log)	-0.80***	-1.18***	-1.80***	-2.29***	-0.59***	-3.42***	-3.44***	-3.58***	-1.47***	-1.93***
	(0.22)	(0.17)	(0.44)	(0.14)	(0.18)	(0.19)	(0.31)	(0.15)	(0.25)	(0.36)
GDP (log)	0.10	0.87***	0.60***	0.62***	0.02	0.30**	0.57***	0.31***	0.73***	0.11
	(0.16)	(0.15)	(0.15)	(0.12)	(0.20)	(0.15)	(0.18)	(0.10)	(0.13)	(0.20)
Population (log)	-7.36***	-1.17	-4.05***	-7.08***	-3.46**	-0.68	-1.35	-0.08	0.39	-0.36
	(2.19)	(2.05)	(1.28)	(1.34)	(1.56)	(0.79)	(1.24)	(0.36)	(0.93)	(1.64)
Imports (log)	-0.15	-0.21**	-0.67**	-0.31***	0.54***	0.01	0.35***	0.21***	0.51***	0.38**
	(0.13)	(0.09)	(0.27)	(0.08)	(0.09)	(0.07)	(0.09)	(0.05)	(0.10)	(0.15)
Exports to other bloc	-0.23	0.47**	0.64***	0.28***	0.44***	0.04	0.00	0.10***	0.17***	0.09
	(0.26)	(0.19)	(0.11)	(0.09)	(0.12)	(0.05)	(0.09)	(0.03)	(0.06)	(0.08)
Constant	205.60***	17.66	105.20***	177.70***	84.04**	46.21***	42.84	27.06***	-28.31	22.10
	(57.88)	(52.12)	(31.81)	(33.67)	(39.04)	(16.99)	(27.24)	(8.02)	(23.01)	(37.67)
Observations	1,277	1,277	1,277	1,277	1,277	1,449	1,449	1,449	1,449	1,449

SE in parentheses. * p<0.10 ** p<0.05 *** p<0.01 FE: year, importer, exporter Note: estimates performed using STATA PPML 2008-2023. Multilateral resistance fixed effects are included. Source: Silva Neira and Wu (2026)

Table A2: Results for ASEAN countries using subindices of R&D activity and industry activity

	Low-tech manuf.		Mid-tech manuf.		High-tech manuf.	
Variables	**BRICS**	**G7**	**BRICS**	**G7**	**BRICS**	**G7**
Frontier Technology Readiness Index (origin)	1.22	-0.10	-0.15	-0.98	1.13	-0.13
	(1.10)	(0.63)	(0.96)	(0.92)	(1.13)	(0.72)
FDI inflows (log)	0.03	0.04***	-0.07*	0.10***	0.02	0.07***
	(0.02)	(0.01)	(0.04)	(0.01)	(0.02)	(0.01)
FDI outflows (log)	-0.01	0.04***	0.05	0.02	0.03	0.04***
	(0.03)	(0.01)	(0.04)	(0.02)	(0.02)	(0.01)
Trade agreement	1.10***	-0.32***	1.07***	-0.30**	0.41***	-0.49***
	(0.24)	(0.10)	(0.23)	(0.12)	(0.12)	(0.08)
Distance (log)	-1.09***	-2.96***	-1.07***	-2.81***	-0.76***	-0.63**
	(0.20)	(0.19)	(0.31)	(0.27)	(0.27)	(0.27)
GDP (log)	0.41**	0.41***	1.02***	1.45***	0.98***	0.63***
	(0.17)	(0.14)	(0.13)	(0.23)	(0.12)	(0.14)
Population (log)	-1.06	2.14***	-1.58	-2.02*	1.12	1.18
	(1.73)	(0.76)	(1.88)	(1.17)	(1.31)	(1.06)
Constant	30.70	-25.80*	18.36	23.86	-49.51	-32.73
	(42.50)	(14.65)	(44.93)	(23.72)	(32.52)	(21.94)
Observations	583	578	583	578	583	578

SE in parentheses. * p<0.10 ** p<0.05 *** p<0.01 FE: year, importer, exporter Note: estimates performed using STATA PPML 2008-2023. Multilateral resistance fixed effects are included. Source: Silva Neira and Wu (unpublished)

Table A3: Estimation of Imports from and Exports to China, including R&D and Industry Interaction

	Import from China		Export to China	
Variables	**Mid-tech**	**High-tech**	**Mid-tech**	**High-tech**
FDI inward stock (log): BRICS FDI to China	-0.01**	0.00	0.05***	0.07*
	(0.00)	(0.01)	(0.01)	(0.04)
FDI outward stock (log): Chinese FDI to BRICS	0.06**	0.03	0.03	-0.03
	(0.03)	(0.05)	(0.02)	(0.05)
R&D index	1.34**	3.37**	4.75***	5.21
	(0.66)	(1.33)	(1.78)	(4.46)
Industry index	1.23***	3.60***	5.60***	9.38***
	(0.43)	(0.82)	(1.28)	(2.80)
R&D × Industry	-2.98***	-3.35*	-4.22	-4.62
	(0.95)	(1.88)	(2.58)	(5.87)
GDP (log)	0.63***	0.61***	0.43***	2.40***
	(0.06)	(0.11)	(0.10)	(0.37)
Population (log)	-1.38***	-1.03**	1.00	1.29
	(0.29)	(0.62)	(0.86)	(1.60)
WTO	-0.12*	0.00	-0.38**	0.41*
	(0.06)	(0.08)	(0.15)	(0.23)
Constant	23.54	13.21	-34.12	-127.33
	(8.03)	(16.25)	(22.68)	(46.27)
Ramsey RESET test	0.08	0.57	0.43	0.88
Observations	235	235	231	231

Note: Using data and methods as described in Abreo et al (2025). Time and country fixed effects are included. Estimation method is PPML. Standard errors in brackets; * p<0.10 * *p < .05; *** p <

CHAPTER 09

The Impact of Trump 1.0 Tariffs on China's Export Upgrading: A Global Value Chain Perspective

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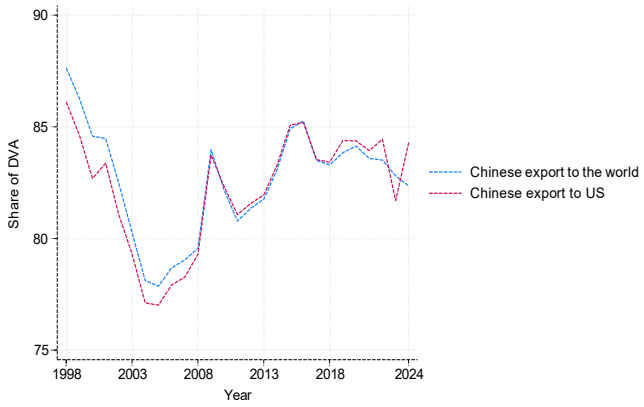
1. Introduction

In 2018, the first Trump administration applied Section 232 (national security) of the 1962 Trade Expansion Act and Section 201 (safeguards) and Section 301 (unfair trade) of the 1974 Trade Act to levy tariffs on approximately 71.4% of China's exports to the United States. While the impact of these "Trump 1.0 tariffs" on the U.S. economy has been extensively analyzed, how Chinese firms and multinational corporations adapted their production and export strategies remains less explored.

Historically, since the adoption of its reform and opening-up policy in 1978, China has embarked on comprehensive reform in all sectors and promoted both domestic and foreign direct investment (FDI), starting with labor-intensive manufacturing. China had begun to emerge as "the world's factory" by the time it acceded to the World Trade Organization (WTO) in 2001. As Naughton (2021) shows, since 2006, China has employed science and technology policy and industrial policy to promote indigenous innovation and forge ahead in strategic emerging industries such as electric vehicles, culminating in *Made in China 2025* in 2015 and *Innovation-Driven Development Strategy* in 2016. Since 2017, China has emphasized high-quality development and dual circulation strategy.

China's progress in indigenous innovation and industrial upgrading may be measured by the domestic value-added (DVA) share of its exports, as shown in Figure 1. From 1998 to 2005, China's DVA share of its exports declined rapidly in aggregate terms, as Chinese firms and multinational corporations increasingly imported foreign inputs and used cheap Chinese labor to process and assemble final products for export. From 2006 to 2016, China's DVA share of its exports reversed this trend and rose sharply, as Chinese firms and multinational corporations increased local sourcing for inputs on the intensive margin. Interestingly, since around 2017, China's DVA share of its exports has exhibited a slowly declining trend, with fluctuations.

Figure 1. China's Domestic Value-Added (DVA) Share of Its Exports, 1998-2024



This paper investigates whether and how Trump 1.0 tariffs affected this decline in China's DVA share of its exports, focusing on 17 manufacturing industries with a significant weight in China's exports to the U.S. We show that Trump 1.0 tariffs reduced the aggregate DVA share, matched by a corresponding expansion of foreign value-added (FVA) sourced from OECD countries. Facing sharply increased tariff rates with no end in sight, Chinese exporters executed a portfolio adjustment: They reduced the export of low-priced, thin-margin goods and elevated the share of higher-priced, high-margin products. Because higher-quality, advanced goods depend more heavily on sophisticated intermediate inputs from OECD countries, this compositional upgrade decreased the aggregate DVA share of China's exports. In other words, Trump 1.0 tariffs had the unintended consequence of accelerating China's export upgrading.

2. Literature Review

Trump 1.0 tariffs triggered shifts in global value chains (GVCs) through several well-documented channels. A primary area of research centers on tariff evasion and production relocation. Alfaro and Chor (2023) demonstrated that the tariffs prompted the U.S. to shift import sources toward nearshoring and friendshoring alternatives like Mexico and low-wage nations like Vietnam. This trade diversion was accompanied by Chinese firms physically relocating final assembly lines to bypass U.S. tariffs on China's exports. Ito (2023) and Iyoha et al. (2024) verified statistical patterns of roundabout trade and product rerouting through these intermediary nations. A second strand of literature documents China's export market diversification. When blocked from the U.S., Chinese exporters redirected products toward wealthy, comparable alternative markets like the European Union. Finally, scholars have analyzed the structural characteristics of China's surviving exports. Trump 1.0 tariffs disproportionately suppressed labor-intensive, low-tech, and price-sensitive products compared with capital-intensive and high-tech items.

This paper builds upon these findings by connecting product characteristics to the underlying input-output value-added structure. Prior to the introduction of Trump 1.0 tariffs, Kee and Tang (2016) showed that China's rising DVA share of its exports was driven within firms as processing plants replaced foreign inputs with lower-priced domestic intermediates on the intensive margin.

General trade theory establishes that reliance on foreign intermediates (FVA)—particularly from OECD countries—is positively correlated with higher product quality, technology intensity, and higher per-capita income of the exporting nation. By analyzing industries through granular price and margin quintiles, this paper evaluates how the asymmetric decline of low-tech, low-margin products reflected an aggregate shift toward high-tech, high-margin exports with high-quality OECD inputs on the extensive margin.

3. Empirical Methodology and Data

3.1 Econometric Estimation

To evaluate the impact of the tariffs on value-added structures across 17 manufacturing industries, this paper utilizes a panel-corrected standard errors (PCSE) approach. PCSE is ideally suited for time-series cross-sectional datasets where the number of time periods exceeds the number of cross-sectional units, industries in this case. The baseline multi-industry specification is formulated as follows:

$$DV\,A_{it} = \alpha_i + \lambda_t + \rho Tariff_{it} * Post + \gamma Tariff_{it} + \delta Post + X_{it}'\,\beta_{it} + \epsilon_{it}$$

where the dependent variable represents sequentially the DVA share, the FVA share from OECD countries, and the FVA share from non-OECD countries for industry i in year t. *Post* is a time dummy equal to 1 for the Trump 1.0 tariff period (2018 through 2024) and 0 otherwise. $Tariff_{it}$ measures the industry-specific weighted tariff rate in year t. The primary coefficient of interest is ρ on the interaction term, which isolates the specific impact of the Trump 1.0 tariffs. The vector X_{it} contains industry-specific, time-varying control variables, such as total asset, fixed asset, average wage, and the number of firms in industry i in China in year t. α_i and λ_t represent industry- and year-fixed effects to control for time-invariant industrial characteristics and year-specific shocks, respectively.

To discover the main drivers behind the aggregate trends, ordinary least squares (OLS) regressions are executed for each individual industry using the corresponding specification without panel dimensions:

$$DV\,A_t = \alpha + \rho Tariff_t * Post + \gamma Tariff_t + \delta Post + X'\beta_t + \epsilon_t$$

3.2 Data and Variables

To conduct our analysis in value-added terms, we use the OECD Inter-Country Input-Output (ICIO) database, which covers 50 industries mapped via the International Standard Industrial Classification (ISIC) Rev. 4 system. 17 manufacturing industries are extracted for the 1998–2022 period, based on their significance to China's exports to the U.S. To capture the long-term tariff effects, the ICIO tables are extended through 2024 according to the Bank of Korea's extension methodology, adjusting the 2022 structural matrices with actual 2023–2024 bilateral trade and service flows and scaling by national GDP growth rates. Value-added decomposition is performed via the exporter perspective framework established by Borin and Mancini (2023) to eliminate GVC double-counting errors.

Industry-level control variables are collected from Chinese domestic industrial statistics compiled in the CEIC database and the *China Labour Statistical Yearbook*. Mappings between the Chinese Industrial Classification (CIC 2017) and ISIC Rev. 4 are executed at the 2-digit level. Following Aggarwal et al. (2021) and Fernandes et al. (2022), the model controls for four essential domestic economic determinants of value added: domestic capital stock (proxied by total assets and fixed assets), foreign direct investment (proxied by owners' equity and foreign capital holdings), skilled/unskilled labor intensity (proxied by industry average wages), and the total number of operating firms within the industry. Capital and FDI figures are converted to logs and denominated in Chinese yuan (RMB) to control for currency fluctuations. Missing data points for late-horizon years are filled via statistical interpolation.

Bilateral tariff data is constructed using 8-digit HS product lines from WTO Tariff Analysis Online and U.S. DataWeb. Because U.S. customs levy ad-valorem tariffs directly on FOB values, official U.S. customs values from USA Trade Online are utilized as weights to aggregate product-level tariffs into 17 macroeconomic ISIC industry groups. The tariff variable incorporates chronological variations across historical protective actions, including the Section 201 Bush steel tariffs (2002–2003), Section 421 Obama tire tariffs (2009–2012), Sections 232 and 301 Trump tariffs (2018–2024), and the Biden administration's 2024 four-year review tariff increases on electric vehicles and critical minerals. High-volume specific or compound tariff lines on narrow goods like washing machines and solar panels are excluded from the ad-valorem calculations due to valuation complexities.

4. Empirical Results and Discussion

4.1 Aggregate and Industry-Specific Regressions

Table 1 provides the core aggregate regression results utilizing both unweighted and weighted models. The weighted specifications utilize 2016 pre-tariff export volumes as weights to avoid statistical distortion from economically minor manufacturing industries.

Table 1. Impact of Trump 1.0 Tariffs on the DVA Share of China's Exports to the U.S.

Dependent Variable	DVA Share (Weighted)	FVA OECD Share (Weighted)	FVA non-OECD Share (Weighted)	DVA Share (Unweighted)	FVA OECD Share (Unweighted)	FVA non-OECD Share (Unweighted)
Tariff	-0.542 *(8.908)*	10.621 *(7.562)*	-7.362** *(3.400)*	4.455 *(7.341)*	-1.074 *(4.271)*	-3.254 *(4.103)*
Post	6.024*** *(2.006)*	-1.885 *(1.291)*	-3.625*** *(0.926)*	9.210*** *(3.156)*	-6.751*** *(1.206)*	-2.013 *(2.073)*
Post x Tariff	**-17.542**** *(7.743)*	**15.320**** *(5.598)*	**2.314** *(3.179)*	-5.483 *(8.021)*	5.134 *(3.872)*	-0.090 *(5.330)*
Log Capital	-0.856 *(0.655)*	0.699 *(0.522)*	0.192 *(0.292)*	1.472** *(0.701)*	0.161 *(0.325)*	-1.802*** *(0.541)*
Log FDI	-1.535*** *(0.508)*	0.435 *(0.403)*	0.795*** *(0.227)*	-1.471*** *(0.551)*	0.683*** *(1.194)*	0.697 *(0.453)*
Wage	-0.0001** *(0.00003)*	-0.00003* *(0.00002)*	0.0001*** *(0.00001)*	-0.0002*** *(0.00004)*	0.00005*** *(9.57e-06)*	0.0001*** *(0.00003)*
No. of Firms	0.0001*** *(0.00002)*	-0.0001*** *(0.00002)*	-0.0001*** *(0.00001)*	0.0002*** *(0.00003)*	-0.0001*** *(0.00001)*	-0.0001*** *(0.00002)*
Constant	101.400*** *(6.210)*	4.899 *(5.375)*	-4.130* *(2.367)*	74.200*** *(8.142)*	7.261* *(4.223)*	20.461*** *(6.266)*
FE Included	Industry / Year	Industry / Year	Industry / Year	Industry / Year	Industry / Year	Industry / Year
Observations	458	458	458	458	458	458

Note: Standard errors in parentheses. Significance levels: * p < 0.1, p < 0.05, *** p < 0.01.

The unweighted model shows no significant shift in value-added shares. However, the weighted model shows a highly significant negative coefficient (-17.542) on the interaction term for China's DVA share. Crucially, this reduction in domestic content is matched by a strong, statistically significant increase in FVA share of China's exports sourced from OECD countries (15.320). In contrast, the interaction term for non-OECD foreign value-added share remains statistically insignificant. This empirical result shows that the aggregate post-2018 drop in China's DVA share was driven by an increased share of advanced inputs imported from OECD countries.

To isolate the specific manufacturing industries driving this change, independent OLS regressions were run for all 17 manufacturing industries. Table 2 shows that four predominant export industries—

representing 52% of China's total exports to the U.S. in 2020—experienced a significant tariff-induced drop in DVA share alongside an expansion of OECD FVA share.

Table 2. Impact of Trump 1.0 Tariffs by Industry

	(1)	(2)	(3)
	DVA Share	FVA OECD Share	FVA non-OECD Share
Computers	-1640.6***	1228.7***	441.1
	(488.8)	(257.2)	(263.5)
Textiles	-175.4	132.2***	36.8
	(121.2)	(28.5)	(98.3)
Fabricated metals	-872.5***	462.7***	368.6**
	(216.7)	(88.3)	(135.6)
Motors	-832.3***	431.5***	383*
	(261.1)	(1.61134)	(197.2)

Note: Table reports regression estimates on the coefficient of *Post x Tariff*. Significance levels are indicated by $*<.1$, $**<.05$, $***<.01$.

While small sectors like Food, Paper, and Pharmaceuticals showed some statistically significant variation, their minuscule collective share of total trade (around 1% each) implies they exerted a negligible influence on the broader structural shift.

4.2 Product-Level Mechanism: Quintile Price and Margin Analysis

An expansion in OECD FVA can stem from two distinct phenomena: an intensive upgrade within specific product lines, or an extensive compositional shift toward premium products that require a higher share of advanced foreign inputs. To test for an extensive compositional shift, export products at the 6-digit HS level were divided into price quintiles based on their pre-tariff 2016 FOB unit values (price per kilogram), which serve as a proxy for product quality and technical sophistication.

Granular tracking of these fixed groups from 2014 to 2024 confirms the extensive compositional shift hypothesis. Across the computers, fabricated metals, and motors, low-priced export items (specifically the 3rd quintile for computers, the 1st quintile for fabricated metals, and the 2nd quintile for motors) fell sharply in the U.S. market after 2018. In contrast, premium, high-priced product groups (the 4th and 5th quintiles) remained resilient. To ensure this was not a generic global trend, these patterns were evaluated against China's exports to the Rest of the World (ROW). In the ROW market, these low-priced quintiles did not decline, demonstrating that the product-mix adjustment was a direct reaction to U.S. tariff pressures.

Linking these price quintiles to financial performance reveals the underlying business logic. By calculating the product-level margin (profit-to-cost ratio), export prices are split into DVA components, FVA components, and corporate markups. Because the 25% ad-valorem U.S. customs duties are levied on the gross value, not China's domestic value-added, thin-margin items cannot absorb the added cost without losing market competitiveness. For example, suppose that a Chinese firm imports cashmere from Mongolia and processes and exports cashmere sweaters to the U.S. Although a cashmere sweater is a high-priced item, China's domestic value-added share of this export is small, consisting largely of labor cost and a thin margin. Because U.S. tariffs are levied on the gross value of China's exports, not China's domestic-value added, such a product will not be competitive in the U.S. market after the introduction of sharply increased tariffs on Chinese goods.

Cross-referencing price quintiles with industry margins shows that the sharpest export contractions occurred within product blocks characterized by both low unit prices and thin margins. Chinese exporters reduced low-margin items while maintaining, or even increasing, higher-priced goods where larger margins could absorb the tariff shocks. This export portfolio adjustment altered the structural value balance: as low-tier goods vanished, the aggregate export share tilted toward high-value, high-tech items that depend structurally on advanced intermediate inputs from OECD countries.

5. Comparative and Robustness Analyses

5.1 Comparison with Bush and Obama Tariffs

The product-portfolio adjustments observed under Trump 1.0 tariffs stand in stark contrast to the historical dynamics of the 2002 Bush Section 201 steel tariffs and the 2009 Obama Section 421 tire tariffs. Both prior interventions were enacted with clear, explicit three-year phase-out schedules. Because these timelines provided predictability, affected entities treated the tariffs as temporary shocks. Under the Bush safeguards, China's basic metal exports to the U.S. saw targeted contractions in low-tier lines (1st and 2nd quintiles), which were successfully diverted to the ROW market. Similarly, the Obama tire tariffs triggered standard market diversification, as affected mid-tier rubber and plastic lines (3rd and 4th quintiles) shifted from the U.S. to alternative importing countries.

In contrast to these previous tariffs, the Trump 1.0 tariffs lacked any announced exit schedules. Facing permanent institutional adjustments, Chinese manufacturers had to look beyond simple trade diversion and engage in long-term portfolio optimization. Under Trump 1.0, while the broad scope of duties hit up to 94% of basic metals and 69% of rubber and plastics, low-priced and low-margin goods fell systematically without a matching diversion to the ROW. This divergence in outcomes shows that long-term tariff uncertainty fundamentally altered corporate strategies, forcing product portfolio rationalization rather than simple geographical trade diversion.

5.2 Robustness Checks: Tariff Exclusions

To ensure the empirical results are resilient against policy variations, the baseline tariff variables were reconstructed to account for the official U.S. Trade Representative (USTR) tariff exclusion lists. Between December 2018 and August 2020, thousands of targeted imports were granted temporary tariff exemptions across Lists 1 through 4. Given that these exemptions occurred at highly disaggregated levels, over 1,100 specific products were mapped to 10-digit HS codes to calculate an adjusted "minimum applied tariff rate" for the 17 core manufacturing industries.

Time Horizon	**Top Exemption Sectors (By Product Count Share)**
First Phase (2019–2020) *(~1,177 Products Exempted)*	Machinery: 25% Electrical Equipment: 13% Computers/Electronics: 11%
Second Phase (2021–2024) *(~300 Products Exempted)*	Machinery: 16% Electrical Equipment: 15% Computers/Electronics: 14% Textiles/Footwear: 13%

Re-running the multi-industry PCSE models and individual OLS models with these adjusted tariff rates confirms the robustness of the primary findings. The aggregate structural shift toward advanced OECD value-added remains robust and statistically unaltered.

The only statistically significant change occurs within the textile sector: When utilizing the adjusted exclusion tariffs, the negative DVA interaction coefficient gains statistical significance, indicating an even clearer negative effect of Trump 1.0 tariffs on the DVA share than initially estimated. Furthermore, analyzing the composition of the exclusion lists strengthens our core thesis. Excluding the computer industry, the product exemptions granted for electrical equipment, machinery, and textiles were heavily concentrated within low-priced product quintiles. Despite receiving targeted tariff relief, these low-priced products still saw a drop in export volume. This confirms that long-term strategic adjustments and broader market forces overrode temporary tariff exemptions, sustaining the structural shift toward premium, OECD-input-dependent manufacturing.

6. Conclusion

This paper demonstrates that the Trump 1.0 tariffs significantly reshaped the internal value-added structure of Chinese manufacturing exports to the United States. By tracking the value composition of 17 manufacturing industries from 1998 through 2024, the empirical results show a significant contraction in China's DVA share since the introduction of Trump 1.0 tariffs in 2018, matched by a corresponding expansion of FVA share imported from OECD nations.

The underlying mechanism is a product-mix adjustment. Facing steep, indefinite increases in ad-valorem tariffs from the U.S., Chinese manufacturers and global retail supply networks phased out low-priced, thin-margin goods that could not absorb the tariff burdens. Instead, they focused on high-priced,

premium lines with sufficient margin resilience. Because advanced, high-tier goods require sophisticated intermediate inputs and specialized components from OECD countries, this extensive product upgrade increased the share of OECD value-added in Chinese exports.

Ultimately, these dynamics reveal an unintended consequence of U.S. trade protectionism. While the tariffs achieved the political goal of lowering nominal import values from China, they accelerated a structural shift within Chinese exports toward premium product lines, relying on a greater share of inputs from OECD countries, at least for the time being. Of course, not every country can effectively upgrade its exports when faced with sharp increases in tariff rates. Moreover, it remains to be seen whether this Chinese adjustment on the extensive margin will lead to the eventual replacement of OECD inputs with China's domestic inputs.

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CHAPTER 10

How Can Africa Benefit from WTO Reform? Conclusion of the Yaoundé Academic Conference ahead of MC14

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Abstract

The current trading system faces numerous challenges relating to the lack of significant progress in finalising the Doha Development Agenda, the inability to effectively deal with the fallout from exogenous shocks, such as Covid-19 pandemic, the geopolitical tensions, the escalating trade conflict, the recours to unilateralism, and reluctance to integrate new issues related to digital transformation, climate change and artificial intelligence, particularly for developing countries and Least Developed Countries(LDCs).

As a prelude of MC14, the IRIC WTO chair has organized in collaboration with OBREAL Global Observatory (OBREAL) and the WTO Chairs Programme (WCP) a successful academic conference on the theme: «On the way to CM14: stakes and challenges of a multilateral trading system reform that benefits Africa » on 19-20 march 2026 in Yaoundé-Cameroon. The conference was organised in a hybrid format (in-person and online) and was attended by african WTO chairholders and other regions of the world. At the end of conference, several recommendations were made by the participants. They are linked to reforms of multilateral trading system for fairness, inclusive and sustainable development, and for stable and transparent multilateral system.

1. Introduction

Since its establishment in 1995, the WTO has played a prominent role in boosting international trade and investment and helping member countries to leverage the benefits of globalisation. Between 1995 and 2023, the value of world merchandise trade increased by 267 per cent and trade as a share of global GDP increased from 19.9 to 29.9 per cent (WTO, 2024).

However, the multilateral trading system faces ongoing criticism for its apparent inability to drive more equitable trade and to effectively deal with the fallout from exogenous shocks, such as the recent Covid-19 pandemic, the geopolitical tensions(Russian–Ukrainian war, middle east tensions, etc.), and the escalating trade conflicts between the world's major economic powers and recours to unilateralism.

[1] World Trade Organzation Chairs Programme.

Africa is the continent most severely affected by such crises. Despite having 17 per cent of the world's population, the African continent accounts for just 2.3 per cent of global trade. African countries often denounce the 'unfair' rules that underpin the multilateral trading system, which, they argue, favour developed countries and their multinational corporations.

The WTO's Doha Development Agenda tabled in 2001 in Doha, Qatar was intended to respond to the concerns of African countries by establishing fairer trade rules and opening up more pathways for developing countries' growth and development. Notwithstanding its strong narrative and good intentions, the Doha Agreement has still not been adopted, with negotiations having encountered numerous obstacles over the years. This has sparked many debates about the future of the multilateral trading system and, indeed, what the best way forward is for the developing world, and Africa in particular.

WTO Director General Dr Ngozi Okonjo-Iweala, speaking at a conference hosted by the Instituto Rio Branco (Diplomatic Academy of Brazil) in Brasilia in April 2022, emphasised that « multilateralism must be rethought and adapted to its purpose to meet the challenges of the 21st century ».

This call is far from new but it is becoming increasingly urgent given the speed with which the world is changing – from geopolitics to trade, investment, technology, artificial intelligence, social dynamics and the natural environment. Of course, if the multilateral trading system is to be given a new sense of purpose and direction, the WTO itself needs to undergo reform. In this context, it was therefore important on the eve of MC14 (26-29 march 2026 in Yaoundé) that the african scientific community make its voice heard by formulating concrete and convincing proposals on how the evolving global trading order can and should promote the participation of developing countries, rather than excluding them.

As a prelude of MC14, the IRIC WTO chair has organized in collaboration with OBREAL Global Observatory (OBREAL) and the WTO Chairs Programme (WCP) a successful academic conference on the theme: «**On the way to CM14: stakes and challenges of a multilateral trading system reform that benefits Africa** » on 19-20 march 2026 in Yaoundé-Cameroon.

The conference provides a key platform for discussion, debate and the formulation of concrete and coherent proposals for a stable, predictable, more inclusive and equitable multilateral trading system. The following sessions will be devoted to presenting the main results of the conference.

2. Reforming the multilateral trading system for fairness, inclusive and sustainable development

This necessarily involves the preservation and operationalization of S&DT, the development of agriculture, and the environmental and digital challenges

2.1. Special and Differential Treatment (S&DT) for more fairness in international trade

The S&DT is a cornerstone of fairness within the WTO, designed to take into account the specific situation of developing countries (DCs) and least developed countries (LDCs) by granting them special provisions. It is a legal framework put in place to correct structural inequalities between countries and facilitate development. Its legal foundation goes back to enabling clause in 1979 and includes in the founding Marrakesh Agreement. For example the WTO agreement preamble explicitly recognizes that « there is a need positive efforts designed to ensure that DCs, and especially the LDCs among them, secure in the growth in international trade commensurable with the needs of their economic development ».

Despite this legal recognition, the implementation of S&DT remains weak, fragmented, and non-binding. S&DT did not allow the inclusion of all the DCs and LDCs. The 2024 World Trade Report explicity recognize that while trade has played a crucial role in promoting global economic convergence and reducing poverty, regions like Africa have been left behind by not being able to benefit to the same extent from trade (WTO, 2024). Africa is essentially developing countries and 32 out of 44 LDCs are African.

Today, over 75% of WTO Members access S&DT, including some emerging countries. This leads to questioning the practice of “self-designation” whereby a member can declare whether or not it is a developing country. Large gaps exist between African countries and some emerging countries and considering all them as developing countries could harm the competitvity of African countries (WTO, 2022).

Three recommendations emerge:

- Clarify eligibility criteria by differentiating developing county category and by regulating the principle of self-designation ;
- Transform certain provisions of the S&DT into legally binding commitments (deadlines, technical assistance, transitional measures for former LDCs) ;
- Integrate the S&DT into rules on digital trade, the environment, and industrialization.

Figure 1 : Origin and evolution of legal framework of S&DT

S&DT : Origin and evolution

In the original GATT (1947), there were no provisions relating to preferences in favor of developing countries. The S&DT was illegal, even if it wasn't expressly prohibited. The legal consideration of the status of developing countries first began in 1955 with the amendment of Article XVIII which introduces the title « Government Assistance to Economic Development », which accorded limited flexibility to developing countries in the use of trade policy instruments deviating from GATT obligations. The adoption of Part IV on Trade and Development (Arts. XXXVI-XXXVIII) of GATT in 1965 marks a decisive step in the recognition the special economic needs of developing countries and asserts the principle of non-reciprocity. This principle then become one of the most important pillars of S&DT in the the multilateral trade system. To achieve conformity with the MFN clause of GATT 1947, a number of developed countries established the mechanism of waiver Generalised System of Preferences (GSP) in 1971. However, the non-reciprocity is neither automatic nor mandatory, it is only accepted when developed countries negotiate preferential concessions with developing countries.

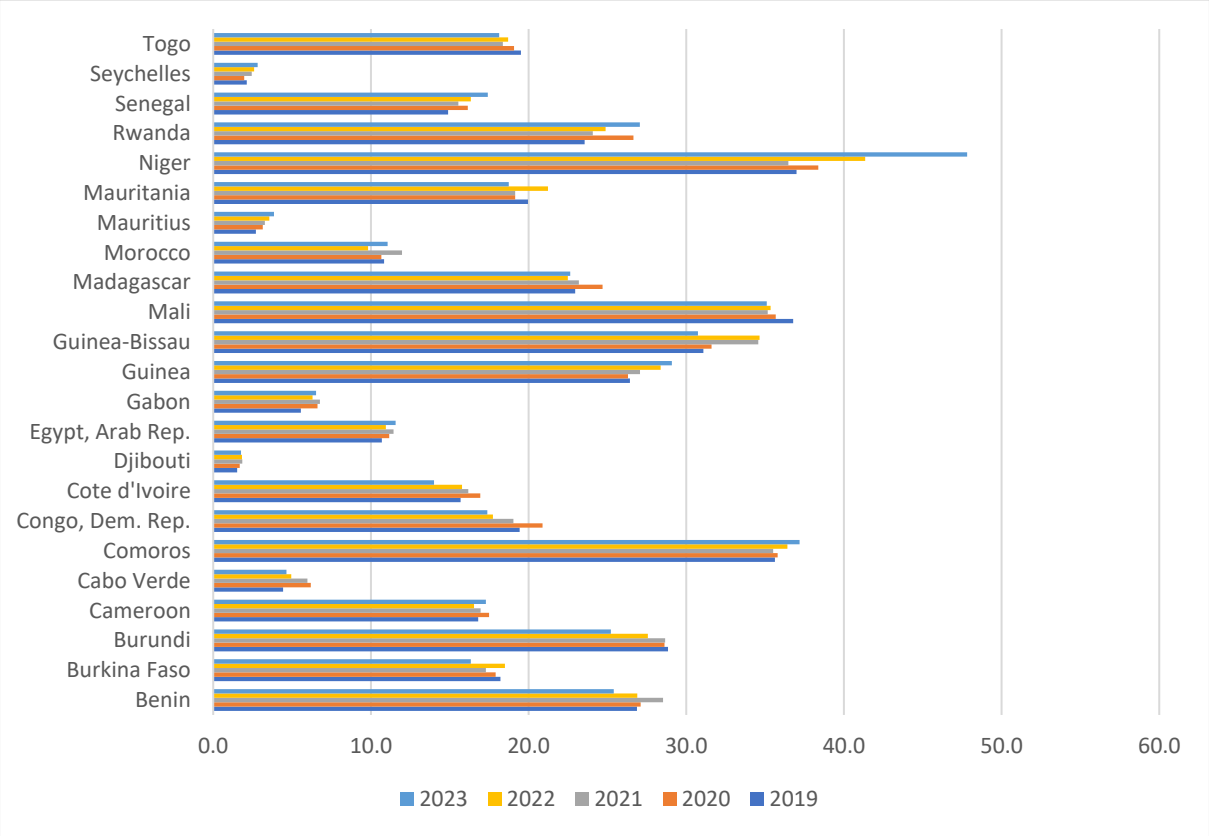
To make preferences mandatory and permanent, the Contracting Parties of GATT (1947) adopted on November 28, 1979, the decision titled "Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries ". Commonly known as the Enabling Clause, this decision established a permanent basis for preferential tariff treatment of developing countries, and dispensed with the need for waivers. However, the Enabling Clause reveals two main limitations : Lack of legally binding character, at least in terms of opportunity, and the failure to take into account the LDCs. The WTO decision adopted on June 15, 1999 (Document WT/L/304) also known officially as the LDC Waiver allows developing countries to provide preferential treatment to goods from LDCs without being obligated to extend this preferential treatment to other WTO members. This decision was confirmed during the sixth WTO Ministerial Conference in Hong Kong in 2005.

2.2. Agriculture : addressing current imballances for more resilience

Agriculture and its related food systems are the pillar of African economies and remain the vital sector of African economies, essential for economic growth, food security, rural development, job creation and poverty reduction. In Africa, over 70% of population depend on farming for livelihoods. In countries like Comoros, Guinea-Bissau, Mali and Niger, Agriculture represents more than 30% of the economy (Figure 2).

Since the entered into force of WTO Agreement on Agriculture, trade of agricultural and food products has expanded. Between 2000 and 2022, the value of trade of agricultural products has quintupled, rising from 300 billion to 1,488 billion USD (WTO, 2024). Despite this, Africa is the continent that benefits the least from international trade in agricultural products (less than 4%). Its exports amount to only US$64 billion and its imports to US$96 billion in 2022.

Figure 2 : The contribution of agriculture to GDP in some African countries



Source : World Bank

For better integration of African countries into the global trade of agricultural products, three recommendations emerge:

- Improve market access for African agricultural products by eliminating subsidies that create serious distortions as stated at the preambule of agreement on agriculture : the objective "is to establish a fair and market-oriented agricultural trading system and that a reform process should be initiated through the negotiation of commitments on support and protection and through the establishment of strengthened and more operationally effective GATT rules and disciplines". This includes subsidies notified in the "**orange box**", such as aid linked to volumes or guaranteed prices, which continue to cause serious distortions of competition. According OECD report (2025)[2], the total support to the agricultural sector across the averaged USD 842 billion per year during 2022-24.

- The reclassification of public food security purchases (public stockholding for food security) in the "**green box**" regarding the importance of agricultural for food security. Agriculture reduces

[2] OECD (2025), Agricultural Policy Monitoring and Evaluation 2025: Making the Most of the Trade and Environment Nexus inAgriculture, OECD Publishing, Paris, https://doi.org/10.1787/a80ac398-en.

dependence on food imports, thereby ensuring food security and the resilience of communities in the face of economic crises

- The formal recognition of a "right to food resilience".

2.3. Ecological and digital transition for inclusive and sustainable development

The current global economic context is characterized by two profound changes in global trade: the development of green trade which imposing an ecological transformation of the rules of international trade and , the acceleration of digital trade and Artificial Intelligence (AI) , which is redefining modes of production, distribution and consumption in the world. For African countries, these mutations represent both opportunities for economic diversification (eg. green competitive advantage) and sources of structural vulnerabilities. It then appears necessary to:

- Reconciling environment protection and trade without creating disguised protectionism;
- Establishment of permanent multilateral rules to govern digital trade and Artificial Intelligence (AI)
- Develop digital skills.

2.4. More Policy[3]-space for industrialization

Industrial development is the central economic objectives of Africa (2063 Agenda). In line with the recommendations of the Ninth WTO ministeral conference in Bali and Thenth ministerial conference in Nairobi, WTO must help to achieve the Agenda 20263 by :

- Integrating more flexibility ;
- Eliminating export subsidies

2.5. AfCFTA, the pillar of 2063 Agenda

The African Continental Free Trade Area (AfCFTA) represents the world's largest free trade area by number of countries, with combined GDP exceeding USD 3.5 trillion. Adopted in 2018 by African Union (AU), AfCFTA is considered as a keystone initiative of the Agenda 2063 : The Africa We Want. To date, 48 of the 54 signatory countries, have deposited their instruments of ratification[4]. Well implemented, the AfCFTA can play important role in Africa trade and development. According to UNECA estimations, the implementation of TF measures within the context of AfCFTA would increase intra-African trade by 21.9% of total trade. It there necessary to :

- Fully implement AfCFTA agreement and protocols to boost intra-african trade ;

[3] https://www.uneca.org/sites/default/files/PublicationFiles/aria5

[4] https://au-afcfta.org/state-parties/

- Accelerate the harmonization and interoperability of trade rules ;
- Invest in infrastructures ;
- Increase Africa's negotiating power.

3. WTO institutional reform for stable and transparent multilateral system

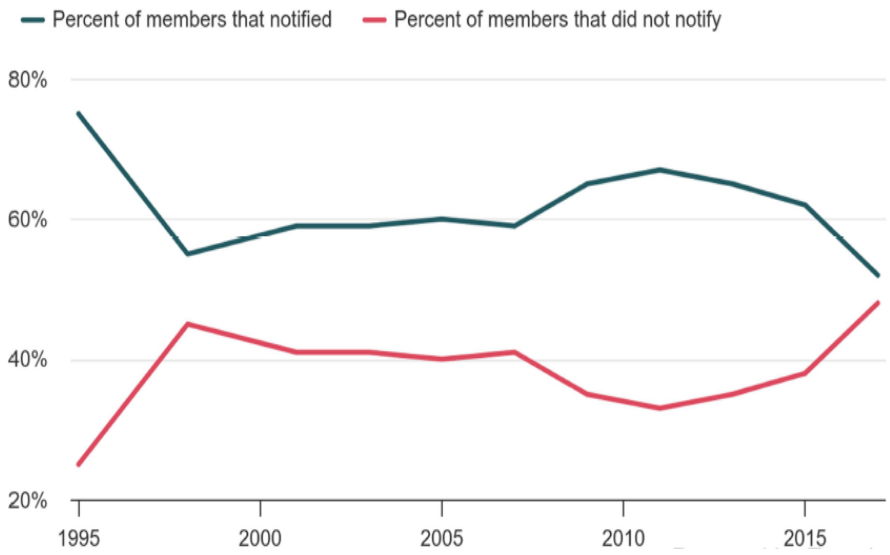
With regard to institutional reforms, its necessary to reaffirmed the importance of WTO in the governance of multilateral trading system ; but effort is needed on:

- Transparency and Decision-making processes ;
- Dispute settlement to restore WTO credibility.

3.1. Transparency and Decision-making processes

Transparency and decision-making processes are fundamental to ensures fairness and predictability of multilateral trading system. Transparency is a foundational principle requiring WTO members to publicly disclose their trade policies, regulations and subsidies. This foundational principle is undermined by the proliferation of meetings without documentation, informal decision-making, and the growing influence of non-state actors in negotiation processes.. The lack of transparency is also characterized by low member notification (figure 3).

Figure 3 : The status of annual subsidy notification to WTO



Source : Center for Strategic and International Studies (2020).

The lack of transparency limits the effective participation of the African countries. That why, we call for more simplified and transparent multilateral trade system, and accelerated decision-making processes to build a system that reflect development needs and capacities for African countries.

3.2. Dispute Settlement to restore WTO credibility

The WTO Dispute Settlement System (DSS) plays a critical role for WTO credibility by maintaining the stability and fairness of international trade law, and providing member states with a structured process for resolving trade disputes.

Since it creation in Januray 1995, 112 out of the current 166 WTO members have engaged in the WTO DSS, either as complainants, respondents, or third parties. The DSS is characterized by Africa low participation. In most cases, African countries have participated in WTO DSS primarily as respondents or as third parties. Many reasons can explain that (Jansen Van Rensburg and Visagie, 2026):

- Political constraints-fear of reprisals: African governments are hesitant to challenge their trade partners ;
- High litigation costs ;
- Limited legal expertise and capacity …

For example, in 2002, the African Group at the WTO pointed out that WTO DSS is complicated and overly expensive, which has institutional and human resource as well as financial implication. Three recommendations are suggested:

- Reforming of the WTO dispute settlement system to make it more inclusive and accessible to African countries;
- Development of international trade law and policy courses, including WTO dispute settlement, at Master's level at universities throughout Africa (African Chairs in WCP can play an important role in this) ;
- Encouragement of the initiative like John H. Jackson Moot Court Competition in Africa.

4. Conclusion

The international conference has provided a key platform for discussion, debate and the formulation of concrete and coherent proposals on how the evolving global trade order can and should empower and energize African countries, not exclude them. African chairs still believe that the stability of the multilateral trading system is fundamental to our economic wellbeing as mentioned in the preamble of Agreement establishing the WTO : "Recognizing further that there is need for positive efforts designed to ensure that developing countries, and especially the least developed among them, secure a share in

the growth in international trade commensurate with the needs of their economic development"(Agreement establishing the WTO, 1st January 1995).

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CHAPTER 11

African Economic Integration in a Shifting International Trade Order: Threats, Opportunities and Responses

Henok Asmelash[1]

1. Introduction

Although the international trade order has been in crisis mode long before the advent of the Trump Administration, the administration has intensified the crisis. For Africa, this has prompted a substantive shift in the trade regimes governing its external trade relations. The multilateral trading system and unilateral trade preference schemes that have long dominated Africa's external trade relations governance landscape are increasingly being overshadowed reciprocal bilateral trade agreements (RBTAs), which African countries negotiate separately with their external trading partners. This paper seeks to examine the nature and extent of these shifts, their implications for Africa's economic integration and the adequacy of Africa's economic integration frameworks to counter the potential threats. It argues that the African Continental Free Trade Area (AfCFTA) represents Africa's best strategic response to these shifts, but the lack of clarity around its external dimension and implementation concerns undermines its adequacy.

The paper is structured as follows. *Sections 2* explores the two prominent legal regimes that governed African countries' trade relations with the rest of the world since independence: the multilateral trading system and unilateral trade preference schemes. The continued paralysis in the former and the growing transition away from nonreciprocity to reciprocity in the latter regime raise many questions and challenges for African countries. The section highlights some of the key challenges facing African countries and their immediate responses. *Section 3* considers the rise of RBTAs and their implications for African economic integration. It shows why negotiating third-country trade agreements separately has emerged as a major cause for concern for African economic integration. *Section 4* examines African countries' strategic response to the threats posed by RBTAs and the adequacy of such responses. Section 5 offers concluding remarks.

2. The Shifting International Trade Order

2.1. Strained Multilateral Trading System

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African countries were neither part of the creation of the multilateral trading system nor particularly eager to join it in the aftermath of independence. Together with their developing country counterparts, many African countries instead sought to establish a new international trade order better suited to their developmental needs as part of the broader New International Economic Order (NIEO) movement.[2] However, the failure of the NIEO movement, coupled with other developments, eventually led most African countries to join the General Agreement on Tariffs and Trade (GATT) without any change to its fundamental features and characteristics.[3]

The Uruguay Round (1986–1994) presented the first major opportunity for African countries to address the structural imbalances embedded within multilateral trade rules. However, the Round further entrenched many of its longstanding asymmetries. The adoption of agreements such as Trade-Related Aspects of Intellectual Property Rights (TRIPS) and General Agreement of Trade in Services (GATS) expanded multilateral trade rules into areas where African countries possessed limited comparative advantage, while simultaneously imposing further implementation demands on their limited institutional capacity. Moreover, the Round produced only limited progress in areas of greatest economic interest to African countries such as agricultural market access. The WTO launched the Doha Development Round in 2001 with the stated objective of correcting the systemic imbalances of the Uruguay Round.[4] However, shifts in the global geopolitical landscape resulted in prolonged deadlock in the Doha Round negotiations. The impasse has increasingly rendered the multilateral trading system ineffective in addressing the longstanding concerns of African countries.

The 14th WTO Ministerial Conference that was meant to initiate the long-anticipated WTO reform process also concluded without agreement on either the substance or direction of reform. This latest failure has deepened the crisis in the multilateral trading system. The WTO has not only failed to update its decades-old rulebook but continues to operate without one of its central pillars: a fully functioning dispute settlement system. Major economies are now increasingly weaponizing tariffs and other trade measures in ways that are openly inconsistent with WTO rules in pursuit of national economic and geopolitical objectives. This puts the participation of African countries in the multilateral trading system at a critical juncture. Should they also disregard WTO rules in pursuit of their own economic and geopolitical interests? Or should they continue adhering to trade rules they disagree with? For now, African countries appear to have chosen the latter and defend the multilateral trading system while actively advocating for its substantial reform.

The broader question for African countries is whether they are better off without a strong rule-based multilateral trading system. Would a fragmented and increasingly power-based global trade order better serve the continent? The answer is clearly no. A shift from rule-based to power-based international trade governance further marginalizes a continent with limited power and influence on global economic

2 The Lagos Plan of Action, for example, called upon African countries to take 'measures to set up a new trading framework at the international level including agreement on new trading rules and principles'. See OAU, 'Lagos Plan of Action for the Economic Development of Africa 1980-2000' (OAU 1980), para 251(d).

3 See Nicolas Lamp, 'How Some Countries Became "Special": Developing Countries and the Construction of Difference in Multilateral Trade Lawmaking' (2015) 18 Journal of International Economic Law 743.

4 See Ministerial Declaration, WT/MIN(01)/DEC/1, adopted 14 November 2001 ('Doha Declaration').

governance. This makes the active involvement of African countries in reforming and reinvigorating the multilateral trading system even more important. However, individual African states possess limited influence on the reform process. It is only through the Pan African ideals of unity and solidarity they stand any chance of exerting meaningful influence in multilateral trade negotiations.

African countries are taking the right step in this direction. The African Group, an informal grouping of African WTO Members, circulated a document articulating the continent's vision for WTO reform.[5] In it, African countries called for a development-oriented reform that addresses the WTO's existing development-deficits and uneven development across the membership. They called for reform discussions to directly confront developmental issues of at most interest to the continent such as agricultural subsidies, tariff escalation, industrial policy space, asymmetric technological diffusion, and special and differential treatment provisions. However, making these issues part of the WTO reform agenda and eventually ensuring their effective treatment requires sustained coordination, political commitment, and a willingness to compromise and speak in one voice. This in turn raises questions as to the adequacy of the legal and institutional frameworks governing African economic integration to serve as foundation for coordinating African foreign trade policy.

2.2. Fading Unilateral Trade Preference Schemes

The rise of protectionism and geoeconomic tensions are also affecting another trade regime governing Africa's trade relations with the rest of the world: unilateral trade preferences. For decades, most African exports have enjoyed preferential access to major export destinations. From the United States and the European Union to China and India, African exports have benefited from preferential market access arrangements granted unilaterally by major trading powers. Unilateral trade preference regimes such as the United States' African Growth and Opportunity Act (AGOA), the European Union's ACP trade preferences, India's Duty-Free Tariff Preference Scheme (DFTP) and Canada's Least Developed Country Tariff (LDCT) program have provided, at least formally, preferential access for most African products to major global markets. While some of these schemes are Africa-specific (e.g., AGOA), others apply to Least Developed Countries (LDCs)[6] – a group that includes 33 African countries – or more broadly to developing countries.

The actual utilization of these schemes has often been limited primarily due to supply-side constraints and stringent non-tariff requirements. These schemes are often conditioned on non-trade considerations such as governance and human rights. Under AGOA, for example, the United States has repeatedly removed African countries from the list of eligible beneficiaries over alleged human rights violations. These features undermine the predictability of unilateral trade preferences. Despite their limitations, the existence of preferential market access, at least in theory, provides competitive advantage for African

5 See 'Communication from the African Group' (2025) WT/GC/W/971.

6 For LDC-specific unilateral trade preference schemes, see UN, 'International Support Measures for Least Developed Countries: Preferential Market Access for Goods' <https://www.un.org/ldcportal/content/preferential-market-access-goods-2> accessed 14 May 2026.

products in their export destinations and serves as an important potential mechanism for attracting foreign direct investment.

However, there is growing evidence that these schemes are also becoming casualties of the broader fracture in the international trade order. The most prominent of these is the imposition of liberation day tariffs on AGOA-eligible African countries. Moreover, an increasing number of preference-granting countries are either aligning their unilateral trade preference schemes more closely with their own economic and geopolitical interests or replacing them altogether with reciprocal trade agreements. The US, for example, plans to redesign AGOA so that it benefits the US more.[7] The EU has long started replacing its trade preference regimes with reciprocal trade agreements.

African countries are responding to these developments in two ways. First, they actively lobby to maintain the status quo. For example, some African countries (e.g. Kenya, Madagascar, Lesotho and Tanzania) aggressively lobbied the Trump administration to extend AGOA beyond 2025 (but secured only a limited one-year extension).[8] Second, they are pursuing RBTAs. In both cases, African countries are undertaking most of these initiatives separately without meaningful coordination.

3. Rising Reciprocal Bilateral Trade Agreements

Until recently, African countries signed only limited number of RBTAs with third countries. The fact that most African countries were beneficiaries of unilateral trade preference schemes has meant that they had little incentive to sign such agreements. The continued dependence on tariffs for government revenue and concerns about the competitiveness of domestic producers further undermined the interest of African countries in negotiating RBTAs with third countries.

However, the growing shift away from unilateral trade preferences and other geopolitical considerations are forcing African countries to negotiate reciprocal trade agreements. The EU has already begun shifting away from unilateral trade preferences toward reciprocal trade arrangements through the introduction of Economic Partnership Agreements (EPAs). The U.S. has also signaled movement in the same direction through the launch of the U.S.–Kenya bilateral trade negotiations and limited extension of AGOA. China, while expanded its LDC-specific duty-free and quota-free access scheme to include non-LDC African countries (with favorable diplomatic relations), is simultaneously pursuing RBTAs with African countries (e.g. China–Mauritius FTA). India also signed its first ever reciprocal trade agreement with an African country in 2021.

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7 David Thomas, 'Trump Extends AGOA by a Year - but Wants More US Benefits' *African Business* (4 February 2026) <https://african.business/2026/02/trade-investment/trump-extends-agoa-by-a-year-but-wants-more-us-benefits>.

8 See 'US and African Lobbies Mobilise as AGOA Renewal Enters High-Stakes Phase' (*Africa Intelligence*, 11 December 2025) <https://www.africaintelligence.com/southern-africa-and-islands/2025/12/11/us-and-african-lobbies-mobilise-as-agoa-renewal-enters-high-stakes-phase,110575710-eve>.

There is, therefore, a growing shift toward RBTAs. Several African countries are either negotiating or have already concluded such agreements in recent years. The question is what kinds of threat this shift poses for the continent and how best African counties can respond to it?

3.1. The Threats of Reciprocal Bilateral Trade Agreements

The uncertainty surrounding unilateral trade preferences and the paralysis of the multilateral trading system makes RBTAs crucial for Africa. In a fragmented international trade order increasingly shaped by bilateralism, RBTAs could help ensure that African exports continue to enjoy preferential treatment in their major destinations. However, they also present significant challenges for Africa and its integration agenda. These challenges are at least fourfold.

First, reciprocal trade agreements risk undermining the preferential market access advantage African products enjoy in African markets over like products from outside the continent. For example, much of the expected benefits from the African Continental Free Trade Area (AfCFTA) stems from the preferential market access it creates for African products. However, suppose Ghana signs an RBTA with India granting Indian products duty- and quota-free access to the Ghanaian market. This will lead to Kenyan and Indian products competing in Ghana under (more or less) free market conditions. This, in turn, would weaken the competitive advantage Kenyan products would otherwise enjoy *vis-à-vis* Indian products in Ghana (had it not been for the RBTA).

Second, the separate negotiation of RBTAs by individual African countries risks undermining the continent's long-term regional integration project. African integration is guided by the Abuja Treaty, which outlines a six-stage roadmap culminating in the establishment of an African Economic Community (AEC) and ultimately a political union.[9] The next major step in this process is the establishment of a continental customs union. Achieving such a union requires agreement on a common external tariff (CET) applicable to imports from outside the continent. The proliferation of separate RBTAs with non-African countries will inevitably complicate efforts to reach consensus on a common external tariff. Third, negotiating RBTAs separately creates unnecessary competition among African countries and further weakens their already limited bargaining power. For example, the selection of the first African country by the U.S. to negotiate a post-AGOA RBTA triggered considerable lobbying and competition among African countries. Finally, and related to third, separate negotiations with external partners squander the opportunity for African countries to negotiate third-country trade agreements collectively and thereby leverage their combined market size and bargaining power. It creates fragmentation and undermines the formation of a common African position on international trade affairs.

[9] See Art 6, Treaty Establishing the African Economic Community (signed 3 June 1991, entered into force 12 May 1994) (Abuja Treaty).

4. The Adequacy of Africa's Strategic Responses

The preceding sections have not only examined the nature and extent of the shift in the principal regimes governing Africa's external trade relations and their implications for the continent but have also highlighted some of the continent's responses to these developments. What emerges from that discussion is the absence of a coordinated continental strategy, with responses remaining largely fragmented rather than collectively articulated at the continental level.

However, African countries have been laying the groundwork for a strategic response to the changing international trade order. The first step in this direction has been the adoption of Agenda 2063 in 2015. Agenda 2063 reaffirmed the Pan African vision of 'an integrated, peaceful and prosperous' continent and set out seven key aspirations for the continent.[10] The aspiration for turning Africa into 'a strong, united, resilient and influential global player and partner' that 'seeks mutually beneficial relations and partnerships with other regions and continents' directly responds to the marginalization of the continent in international economic affairs.[11] The Agenda underlines the importance of strengthening African countries' 'common perspectives on partnerships' and 'speaking with one voice on priorities and views on global matters' in fulfilling this aspiration.[12]

On international trade, Agenda 2063 envisioned accelerating the establishment of the AfCFTA to 'strengthen Africa's common voice and policy space in global trade negotiations'.[13] Accordingly, African countries established the AfCFTA in 2018 as Agenda 2063's flagship project. The AfCFTA Agreement (together with its first-phase protocols on trade in goods, trade in services and dispute settlement) entered into force in July 2019. Actual trade under the AfCFTA started in January 2021 and second-phase AfCFTA protocols on investment, intellectual property rights, youth and women in trade, digital trade and competition policy have already been adopted.

Empirical studies show that enhancing intra-regional trade through the AfCFTA would not only stimulate economic growth but also reduce the continent's vulnerability to global shocks.[14] The AfCFTA is expected to boost intra-African trade by around 45% in 2045.[15] Since much of the current (albeit limited) intra-African trade is composed of industrial goods rather than raw materials, the expansion of intra-Africa trade carries the potential to bring about industrial transformation. The AfCFTA creates invaluable opportunity for African countries to add value to their natural resources, establish regional value chains and thereby diversify their economies. This will ultimately reduce their heavy reliance on external markets both for their imports and exports.

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10 AU, 'Agenda 2063: The Africa We Want' (African Union Commission 2015) Framework Document, para 63.

11 ibid.

12 ibid.

13 ibid at 17.

14 See UNECA (ed), *Advancing the Implementation of the Agreement Establishing the African Continental Free Trade Area: Proposing Transformative Strategic Actions* (UNECA 2025).

15 See ibid.

However, implementation and lack of clear external dimension raise questions as to the adequacy of the AfCFTA as the continent's strategic response to the upheaval in the international trade order.

4.1. Implementation Concerns

The success of the AfCFTA in boosting intra-African trade and shielding the continent from international shocks depends on its full implementation. However, implementation has long been a perennial challenge of African economic integration. Even before Agenda 2063 and AfCFTA, the continent was not devoid of ambitious regional economic integration initiatives. The Lagos Plan of Action in the 1980s and the Abuja Treaty in the 1990s sets out clear and ambitious integration agenda. However, turning these ambitions into reality has historically proven difficult. There are concerns that the AfCFTA may face a similar fate. Despite the commencement of trade under the AfCFTA, rules of origin are yet to be finalized for some sectors, and not all AfCFTA members have submitted their complete tariff schedules. The second phase protocols mentioned earlier have been adopted but are yet to enter into force. This has led the latest AU Assembly to 'strongly urge' State Parties to the AfCFTA to accelerate the full implementation of the AfCFTA and ratification of adopted protocols.[16]

4.2. Lack of Clear External Dimension

The AfCFTA's lack of a clear external dimension is another factor that undermines its role as Africa's strategic response to the shift in the international trade order. This is not all too surprising if one views the AfCFTA just as an FTA. One of the defining features of FTAs under the conventional regional integration model is that they allow their State Parties to retain full sovereignty over trade policy *vis-à-vis* third countries. This is one of the key aspects that set FTAs apart from customs unions. Yet, this does not mean that the AfCFTA does not have an external dimension.

The AfCFTA legal framework contains provisions directly relevant to its external dimension. The most prominent of these provisions is the Most Favoured Nations (MFN) clauses of the AfCFTA Agreement and its Protocols. Article 18(1) of AfCFTA Agreement enjoins AfCFTA Members 'to accord each other, on a reciprocal basis, preferences that are no less favourable than those given to Third Parties' following the entry into force of the AfCFTA Agreement. Although there is no explicit authorization for the conclusion of RBTAs under this provision, the requirements to extend preferences granted to third countries after the entry into force of the AfCFTA Agreement to AfCFTA members on a reciprocal basis carries an implicit authorization of such agreements.

Article 18(2) further obliges AfCFTA Members with RBTAs signed prior to the entry into force of the AfCFTA Agreement to afford other AfCFTA Members the 'opportunity' to negotiate the preferences granted therein on reciprocal basis. The AfCFTA Protocols on trade in goods and trade in services go one step further and explicitly authorize AfCFTA Members to maintain (pre-existing) and conclude

[16] African Union, 'Decision on the Report of the First (1st) Meeting of the Assembly Committee of Heads of State and Government on the Implementation of the AfCFTA' (2026) 39th Ordinary Session of the Assembly of the Union, 14-15 February 2026, Addis Ababa, Ethiopia Assembly/AU/Dec.975(XXXIX).

(new) RBTAs with third countries under two conditions. The conditions are to ensure that the RBTAs do not to 'impede or frustrate' the objectives of the protocols and to extend the preferences granted therein to other AfCFTA Members on a reciprocal basis.[17] Thus, insofar as these two conditions are met, AfCFTA Members are free to sign RBTAs.

However, the rise of RBTAs since the establishment of the AfCFTA's has not only raised concerns but also sparked a series of reactions from the African Union Assembly. The AU Assembly has long expressed concerns about the implication of RBTAs on the AfCFTA and the continental integration process. In 2015, the Assembly warned African countries 'to consider carefully the impact of the negotiations of bilateral and multilateral trade agreements on the African integration agenda'.[18] Underlying this caution was the concern that 'potential trade deals pursued individually by countries and RECs, if not harmonized properly, will fatally compromise the African trade integration process and undermine the vision and scope of the Abuja Treaty'.[19] It also stems from the recognition that speaking in a single voice enables African countries 'to be heard in the global arena on common AU trade positions'.[20] The desire to speak in one voice is also grounded in the reality of post-independence African countries and their participation in the international economic order. African countries emerged from colonization as fragmented economies with limited share and influence in international economic relations. The 2018 AU Assembly went even further by enjoining AfCFTA Members 'to abstain from entering into bilateral trading arrangements' until the entry into force of the AfCFTA Agreement. This was followed by another AU Assembly decision that requires AfCFTA Members negotiating RBTAs to notify other Members of the AfCFTA. However, some AfCFTA Members (e.g. Kenya, Mauritius) ignored these decisions.

The AU Assembly recently decided to 'advance coordinated and unified engagement with third countries and strategic partners on trade and investment matters' by leveraging the AfCFTA Agreement as a continental legal framework.[21] To this end, the Assembly ordered the AfCFTA's council of ministers and secretariat to facilitate such coordinated and unified engagement. This is an important step in the right direction. However, it remains unclear how this will work in practice – how is the council of ministers/ secretariate supposed to facilitate such a coordinated engagement in a context where AfCFTA Members have no legal obligation to do so under the AfCFTA Agreement? Why not directly oblige AfCFTA Members to negotiate RBTAs jointly?

17 Art 4(2), Protocol to the Agreement Establishing the African Continental Free Trade Area on Trade in Goods (adopted 21 March 2018, entered into force 30 May 2019).

18 Para 4, African Union, 'Decision on the Report of the High Level African Trade Committee (HATC) on Trade Issues' (2015) 24th Ordinary Session of the Assembly of the Union, 30 - 31 January 2015, Addis Ababa, Ethiopia Assembly/AU/Dec.555(XXIV).

19 ibid.

20 Para 8, ibid.

21 African Union (n 15).

5. Concluding Remarks

The rise of protectionism and the crisis in multilateralism have direct and substantial implications for Africa and its trade policy. The dominant regimes that long governed Africa's trade relations with the rest of the world are being replaced by RBTAs. African countries have responded to the threat posed by these changes by establishing the AfCFTA with a view to deepen their economic integration and thereby build collective self-reliance. The AfCFTA has the potential to shield the continent from the adverse effects of the ever-intensifying geopolitical tensions undermining the rule-based international trade order. However, implementation issues and the lack of a clear external dimension risk undermining its potential to successfully address the fallouts from the rapidly changing international trade order. The 39th ordinary session of the AU Assembly took an important step in the right direction by not only urging AfCFTA Members to accelerate the full implementation of the AfCFTA but also by empowering the AfCFTA's council of ministers to facilitate a coordinated engagement with the continent's external trading partners. There is no doubt that such a coordinated engagement could help mitigate the adverse effects of RBTAs on the continental integration process. However, it remains unclear how such mandate translates into practice. EPA negotiations have shown the challenges of engaging with external trading partners jointly in a continent with diverse socioeconomic and political realities and interests.

CHAPTER 12

The WTO Dispute Settlement System in an Era of Geopolitical Fragmentation: An Interim Solution for Africa

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Abstract

The global trading system is undergoing significant transformation characterised by rising geopolitical tensions, increasing protectionism and growing reliance on unilateral trade measures. In this environment, the rules-based framework administered by the World Trade Organization (WTO) remains central to maintaining predictability and stability in international trade relations. A core pillar of this framework is the WTO Dispute Settlement System (DSS), which provides a legally binding mechanism through which members may resolve trade disputes according to agreed rules rather than economic power. However, the paralysis of the WTO Appellate Body since 2019 has weakened the enforcement capacity of the multilateral trading system and created uncertainty regarding the effectiveness and credibility of the dispute settlement process.

This chapter examines the implications of the WTO dispute settlement crisis for African countries. Although African countries account for a substantial share of WTO membership, they have historically participated only marginally in WTO dispute settlement proceedings due to financial constraints, limited legal expertise, political considerations and institutional capacity gaps. While the Multi-Party Interim Appeal Arbitration Arrangement (MPIA) provides a temporary alternative, it cannot fully replace the WTO's two-tier DSS due to its voluntary nature, limited membership and weak African participation.

The chapter argues that although WTO reform and the AfCFTA dispute settlement framework remain important long-term solutions, both processes are likely to take years. Consequently, Africa's most realistic interim strategy is to strengthen legal and institutional capacity by investing in trade law expertise, specialised institutions and regional coordination mechanisms capable of advancing African interests in global trade governance.

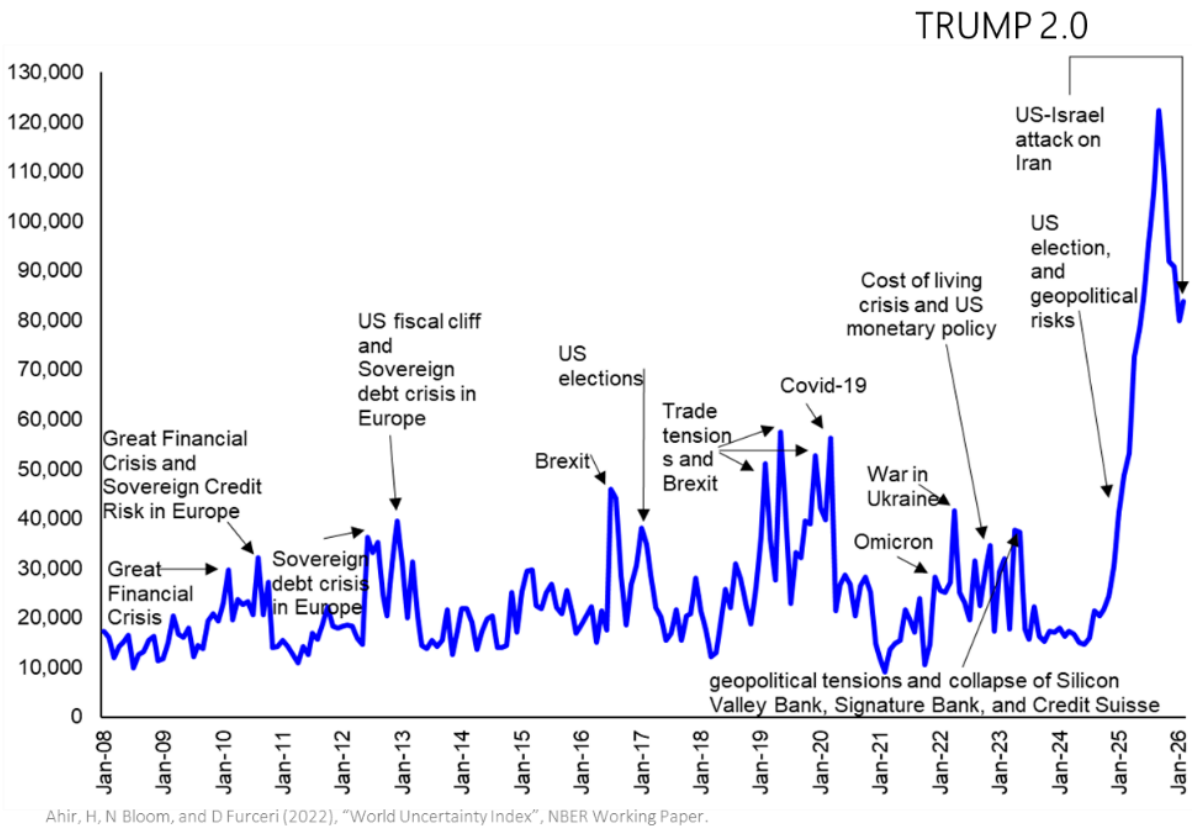
Keywords: WTO crisis; dispute settlement system; Appellate Body; trade disputes; African countries; multilateral trading system

1. Introduction

The international trading system is facing growing geopolitical fragmentation characterised by anti-globalization sentiments (Goldstein, and Gulotty, 2019), economic nationalism (see Bieber, 2018), and increased protectionism (Mullan, 2020), and the resurgence of industrial policy (Breznitz and Gingrich,

2025) have increasingly shaped international trade relations. Figure 1 below shows the unprecedented increase in geo-political uncertainty, especially post-Covid 19.

Figure 1: Geo-political uncertainty, at its highest level ever



Ahir, H, N Bloom, and D Furceri (2022), "World Uncertainty Index", NBER Working Paper.

Governments are increasingly using tariffs, subsidies, export controls and investment restrictions to pursue strategic economic objectives and protect domestic industries. These developments reflect a broader shift toward the securitisation of economic policy (Bown, 2024; Oh, 2025) and raise concerns regarding the fragmentation of the global trading system.

Since its establishment in 1995, the WTO has served as the central institution governing international trade by promoting transparency, cooperation and binding trade rules (Witts, 2025). One of its most important features is the WTO DSS, widely described as the "crown jewel" of the WTO (Davey, 2022), because it enables disputes to be resolved according to legal principles rather than economic or political power.

However, the WTO DSS has faced a major institutional crisis since the suspension of the Appellate Body in 2019 (Hoekman and Mavroidis, 2019). The refusal of the United States to support the appointment of new Appellate Body members effectively paralysed the appeals mechanism, allowing members to appeal panel decisions without final adjudication. Without a functioning appellate mechanism, the WTO's ability to enforce its rules is significantly weakened, undermining confidence

in the multilateral trading system and increasing reliance on unilateral trade measures (Miranda and Sánchez Miranda, 2023).

For developing countries, particularly those in Africa, the WTO DSS is especially important because smaller economies often lack the economic leverage necessary to challenge unlawful trade restrictions imposed by larger economies. Yet African participation in WTO dispute settlement has historically remained limited due to financial constraints, legal capacity gaps and political considerations (Oladejo, 2025).

This chapter examines the implications of the WTO dispute settlement crisis for African countries. It argues that while WTO reform and the AfCFTA dispute settlement framework remain important long-term objectives, Africa requires an immediate interim strategy centred on legal and institutional capacity building.

2. Literature Review

2.1 The WTO and the Stability of the Multilateral Trading System

The modern multilateral trading system emerged from post-Second World War efforts to promote economic cooperation and prevent the protectionism that contributed to the instability of the 1930s. The establishment of the General Agreement on Tariffs and Trade (GATT) in 1947 created the first major rules-based framework for international trade (Winham, 1990). Although GATT significantly reduced tariffs and facilitated trade expansion, its institutional structure remained relatively weak and largely dependent on diplomatic consultations.

The establishment of the WTO in 1995 transformed the multilateral trading system into a more formalised and rules-based legal order governing goods, services and intellectual property. The WTO contributes to predictability and transparency by binding tariff commitments and establishing clear trade rules (Koopman et al., 2020). It also remains the only global forum in which all major trading nations participate in trade rulemaking (Do Prado, 2025).

The WTO's most distinctive contribution, however, is its DSS (Palmeter, Mavroudis and Meagher, 2022). By creating a binding dispute resolution mechanism, the WTO transformed the multilateral trading system from a largely diplomatic framework into a rules-based legal order.

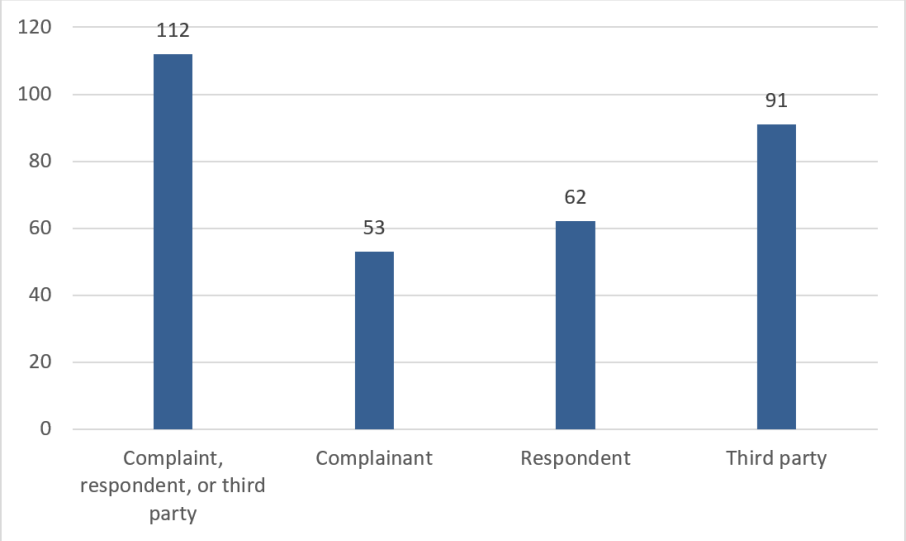
2.2 The WTO Dispute Settlement System

The WTO DSS is governed by the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), which establishes procedures for resolving disputes between WTO members. Several features distinguish the WTO DSS from other international dispute mechanisms. One is compulsory jurisdiction, which prevents members from blocking the establishment of panels (Bartels,

2016). Another is the reverse consensus rule, which ensures that panel and Appellate Body reports are adopted automatically unless all members agree to reject them (Paine, 2018).

The WTO DSS consists of consultations, panel proceedings, appellate review and implementation (Palmeter, Mavroudis and Meagher, 2022). The participation of WTO members in dispute settlement has been very effective (see Figure 2). From 1995 to 2024, 631 consultation requests were circulated among WTO members (WTO, 2026). During this period, 53 members initiated disputes, 62 served as respondents and 91 participated as third parties. In total, 112 of the WTO's 166 members participated in WTO dispute settlement proceedings (WTO, 2026).

Figure 2: Participation of WTO members in dispute settlement (1995 – 2024)



The WTO DSS contributes to deterrence, compliance and systemic stability. The threat of adjudication discourages members from implementing unlawful trade measures (Davis, 2018), while dispute rulings clarify trade rules and shape international trade practices. Although compliance levels have historically been relatively high (Wilson, 2007), compliance with WTO rulings has weakened in recent years (Kucik and Puig, 2022).

2.3 The WTO DSS Crisis and the MPIA

Despite its historical success, the WTO DSS faces a severe institutional crisis. Although the crisis was triggered by the US blocking the appointment and reappointment of Appellate Body members, it reflects deeper political and structural tensions within the WTO system (Van den Bossche, 2023). The United States has raised concerns regarding judicial overreach, precedent creation and procedural issues within the Appellate Body (Umenze, 2021).

Without a functioning Appellate Body, disputes may remain in legal limbo because panel reports can be appealed without a tribunal available to hear those appeals. This weakens the enforceability of WTO rules and undermines the credibility of the dispute settlement system.

To address this problem, participating WTO members established the MPIA under Article 25 of the DSU as a temporary alternative appeals mechanism (Pauwelyn, 2023). However, the MPIA cannot replace the WTO's two-tier DSS. Participation is voluntary and several major economies, including the United States and India, have not joined (Kugler and Morgan, 2023). In addition, only one African country, Benin, participates in the MPIA, limiting its practical relevance for African disputes (World Trade Law, 2026).

2.4 Africa's Limited Participation in WTO Dispute Settlement

African countries account for approximately one-quarter of WTO membership yet historically initiated very few disputes. According to Van der Ven and Luke (2023), Tunisia was the only African country to have initiated a WTO dispute until 2022. In July 2022, South Africa initiated its first WTO dispute against the European Union regarding phytosanitary measures affecting South African citrus exports (DTIC, 2024).

African countries have participated more frequently as respondents or third parties. Only Egypt, Morocco and South Africa have served as respondents, collectively facing 13 disputes (WTO, 2026). African third-party participation remains below 5 per cent (Van der Ven and Luke, 2023).

Several structural factors explain this limited participation. Governments may hesitate to challenge major trading partners due to political or economic considerations (Davis and Bermeo, 2009). WTO litigation is also costly and requires specialised legal and economic expertise (Bown and McCulloch, 2010). Many African governments lack sufficient trade law specialists and institutional capacity to litigate disputes effectively (Conti, 2010). In some cases, African states may also prefer informal dispute resolution approaches rooted in ubuntu traditions (Moeletsi, 2021).

2.5 WTO Reform and the AfCFTA

Restoring a credible appeal function is essential for maintaining confidence in the multilateral trading system (Hameed, Sutrisno and Duffy, 2025 and Sheldon and Chow, 2025). For African countries, restoring a fully functioning two-tier DSS should remain a priority because smaller economies rely heavily on predictable rules-based dispute settlement.

Research on WTO reform increasingly focuses on making the DSS more development-oriented and inclusive by strengthening legal assistance, expanding capacity-building programmes and improving access to mediation and arbitration (Oladejo, 2025). African countries may also strengthen their influence through regional coordination within the African Group at the WTO.

However, WTO members have debated DSU reform since 1997 without reaching consensus (WTO, 2026). Given current geopolitical fragmentation, meaningful reform is unlikely in the near term.

The AfCFTA dispute settlement framework offers important long-term potential. It largely mirrors the WTO DSS and provides African countries with a regional forum for resolving trade disputes (African

Union, 2018). It could strengthen African participation in rules-based trade governance and reduce dependence on external powers (Ansong, 2025; Bore, 2020). However, the AfCFTA mechanism only addresses intra-African disputes and remains in the early stages of institutional development (Kugler, 2021). African countries therefore require interim strategies while both WTO reform and AfCFTA institutional development continue.

3. Methodology

This conference paper forms part of a broader ongoing research project examining Africa's participation in international trade dispute settlement. Given the scope and format limitations of a conference paper, the analysis presented here provides a condensed and policy-oriented assessment of key institutional and governance challenges facing African countries within the WTO dispute settlement system.

The chapter employs a mixed-methods approach combining qualitative legal analysis with descriptive quantitative assessment. The qualitative component examines the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), the Multi-Party Interim Appeal Arbitration Arrangement (MPIA), and the AfCFTA dispute settlement framework, with particular focus on institutional weaknesses, procedural design and barriers limiting African participation in WTO dispute settlement.

The quantitative component draws on WTO dispute settlement participation data from 1995–2024 to assess African participation as complainants, respondents and third parties. Selected case illustrations, including South Africa's disputes against the European Union regarding citrus exports, are used to contextualise broader governance and capacity constraints affecting African participation in trade disputes.

Rather than providing an exhaustive empirical assessment, this paper adopts a governance-capacity lens to explore Africa's strategic position within the evolving multilateral trading system. Emphasis is placed on institutional readiness, legal expertise and strategic engagement as key determinants shaping Africa's ability to participate effectively in global trade governance.

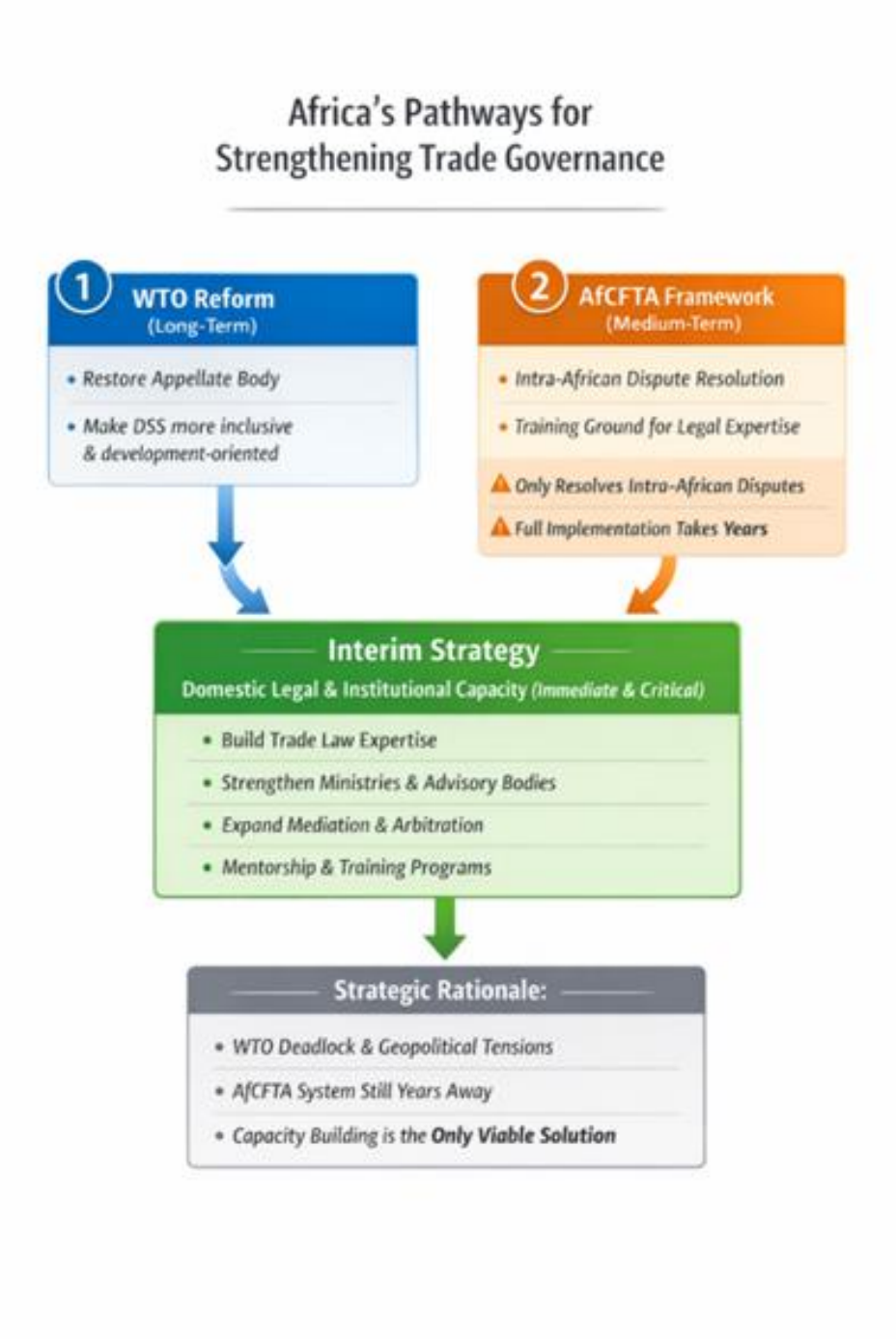
4. Results and Findings: Interim Strategies for Africa

The analysis demonstrates that African countries face limited immediate alternatives. The WTO Appellate Body remains paralysed, the MPIA has limited African participation, and the AfCFTA dispute settlement framework is still developing (see Pauwelyn, 2023 and Erasmus, 2024).

China's experience provides an important lesson. Following its accession to the WTO, China invested heavily in international economic law expertise, government training and specialised legal institutions (Hsieh, 2010). This enabled China to litigate disputes effectively, negotiate trade agreements strategically and expand its influence within global trade governance.

African countries can pursue a similar strategy through four priority areas, which can be summed up in Figure 3, below.

Figure 3: Proposed Strategy for Africa to Strengthen its DSS Trade Governance



Source: Authors own

First, governments should strengthen legal and institutional capacity by training trade lawyers, negotiators and policymakers in WTO law and dispute settlement procedures. Capacity-building initiatives should also be integrated with AfCFTA institutions.

Second, African countries should strengthen advisory institutions by supporting the Advisory Centre on WTO Law, building regional networks of trade law expertise and establishing specialised legal advisory units within ministries of trade and industry.

Third, African countries should expand alternative dispute resolution mechanisms such as mediation and arbitration to provide more flexible and lower-cost pathways for dispute settlement.

Fourth, African countries should strengthen regional coordination through the African Group at the WTO to advocate collectively for development-oriented reforms and improved accessibility within the DSS.

5. Conclusion

The WTO DSS crisis highlights the fragility of the multilateral trading system in an era of geopolitical fragmentation. The paralysis of the Appellate Body has weakened enforceability and created uncertainty for smaller economies that rely on rules-based dispute settlement. For African countries, whose participation in WTO disputes has historically been limited, this creates significant risks.

While WTO reform and the AfCFTA dispute settlement framework remain important long-term objectives, both processes are likely to take years. In the interim, Africa’s most realistic strategy is to strengthen legal and institutional capacity.

By investing in trade law expertise, specialised advisory institutions and regional coordination, African countries can improve their ability to defend their trade interests and influence future global trade governance. Ultimately, strengthening legal and institutional capacity will not only help Africa navigate the current crisis but also position the continent to play a more influential role in the future reform of the multilateral trading system.

Disclaimer

This conference paper forms part of an ongoing research project on WTO dispute settlement reform and Africa's participation in global trade governance. The research is still underway, and the findings presented should be regarded as preliminary. The analysis and conclusions may be refined as the broader research project progresses. Related findings may be presented elsewhere in different formats.

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CHAPTER 13

The China–US–EU Competition in Latin America

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Abstract

Latin America has long been treated as the natural sphere of influence of the United States, a status rooted in the 1823 Monroe Doctrine and reinforced throughout the twentieth century. That assumption no longer holds. As the unipolar international order recedes and a more fragmented, multipolar system emerges, the region has become a contested arena in which three external actors — China, the United States, and the European Union — compete for influence, resources, and alignment. This paper argues that these actors operate from fundamentally different conceptions of what Latin America is, and that their competing strategies — economic pressure and nearshoring from the United States, infrastructure and investment through China's Belt and Road Initiative, and a values-based offer through the European Union's Global Gateway — have not produced stable, long-term alliances with the region or with individual countries. Instead, Latin American states increasingly practice a pragmatic, issue-by-issue foreign policy that can be described as political polygamy. The central claim is that the region's own agency, rather than the designs of any external power, is the most powerful and most overlooked variable in the contemporary competition.

Keywords: Latin America; China–US–EU competition; Monroe Doctrine; Belt and Road Initiative; Global Gateway; non-alignment; strategic autonomy; geopolitics of trade

1. Introduction

Latin America has long been considered the natural sphere of influence of the United States. This perception is rooted in the 1823 Monroe Doctrine, which declared the Western Hemisphere closed to further European colonization, and it was reinforced throughout the twentieth century, when Washington treated the region as a strategic extension of its own security. For most of that period, the assumption that Latin America belonged within a single hemispheric order under United States primacy went largely uncontested. The doctrine was later extended through corollaries that justified direct intervention, and during the Cold War the region was repeatedly drawn into a logic of bloc competition in which Washington treated political developments in its neighborhood as matters of its own security. The cumulative effect was a deeply asymmetric relationship that shaped both the economic structure of the region and its political imagination.

That assumption no longer holds. The global distribution of power is undergoing a notable shift: the uncontested unipolar international system is receding, and a more complex, fragmented order is emerging in its place. In this new environment, Latin America is no longer simply a backyard or a periphery. It has become an arena in which extra-regional powers — particularly China, the United States, and, to a lesser but significant extent, the European Union — compete for influence, resources, and alignment. This shift is especially consequential for trade. As the United States returns to a more aggressive posture of tariffs, supply-chain restructuring, and economic pressure, the question of how Latin America positions itself among competing markets and competing models of development has become central rather than peripheral to the global trading order.

This paper examines that competition from the perspective of the region itself. It first explores the competing visions that define Latin America's role in the international system. It then turns to the concrete political and economic interests that drive these external powers, including their distinct strategies and the military dimension of their engagement. Finally, it addresses the strategic responses of Latin American nations before concluding on the absence of stable, long-term alliances and the significance of regional agency.

2. Three competing visions of Latin America

The strategies of the major powers cannot be understood through their instruments alone. They are rooted, more fundamentally, in different geopolitical ontologies — that is, in different ways of defining the region's identity and purpose. Three such visions can be distinguished, and each translates a particular understanding of Latin America into a particular form of engagement.

The first is a Latin American view associated with dependency theory and world-systems thinking in the vein of Immanuel Wallerstein. From this standpoint, Latin America forms part of the global periphery within the world-system. Its assigned function is to provide raw materials, cheap labor, and agricultural commodities to the industrial north, whether that north is located in North America, China, or Europe. The relationship is understood as structurally unequal, organized around the export of primary goods and the import of higher-value manufactures and capital. While this perspective is less dominant today than it was in the second half of the twentieth century, it continues to influence many of the region's policies through a developmental lens that emphasizes industrialization, value addition, and the terms on which the region integrates into global markets. From this vantage point, the arrival of new external partners is judged less by their identity than by whether they reproduce or relax the region's dependent position in the international division of labor.

The second is the Chinese perspective, which offers a markedly different framing. It constructs Latin America as part of the Global South. This is not merely a geographic category but a political one: membership in the Global South implies a shared history of colonialism and a common struggle for development and autonomy. By classifying Latin America in this way, China is able to present itself not as an external hegemonic power but as a partner engaged in horizontal, South–South cooperation. This

discourse, in turn, allows China to frame its Belt and Road Initiative not as an instrument of influence but as a project of mutual cooperation and shared benefit, a framing that resonates with longstanding regional sensitivities about external domination. By locating itself rhetorically alongside the region rather than above it, China seeks to convert economic engagement into political legitimacy.

The third is the traditional United States vision, which treats Latin America as a continuation of the United States within the Western Hemisphere. Rooted in the Monroe Doctrine, this perspective asserts that the Americas constitute a single strategic space under United States primacy. From this viewpoint, any significant extra-hemispheric influence can be perceived as a direct threat to United States national security. This logic explains the periodic resurgence of interventionist rhetoric, including efforts by the Trump administration to update the Monroe Doctrine for present conditions, with renewed emphasis on economic and military pressure and, more recently, on linking the region to questions of migration control and security. In this reading, the presence of Chinese capital and infrastructure is interpreted not as ordinary commerce but as strategic penetration of a space the United States regards as its own. These three visions translate directly into policy instruments, ranging from sanctions and tariffs to infrastructure projects and military sales.

3. Why Latin America matters today

The intensity of the competition reflects what is at stake. The region holds a strategic reserve of critical resources: fresh water, lithium, copper, silver, rare-earth minerals, and agricultural commodities. Several of these are central to the global energy transition and to advanced manufacturing, which gives the region a structural importance that extends well beyond its share of world output. Lithium, copper, and rare-earth minerals are essential inputs for batteries, electrification, and digital technologies, while the region's water and agricultural capacity bear directly on global food security.

These endowments are mirrored in the region's trade relationships. In trade terms, the United States and China are the region's two main trading partners, with additional roles played by the European Union and, to a lesser extent, Japan, South Korea, and Russia. The result is a region that is economically indispensable to several competing powers at once, and therefore unusually exposed to their rivalry. This indispensability is double-edged. It grants the region a degree of bargaining leverage that it has not always possessed, but it also makes Latin America a site where the tensions among the major powers are transmitted directly into local economic and political life.

4. The strategies of the great powers

The three principal external actors — the United States, China, and the European Union — pursue strategies that diverge significantly in both instruments and tone.

The United States relies primarily on economic and military pressure. Its central instrument at present is the nearshoring initiative, which encourages United States companies to relocate supply chains from

Asia to Mexico and Central America. The logic is to shorten and secure supply chains while reasserting United States economic primacy in its immediate neighborhood, binding regional economies more tightly to the North American market.

China's approach is more cautious and more patient. The Belt and Road Initiative has a clear Latin American component. China's broader aim is to create a global chain of investment and trade linking it to the rest of the world, and Latin America forms one node in that chain. In the region, this has translated into large infrastructure projects, bilateral trade agreements, and direct foreign investment in strategic sectors such as technology and critical minerals. Rather than confronting United States primacy directly, China advances incrementally through commercial and financial channels. The contrast in method is striking: where the United States tends to rely on pressure and proximity, China relies on patience, scale, and the promise of investment without overt political conditions.

The European Union occupies an intermediate position. Its Global Gateway strategy aims to offer a values-based, sustainable alternative to Chinese infrastructure investment, with a strong emphasis on the green transition, digitalization, and rule-of-law conditionality. Yet the European Union remains a secondary player in strictly geopolitical terms. It is often perceived as a normative power — one that projects influence through standards, norms, and regulation — rather than as a hard geopolitical actor. Its influence is real but concentrated in specific niches: environmental standards, renewable-energy partnerships, and regulatory frameworks. The European offer is thus less a bid for primacy than an attempt to shape the terms — environmental, digital, and legal — on which the region engages with everyone else.

5. The military dimension

The competition also has a military dimension, though it does not follow the pattern one might expect. According to data from the Stockholm International Peace Research Institute (SIPRI) for the period 2021 to 2025, the principal arms suppliers to Latin America are China, the United States, and European states, including France, Germany, Spain, and Italy, as well as the United Kingdom.

Unlike other regions, Latin America does not display a clear-cut, Cold War–style division in military procurement. There is no neat alignment of suppliers with rival blocs. Some countries purchase United States equipment for interoperability reasons; others acquire European weapons systems; and a growing number obtain Chinese drones, transport aircraft, and surveillance systems. This diversification of suppliers is itself significant: it reflects a broader regional preference for hedging rather than committing, extending even to the sensitive domain of defense procurement. Because arms relationships typically carry long horizons of training, maintenance, and dependence, the willingness of Latin American states to spread their purchases across rival suppliers is a particularly clear signal of their refusal to be locked into a single strategic camp.

6. Latin American agency and strategic responses

Confronted with these competing pressures, how do Latin American states respond? Their behavior is best described as situated somewhere between autonomy and alignment. The objective is to preserve autonomy, but the dilemma they face is acute. They must choose, in effect, between an active non-alignment that refuses to take sides in great-power competition, and a more opportunistic, junior alignment that shifts depending on the issue and the partner involved.

In practice, there has been no recent case of strategic non-alignment in Latin America comparable to the Non-Aligned Movement of the Cold War. There is no single coalition through which the region asserts a unified position. Instead, within a fragmented region, Latin American countries take positions issue by issue. On trade, they may lean toward China; on security and migration, they often side with the United States; on environment and development, they may align with Europe. The same government may therefore appear pro-Chinese, pro-American, and pro-European at the same time, depending on which dossier is under discussion.

This behavior could be branded political polygamy: an openness to engage simultaneously with multiple rival powers, each on specific issues, without entering into long-term commitments. Crucially, ideological traditions no longer dictate alignment. Left-wing governments may trade with China while cooperating with the United States on counternarcotics; right-wing governments may sign free-trade agreements with the United States while accepting Chinese infrastructure loans. Pragmatism, not ideology, now governs foreign policy across much of Latin America.

This pragmatism is visible among the region's larger players. Regional powers such as Brazil, Mexico, Argentina, and Colombia act as competing actors, each seeking to maximize national benefit rather than to advance a shared regional project. Brazil has deepened its BRICS partnership with China while maintaining its traditional ties with Washington. Mexico has become the prime beneficiary of United States nearshoring while refusing to sanction China. Argentina, despite its economic dependency, has oscillated between Beijing and Washington depending on which offers better financing terms. Colombia, historically among the closest security partners of the United States in the region, illustrates the same logic from another angle, combining established defense ties with a gradual diversification of its economic relationships. In each case, alignment follows interest rather than ideology, and it is recalculated as circumstances change.

7. Conclusion

The central conclusion of this analysis is that there are no stable alliances. The divergent strategies employed by the European Union through the Global Gateway, by the United States through nearshoring, migration control, and security doctrines, and by China through the Belt and Road Initiative, have not produced stable alliances with Latin America as a region, nor even with specific countries. Each initiative has generated transactions, agreements, and moments of cooperation, but none has

consolidated into the kind of enduring, exclusive partnership that the language of spheres of influence would imply.

This outcome should not be read as mere disorder. Historically, dependency on a single hegemonic power has led to a repeating cycle of exploitation, intervention, and disappointment in Latin America. A more fragmented world offers something new: at least the possibility of issue-based engagement and a greater measure of autonomy. For Washington, Beijing, or Brussels, this means that influence in Latin America must now be earned, issue by issue and country by country, through a combination of carrots and sticks. There are no permanent allies, only permanent interests. This has direct implications for the trading order under discussion at this conference. In an environment defined by renewed tariff competition and the restructuring of supply chains, Latin America is unlikely to be captured wholesale by any single bloc. It will instead bargain across markets, extracting concessions from each competitor while avoiding exclusive dependence on any one of them.

The competition for Latin America is therefore not a zero-sum game with a clear winner. It is a continuous, multidimensional negotiation in which the region's own agency is the most powerful — and most overlooked — variable. The great powers may compete, but the ground beneath them is shifting. Whether the region can convert this moment into durable gains will depend less on the choices of any external power than on its own capacity to act with foresight and coherence. And that ground, for the first time in several centuries, may belong to Latin America itself.

CHAPTER 14

The Overlapping of Bilateral, Plurilateral and Multilateral Trade Arrangements: The Chile – Korea Case

Dorotea López[1] *and Camilo Aguirre*[2]

Abstract

This paper examines the Chile–South Korea Free Trade Agreement (FTA) as a case study for understanding the transformation of contemporary trade governance through overlapping bilateral, plurilateral, and multilateral arrangements. It argues that the significance of the Chile–Korea relationship lies not only in its historical role as the first FTA between an Asian and a Latin American economy, but also in the way different institutional layers interact within a single trade partnership. The paper analyzes how the FTA emerged within the plurilateral context of APEC while remaining legally embedded in the WTO framework. It further explores the evolution of the relationship from traditional tariff liberalization toward different forms of governance involving services, investment, digital trade, and regulatory cooperation. By examining institutional overlap, regulatory asymmetries, and the modernization of the agreement, the paper demonstrates how middle powers such as Chile and South Korea use overlapping trade architectures to increase strategic flexibility in an increasingly fragmented global economy.

Keywords: Chile–South Korea FTA, Trade Governance, WTO, APEC, Middle Powers

1. Introduction

The signing of the Free Trade Agreement (FTA) between Chile and South Korea constituted a historic milestone both for bilateral relations and for the trans-Pacific integration strategies of the two countries, becoming the first FTA concluded between an Asian and a Latin American economy.[3] Conceived in the context of the Asian financial crisis of the late 1990s and the intense domestic debate in South Korea regarding the need to reformulate its development strategy, the agreement emerged as part of the liberalizing shift promoted during the administration of Kim Dae-jung, for whom Chile's experience with trade liberalization and the proliferation of international trade agreements represented an important model. Formal negotiations began following the meeting between Eduardo Frei Ruiz-Tagle and Kim Dae-jung at the 1998 APEC summit, culminating in the signing of the agreement in February 2003 and its entry into force in April 2004, despite strong opposition from South Korean agricultural sectors that

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3 The full text of the Chile–Korea Free Trade Agreement is available at the World Bank's WITS database: https://wits.worldbank.org/GPTAD/PDF/archive/Chile-korea.pdf

symbolized the tensions generated by trade liberalization. Beyond its immediate economic effects, the agreement acquired profound political and strategic significance: for Chile, it consolidated the country's projection toward the Asia-Pacific region and expanded the diversification of its export base; for South Korea, it represented an institutional and negotiating "learning laboratory" that preceded its subsequent network of FTAs with larger economies. In this sense, the Chile–South Korea FTA not only strengthened bilateral trade, but also inaugurated a new stage in South Korea's economic internationalization and in Chile's trans-Pacific engagement (BCN, 2012).

The agreement did not emerge in institutional isolation. Rather, it was embedded from the outset within the architecture of bilateral, plurilateral, and multilateral governance. Negotiations developed within the political environment created by APEC, while the legal framework of the agreement explicitly reaffirmed consistency with Article XXIV of the GATT and Article V of the GATS. Consequently, the Chile–Korea relationship illustrates how bilateralism in the contemporary global economy often operates not as a rejection of multilateralism but as a selective deepening of multilateral rules within a wider plurilateral setting.

The central argument of this paper is that the Chile–South Korea relationship implies a relevant transformation in contemporary trade governance, in which bilateral, plurilateral, and multilateral arrangements increasingly overlap rather than operate as separate institutional spheres. The significance of the Chile–Korea case lies precisely in the way these different layers of governance interact within a single trade partnership: the WTO provides the foundational legal framework, APEC supplies a plurilateral environment for coordination, and the bilateral FTA enables deeper and more specific commitments between the parties. Rather than representing competing models of economic integration, these levels function simultaneously and recursively within the same trans-Pacific relationship.

This evolving strategic dimension of the bilateral relationship became particularly evident in the efforts to modernize the agreement during the following decades. During the 2016 APEC Leaders' Summit, Chile and South Korea signed a joint statement expressing the parties' willingness to begin negotiations to expand the FTA. To date, eight rounds of negotiations have taken place: November 2018, July 2019, October 2019, November 2020, June and October 2021, and May and November 2023. During these rounds, working groups discussed issues including market access, trade facilitation, anti-corruption, intellectual property, labor, the environment, the digital economy, and cooperation. As part of the FTA modernization process, Chile has expressed particular interest in expanding preferential market access for Chilean goods in the Korean market through the liberalization of tariffs on products that were excluded from preferential treatment under the original agreement. These include agricultural products such as meat, dairy products, cheese, honey, vegetables, nuts, certain fruits, grains, food preparations, juices, and plant extracts, among others (SUBREI, n.d.).

The modernization agenda reflects the extent to which the Chile–South Korea relationship has progressively moved beyond traditional concerns over tariff reduction and market access to incorporate strategic dimensions associated with regulatory cooperation, Asia-Pacific integration, and economic diversification. Indeed, the preamble of the original agreement explicitly situated the FTA within the

broader framework of obligations and cooperation mechanisms established under the WTO and regional initiatives such as APEC. The agreement, therefore, emerged as part of a wider process of trans-Pacific economic governance and institutional integration.

For Korea, Chile functioned as an entry point into Latin America and as an early experiment in trans-Pacific trade governance. Chile's trade strategy historically combined economic pragmatism with an active search for international insertion through diversified and overlapping trade agreements, particularly within the Asia-Pacific region. Chile pursued three main objectives: to increase exports, diversify its export basket, and add value. However, the empirical findings of that study were mixed: although the agreement positively affected export value, the effect was much more pronounced in the intensive margin — products Chile was already exporting — than in the extensive margin associated with new export goods.

The first section of the paper reviews the existing literature on the Chile–South Korea FTA and identifies the main gaps regarding the interaction between bilateral, plurilateral, and multilateral trade governance. The second section examines how these different institutional layers overlap in practice, analyzing the relationship between the WTO framework, APEC, and the bilateral FTA. It then discusses how this institutional architecture has evolved through the modernization of the agreement and the emergence of new regulatory areas associated with the digital economy, investment, and regulatory cooperation. The final section concludes by reflecting on the implications of the Chile–South Korea case for understanding the strategies of middle powers in an increasingly fragmented global trading system. The Chile–Korea FTA is part of a deliberate strategy through which middle powers maximize strategic autonomy under conditions of geopolitical uncertainty.

2. Literature Review

There is a growing body of scholarship examining the effects of free trade agreements on Chile's economy and trade structure (Jean, Mulder and Ramos, 2014; Kuno, Urata and Yokota, 2017; López and Muñoz, 2008). However, relatively limited attention has been devoted specifically to the bilateral economic relationship between Chile and the Republic of Korea and, in particular, to the long-term effects of the Korea–Chile FTA on Chilean exports (López, Cáceres and Muñoz, 2022; Rehner, Baeza and Barton, 2015; Schuschny, Durán and De Miguel, 2008). From a Chilean perspective, the literature has remained fragmented and largely descriptive, with most official assessments concentrating on export volumes, leading export products, or the diversification of traded goods rather than on structural transformations generated by the agreement (DIRECON, 2005, 2006, 2007 and 2011). This imbalance produced an important policymaking gap, as the Korean side generated a more systematic debate on the political, economic, and social implications of the FTA.

Early Korean scholarship on the Korea–Chile FTA focused primarily on the political and institutional difficulties surrounding its negotiation and ratification. Writing before and immediately after the agreement's implementation, Anh (2003) and Jeong (2004) emphasized the domestic political conflicts

generated by Korea's first FTA. Drawing on Putnam's two-level game framework, Anh argued that the principal obstacle was not bargaining with Chile, but rather managing domestic opposition from agricultural interests and other "loser" sectors. Similarly, Jeong highlighted the Korean government's lack of institutional experience, weak political leadership, and limited ability to build a pro-FTA coalition. Together, these studies framed the Korea–Chile FTA as a critical test case for Korea's transition toward trade liberalization.

By the late 2000s, research shifted from political negotiation to the economic consequences of the agreement. Kim (2008) and Mun (2006) examined the trade effects of tariff elimination, concluding that the FTA had a positive impact on Korean exports, particularly in manufacturing. Mun, however, cautioned that tariff reduction alone could not fully explain trade flows, emphasizing the limited yet observable trade diversion effects. Choi (2010) expanded this economic perspective through input-output analysis, estimating substantial increases in exports, production, and employment generated by the agreement. Min and Jeong (2012) reinforced these findings by demonstrating that bilateral trade growth significantly outpaced Korea's overall trade growth during the same period.

From 2011 onward, scholarship increasingly explored the social and political implications of the FTA. Lee (2011) analyzed Korean consumer perceptions of Chilean products, indicating growing attention to market integration beyond macroeconomic indicators. Park (2013) revisited agricultural concerns, focusing on policy strategies to mitigate adverse effects on vulnerable sectors. Meanwhile, Ko (2013) argued that ideological polarization among political elites had become a more significant factor in FTA politics than traditional agricultural protectionism, particularly in comparison with the earlier Korea–Chile ratification process.

Existing studies have largely examined the Korea–Chile FTA either as a bilateral commercial agreement or as a case of trade liberalization. Far less attention has been devoted to how the agreement operates simultaneously within WTO disciplines, APEC cooperation, and newer plurilateral initiatives, leaving the relationship between these institutional arenas underexplored.

3. Institutional Overlap and Trade Governance

Building on this framework, the Chile–South Korea case provides an important example of how overlapping institutional arrangements operate in practice within contemporary trade governance. Chile and South Korea are paradigmatic examples of middle powers highly dependent on trade and global value chains, which increasingly rely on overlapping institutional frameworks to manage risks, diversify economic integration, and increase strategic autonomy. This becomes relevant in the current geopolitical context.

The Chile–South Korea relationship illustrates how different governance frameworks perform distinct yet complementary functions. The WTO provides the legal foundation, APEC facilitates policy coordination, and the bilateral FTA enables deeper regulatory commitments. Rather than competing with one another, these institutions form a layered architecture of trade governance. The multilateral

level, represented by the WTO, establishes the legal framework governing the relationship between the two countries. The plurilateral level, particularly APEC, provides spaces for policy coordination across the Asia-Pacific. Significantly, the bilateral agreement itself emerged within this plurilateral context, as negotiations were first announced during an APEC summit.

The Chile–Korea FTA was established in direct dialogue with the multilateral system. Article 1.1 explicitly states that the free trade area is created consistently with Article XXIV of the GATT and Article V of the GATS, while Article 1.3 reaffirms the rights and obligations of both parties under the WTO. This is significant because it demonstrates that bilateralism in this case did not emerge as a rupture with multilateralism, but rather as its selective deepening. The bilateral treaty was not intended to replace the WTO, but to build upon it.

This is especially visible in the chapters concerning trade in goods. Chapter 3, on national treatment and market access for goods, reproduces core GATT principles. Chapters 6 and 7, on safeguards, anti-dumping, and countervailing measures, also preserve the parties' existing WTO rights. In these areas, the agreement does not introduce substantial normative innovation; rather, it operationalizes multilaterally established disciplines within a bilateral framework.

The situation becomes more complex in Chapters 4 and 5, concerning rules of origin and customs procedures. These provisions are indispensable for implementing tariff preferences, yet they also illustrate one of the central problems of contemporary regionalism: the proliferation of overlapping rules of origin across different agreements. Similarly, Chapters 8 and 9, concerning sanitary and phytosanitary measures and technical barriers to trade, explicitly build upon the WTO SPS and TBT Agreements. Here, the similarities with the multilateral system are relatively high in terms of principles, language, and regulatory objectives. Nevertheless, the bilateral agreement adds channels for cooperation, administration, and dialogue that are often less agile at the multilateral level. Consequently, the FTA functions not as an alternative framework, but as a mechanism of selective deepening and closer regulatory management between the parties.

The analysis becomes even more significant in Part III of the agreement, dedicated to investment, services, telecommunications, and the temporary movement of business persons. These chapters demonstrate how bilateralism increasingly extends beyond the classical focus on trade in goods. In these areas, there is continuity with the GATS and other multilateral disciplines, but also an expansion toward deeper, more detailed, and more enforceable commitments. The bilateral agreement therefore does not contradict multilateralism, but extends beyond it in terms of regulatory density.

This evolution is particularly visible in newer areas of economic governance. Compared to the original Chile–Korea FTA, agreements such as DEPA and the CPTPP incorporate more sophisticated disciplines concerning digital trade, e-commerce, cross-border data flows, regulatory coherence, state-owned enterprises, intellectual property, environmental standards, and emerging technologies. These newer agreements reflect a transformation in international trade governance: the shift from "border liberalization" toward "behind-the-border" governance, where regulatory compatibility, digital infrastructures, and technological standards become central components of economic integration.

This creates an important institutional asymmetry. While the Chile–Korea FTA remains foundational for bilateral economic relations, many of the most dynamic areas of contemporary trade governance are now being developed through overlapping plurilateral initiatives. In practice, bilateral relations increasingly operate within a broader ecosystem of overlapping norms and institutions. The bilateral agreement provides stability and historical continuity, while plurilateral frameworks function as laboratories for regulatory innovation.

For middle powers such as Chile and South Korea, this institutional layering is particularly significant. Both countries depend heavily on external markets, global value chains, and technological adaptation, yet neither possesses the structural power to shape the international system unilaterally. Participation in overlapping trade arrangements therefore becomes a mechanism for increasing strategic flexibility and reducing vulnerability in a context of geopolitical fragmentation and weakening multilateralism.

The contrast between goods and services also reveals a transformation in international trade itself. Earlier trade agreements focused primarily on facilitating the exchange of physical goods across borders. Contemporary trade governance, by contrast, increasingly centers on intangible flows such as data, digital services, technological standards, innovation systems, and regulatory interoperability. Consequently, the relevance of trade agreements is no longer measured solely by tariff reduction, but also by their capacity to shape the institutional infrastructure of the digital and knowledge-based economy.

4. Conclusion

For middle powers, institutional overlap is not just a consequence of the proliferation of trade agreements but an important component of their international economic strategy. By participating simultaneously in multiple governance frameworks, countries such as Chile and South Korea can diversify commercial risks, increase negotiating opportunities, and preserve strategic flexibility without becoming excessively dependent on any single institutional arrangement or major power. Overlapping agreements therefore constitute both an economic and geopolitical resource.

The Chile–South Korea case suggests that contemporary trade governance is increasingly characterized by institutional layering rather than institutional substitution. New agreements rarely replace existing institutions; instead, they accumulate upon them, creating multiple and partially overlapping arenas of governance.

At the same time, in trade in goods, sanitary and phytosanitary measures, and technical barriers to trade, the relationship between the bilateral and multilateral levels is relatively harmonious. In areas such as rules of origin, services, investment, intellectual property, telecommunications, and dispute settlement, however, overlap becomes denser and more strategically significant. The coexistence of multiple legal frameworks creates both opportunities for flexibility and potential fragmentation through overlapping jurisdictions and regulatory regimes.

For Chile and South Korea, this institutional layering should not be understood as a problem to be avoided, but rather as a strategy of international insertion. Both countries use overlapping agreements to diversify risks, expand strategic autonomy, and adapt to new forms of global economic governance. In this context, the Chile–Korea FTA should not be viewed merely as a relic of an earlier phase of globalization centered on tariff liberalization, but as a useful case for understanding how middle powers navigate an increasingly fragmented international order.

From a regional perspective, Korea should not be understood solely as another commercial partner for Latin America, but as a strategic partner for the future. Recent IDB data suggest that trade between Korea and Latin America and the Caribbean could continue to reach record levels, increasingly concentrated in strategically important sectors such as critical minerals, energy transition, digitalization, infrastructure, artificial intelligence, and regional value chains. The relationship is therefore evolving beyond the traditional pattern of exporting raw materials and importing manufactured goods toward a potentially more complex relationship centered on investment, technology, industrial cooperation, and co-development, provided that Latin American countries are capable of negotiating their position more effectively within the global economy.

More broadly, the Chile–South Korea experience illustrates how middle powers adapt to an increasingly fragmented international economy. Rather than relying on a single institutional framework, they strategically combine bilateral, plurilateral, and multilateral instruments to expand policy autonomy, manage uncertainty, and pursue long-term economic integration.

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CHAPTER 15

Can WTO Reform Save the Multilateral Trading System?

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29 May 2026

Dear colleagues, ladies and gentlemen, good afternoon. My name of Peter Van den Bossche, and I am currently Chair Professor of International Economic Law at the Xi'an Jiaotong University School of Law, in Xi'an, China, and Professor Emeritus of International Economic Law at the World Trade Institute of the University of Bern, Switzerland. I was a Member of the Appellate Body of the WTO from 2009 to 2019 and its Chair in 2015. From 2018 to 2024, I was President of the Society of International Economic Law (SIEL).

Allow me to start by thanking the organizers of this very timely conference on *International Trade After the Trump 2.0 Shock*: the Freie Universität Berlin, the KDI School of Public Policy and Management, and Obreal, and in particular, my friend of old, Prof. Ramon Torrent, for this invitation to say a few words about a topic close to my heart and of great importance to all of us, namely the future of rules-based international trade and the role, if any, the WTO may play in preserving rules-based international trade. I regret not to be able to be with you in Berlin and please note that the recording you are now watching was made on 17 May. In these times of very rapid and often unexpected change, this is a point worth making.

While international trade reached a record high in 2025 (US$ 36 tr), there has also been a dramatic increase over the last year in measures restricting trade. We are experiencing unprecedented levels of trade distortion and trade policy uncertainty. There is no doubt that the multilateral trading system and its principal institution, the WTO, are in an existential crisis.

While the *America First Trade Policy* of the Trump II administration, with its blatant disregard for international rules and its weaponization of tariffs, is kicking the multilateral trading system to the edge of the abyss, the crisis of the system has more profound and longer-term causes. These causes include: (1) the political, technological and military competition between the current hegemon and an emerging hegemon and the adverse impact of this competition has on the trade and other policies of other countries; (2) the discrepancy between, on the one hand, the ever growing share in global trade of some countries and, on the other hand, the level of market openness of these countries, which has resulted in trade imbalances affecting many countries; (3) the rise of populism in many countries worldwide leading to the adoption of trade protectionist policies; (4) the unstoppable digital transition and inevitable green transition and the uncertainty and fear of how these transitions will change production, trade and employment worldwide; and (5) the deep-rooted concerns regarding supply chain resilience, resulting

in the adoption of friend-shoring, near-shoring and re-shoring of strategies. In essence, the current crisis of the multilateral trading system is the result of a seismic shift in the main organizing principle of international trade. This principle was for many decades 'comparative advantage' but has most recently been replaced by 'economic security'. This shift has thrown the multilateral trading system in disarray.

The world in which we live today is very different from the world in which the current multilateral trading system was shaped and the WTO was established. It is undisputed that the multilateral trading system significantly contributed to reducing extreme poverty worldwide, cutting the number of people living in extreme poverty by 1.5 billion in the past three decades (China: 1980 88% - 2000: 50% - 2025: 0%), albeit that in some regions of the world, such as sub-Saharan Africa, we saw less of a reduction than in other regions. But, whatever the achievements of the multilateral trading system in the past may have been, the world, and with it the main organizing principle of international trade have changed. For the WTO and its rulebook to remain relevant in today's and tomorrow's world, they must change.

The recognition that change is needed is not new. Already in 2018, the then European Commissioner for Trade, Cecilia Malmström, called for comprehensive WTO reform to update the WTO rules and procedures to make the WTO fit to address 21st century trade issues. At that time, also other WTO Members recognized the need for reform. In the years that followed, WTO reform, and perhaps most prominently the reform of WTO dispute settlement and discussions on consensus decision-making, developing country status and plurilateral negotiations were on the agenda in Geneva. However, these discussions did not lead to any result, except highlighting the extent of disagreement among WTO Members on the kind of reform needed.

The Liberation Day Tariffs of the Trump II administration in April 2025 and its declaration of global trade war made it clear, however, that the multilateral trading system was and is on verge of collapse, and that the WTO was in very urgent need of reform. In response, Amb. Petter Ølberg of Norway was appointed in June 2025 as Facilitator of the WTO reform negotiations. Over the next 7 months and in the run-up to the Ministerial Conference in Yaoundé, Cameroon (MC14), Amb. Ølberg held very intensive consultations with WTO Members on the reform of the WTO. On 10 March 2026, he reported to the WTO General Council on the results of his consultations and presented a draft *Yaoundé Ministerial Statement on WTO Reform* and a draft *Work Plan on the Scope and Ambition of the Future Work*. In his report, Amb. Ølberg focused on: (1) decision-making; (2) development and special and differential treatment (S&DT); (3) the levelling of the playing field; (4) the most-favoured nation (MFN) principle; (5) role of the WTO Secretariat; and (6) the national security exception. Note that WTO dispute settlement, which has been identified as a core WTO reform priority by many Members, was not addressed in Amb. Ølberg's report, presumably because he considered any progress on this issue most likely under the Trump II administration.

At MC14 in Yaoundé, Cameroon (26-30 March 2026), Ministers were unable to agree on virtually anything. There was no Final Declaration or Outcome Document. There was just a Chairman's Summary, which noted that ministers had adopted only three decisions of minor importance or impact. There was no agreement on the E-Commerce Work Programme or on the Moratorium on Customs Duties on E-

Commerce, and efforts to get two plurilateral agreements (the *Agreement of Electronic Commerce* and the *Investment Facilitation for Development Agreement*) to be included in Annex 4 of the WTO Agreement failed. But above all, at what had been labelled as the Reform Ministerial, Ministers were even unable to agree on a watered-down version of Olberg's proposals for a Ministerial Declaration on WTO Reform and a WTO Reform Work Plan. At the closing of MC14, DG Ngozi stated that while Members made progress on WTO reform, they 'ran out of time' and that discussions were to be continued in Geneva.

At the first post-MC14 meeting of the General Council in May 2026, the Chair of the General Council, Amb. Kelly from New Zealand, reported on her consultations with Members on how to continue discussions on WTO reform building on, what she referred to as, 'the high level of convergence on several areas of work at MC14'. One wonders, however, whether there really is 'a high level of convergence' among Members regarding WTO reform upon which to build.

Regarding decision-making, no Member challenges the practice of consensus decision-making, but there is no agreement at all on how to make it work (better). A proposal for introducing the concept of 'responsible consensus' (i.e., requiring Members blocking consensus to explain why they do so) has been rejected by a large group of developing countries, according to which the problem is lack of trust and the solution is confidence building among Members, rather than tinkering with consensus decision-making. As the practice of consensus decision-making renders the successful conclusion of multilateral negotiations, i.e., negotiations involving all Members problematic, Members have since 2017 been engaged in joint statement initiatives, i.e., plurilateral negotiations between 'willing' Members. Such negotiations have already resulted in a few plurilateral agreements, including the *Services Domestic Regulation Agreement* (2021; 72 Members); the *Agreement on Electronic Commerce* (2024; 72 Members) and *Investment Facilitation for Development Agreement* (2024; 131 Members). While plurilateral negotiations and agreements are an obvious solution to the consensus-decision-making deadlock, one key Member, India, is strongly opposed to such negotiations and agreements. Due to its opposition, no agreement could be reached at MC14 on the incorporation of the latter two agreements in Annex 4 of the WTO Agreement. While both agreements have now entered into force among willing Members, they remain outside the body of WTO agreements proper.

Regarding development and S&DT, there is general recognition among Members that differences in economic development must be reflected in the obligations imposed on Members, and that there is a need for S&DT. However, many of the S&DT provisions in the WTO agreements are merely hortatory and have had little impact. While developed country Members are in principle willing to agree to stronger S&DT provisions, they are unwilling to do so as long as any Member, including an emerging economy, can designate itself as a developing country entitled to S&DT. Yet, the practice of self-designation as developing country is 'sacrosanct' for many developing country Members.

Regarding the levelling of the playing field, the problems to be addressed relate both to alleged gap between the openness of the markets of some WTO Members and the restricted access to the markets of others; and to the distortion of competition (and thus trade) because of government intervention in

the economy. Agreement on different rules on tariffs and regulatory barriers to trade as well as on different rules on subsidies is, however, very difficult to reach in these times of geopolitical confrontation, rapid technological change and deep distrust.

Regarding the MFN principle, which is arguably most pertinent issue when reflecting on the future of the multilateral trading system, the United States argues that the MFN principle is 'unsuitable' in the current times. According to the United States, in times in which some countries are unwilling 'to pursue and uphold fair, market-oriented competition', in which some countries insist 'on maintaining economic systems that are fundamentally incompatible with WTO principles', and in which many countries pursue 'chronic trade surpluses that have adverse economic and political consequences in deficit countries', WTO Members must be able 'to treat different trading partners differently'. In other words, the United States wants to discard – and has in fact over the past year already discarded – the MFN principle, the most important principle of the current multilateral trading system. In its Communication on WTO Reform of January 2026, the European Union stated that the reform discussions 'should include reflections on the role of the MFN principle', while in its communication of February 2026, China came out in strong support of the MFN principle arguing that this principle must 'remain the bedrock of the WTO'. Other WTO Members, including the African Group and the United Kingdom, have also submitted communications in which they sided with either China or the European Union on the issue of the MFN principle. It may have come as a surprise (and disappointment) that the European Union did not come out in strong support of the MFN principle but indicated its willingness to discuss the role of this principle in today's world. However, while the MFN principle should indeed – as China argues – remain 'the bedrock of the WTO', a discussion on how this principle is to be applied is overdue. There have always been many, broadly applied exceptions to the MFN principle, in particular under the Article XXIV GATT and Article V GATS, under the Enabling Clause and under Articles XX and XXI GATT and XIV and XIV *bis* GATS. While discarding the MFN principle, as the United States wishes, would destroy the multilateral trading system, reassessing possible exceptions to, or deviations from, this principle may contribute to the survival of the multilateral trading system.

Regarding the role of the WTO Secretariat**,** many Members insist that the WTO is, and should remain, a 'Member-driven' organization, with a limited mandate for the Secretariat. The Secretariat is to serve the Members, not the multilateral trading system. On the contrary, some Members would welcome a Secretariat explicitly empowered to take initiatives, to make proposals to advance negotiations, and to act in defence of rules-based international trade. Any such expansion of the Secretariat's mandate would of course be constrained by the size of its staff and shrinking financial resources.

Finally, regarding the national security exception of Articles XXI of the GATT 1994 and XIV bis of the GATS, the United States holds firm on its demand that any invocation of the national security exception is considered 'non-justiciable', i.e., that WTO panels cannot decide on whether such invocation is WTO consistent. Most Members agree that with the Panel in *Russia – Traffic in Transit* (2019) that, while Members have very wide discretion in invoking national security to justify otherwise GATT or GATS inconsistent measures, this discretion is not without limits. A Member invoking Article XXI of the GATT or Article XIV bis of the GATS always need to show that one of the situations listed therein (e.g.,

an emergency in international relations) is present and is obliged to interpret and apply these provisions in good faith. It is hard to see how the US demand in this regard could be accommodated without endangering rules-based international trade.

In short, unlike the Chair of the WTO General Council, Amb. Kelly, I do not see the 'high level of convergence' regarding WTO reform to which she referred in May at the first post-MC14 General Council meeting, and upon which she invited Members now to build in preparation of MC15.

Let me conclude. The title of this intervention is 'Can WTO reform save the multilateral trading system?' In response to this question, it must first be mentioned that even without much, or no, reform, the WTO will continue to fulfil two essential (albeit modest) functions and will thus remain relevant. The first of these functions is to be an permanent forum where Members can discuss concerns regarding the trade policy or specific trade measures of other Members. The second and related function is to gather, and subsequently make available, information and data on trade-related measures of Members, their trade policies and developments in international trade in general. This allows any trade discussion to be based on facts, rather than misrepresentation and falsification.

For the WTO to be more than a forum for discussion and a depository of trade data and information, and to ensure the preservation of rules-based trade, the way in which the WTO takes decisions must be rectified and plurilateralism embraced. Also, the dispute settlement system must be improved (drawing on the lessons learned from past mistakes) and made fully operational again. Above all, however, to address the current crisis of the multilateral trading system, Members need to adapt the WTO rulebook to 21st century international trade, of which the main organizing principle is, as mentioned earlier, no longer comparative advantage but economic security. WTO reform can save the multilateral trading system, but the reform required is much more profound than the unsuccessful efforts currently made.

Thank you.

CHAPTER 16

Sustainability, Trade, and the New Processes and Production Methods: Challenges for WTO Law

Mandy Meng FANG [1]

Abstract

Processes and production methods (PPMs) are resurfacing as an increasingly significant feature of contemporary trade and sustainability governance in advanced economies. Their revival extends beyond technical regulations to subsidies, government procurement, and other forms of public support across a wide range of policy areas, particularly in the clean energy sector. PPMs are thus playing a growing role in shaping access to public support and in differentiating among products and technologies based on how they are produced.

Unlike earlier PPM-based measures, which often rested on relatively direct process distinctions, the new generation of PPMs relies on more sophisticated methods of measurement, verification, and comparison. These often involve carbon accounting, lifecycle analysis, and other forms of ecological impact assessment. Using the carbon footprint as a case study, this article highlights the profound complexities and ambiguities that accompany government measures that condition treatment on the measurement of emissions embedded in a product's production process. The resurgence of PPMs, therefore, exposes a deeper tension within the World Trade Organization (WTO) framework: reconciling sustainability ambitions with trade disciplines in an era of decarbonization.

Against this backdrop, the article argues that the WTO's institutional capacity should be strengthened to address the increasingly technical character of sustainability regulation. One possible response would be to establish a dedicated sustainability expert mechanism within the WTO to provide informed guidance on scientific and methodological questions arising from sustainability-related trade measures. Such a mechanism could help the WTO engage more effectively with complex issues at the intersection of trade, science, and climate governance, while improving the quality and legitimacy of legal assessment in disputes involving new-generation PPMs.

Keywords: sustainability, PPMs, WTO, carbon emissions

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1. Introduction

Processes and production methods (PPMs) refer to the methods, techniques, and conditions used to produce, process, or harvest a good, even when they do not affect the good's final physical characteristics.[2] The use of PPM-based measures to influence international trade in pursuit of non-trade objectives is not a recent development, but has emerged as part of the multilateral trading system since the GATT era in the early 90s.[3] Landmark trade law disputes such as *US – Tuna*, *US – Shrimp*, and *EC – Seal Products* speak to members' desire to regulate products' PPMs to achieve public policy objectives, such as protecting animal welfare and human health.[4]

In recent years, PPMs have resurfaced as an increasingly significant feature of contemporary trade and sustainability governance, particularly in advanced economies seeking to align trade policy with climate, environmental, and social objectives.[5] Their renewed significance is not confined to traditional technical regulations but has been embedded in a broader range of policy instruments, including subsidies, public procurement, and other forms of state support.[6] This trend is especially visible in the clean energy sector, where governments increasingly condition access to public support on PPM-related criteria such as carbon intensity, lifecycle impact, or other environmental benchmarks.[7] PPMs are thus playing a growing role in shaping access to public support and in differentiating among even the same group of products and technologies based on how they are produced.

Besides covering an expanding range of industries, sectors, and products, the renewed use of PPMs appears to go beyond resting on relatively direct process distinctions, as in earlier PPM-based measures. Instead, they rely on highly sophisticated methods of measurement, verification, and comparison, which often involve carbon accounting, lifecycle analysis, and other forms of ecological impact assessment. Focusing on the carbon footprint requirement, this article examines two relevant regulatory measures: the European Union's (EU) Batteries Regulation and the United Kingdom's (UK) Electric Car Grant.

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2 The term PPMs originated in the General Agreement on Tariffs and Trade of 1979 on Technical Barriers to Trade.

3 The existing scholarship examining the use of PPMs and international trade law can be found: Steve Charnovitz, 'The Law of Environmental "PPMs" in the WTO: Debunking the Myth of Illegality' (2002) 27 Yale Journal of International Law 59; Christian R. Conrad, *Processes and Production Methods (PPMs) in WTO Law: Interfacing Trade and Social Goals* (Cambridge University Press, 2011); Evdokia Moïsé and Ronald Steenblik, 'Trade-Related Measures Based on Processes and Production Methods in the Context of Climate Change Mitigation' (OECD Trade and Environment Working Papers 2011/04, 2011); Robert Read, 'Like Products, Health and Environmental Exceptions: The Interpretation of PPMs in Recent WTO Trade Dispute Cases' (2004) 5(2) Estey Centre Journal of International Law and Trade Policy 123.

4 See, Erich Vranes, *Trade and the Environment: Fundamental Issues in International Law, WTO Law, and Legal Theory* (Oxford University Press, 2009), at 319-350.

5 Andreas Oeschger and Elisabeth Bürgi Bonanomi, 'PPMs Are Back: The Rise of New Sustainability-oriented Trade Policies Based on Process and Production Methods' (International Institute for Sustainable Development, 14 April 2023) <https://www.iisd.org/articles/policy-analysis/ppms-rise-new-sustainability-oriented-trade-policies-process-production-methods>.

6 The Ecological Bonus scheme adopted by France in recent years is an example of incorporating PPMs in green subsidies. See, Mandy Meng Fang, 'When Electrification Meets Reindustrialization: The First EU Green Electric Vehicle Subsidies and the WTO Consistency' (2025) 35 Duke Journal of Comparative & International Law 77.

7 Besides from the case studies discussed below, a recent dispute brought against the European Union by Malaysia and Indonesia, respectively is illustrative. See, Panel Report, *European Union and certain Member states — Certain Measures Concerning Palm Oil and Oil Palm Crop-Based Biofuels*(WT/DS600/R, adopted on 26 April 2024); Panel Report, European Union — Certain Measures Concerning Palm Oil and Oil Palm Crop-Based Biofuels (WT/DS593/R, adopted on 10 January 2025).

Together, they highlight the profound complexities and ambiguities that arise when government measures condition treatment on emissions embedded in a product's production process. The legal and administrative questions they raise are thorny because the focus lies on how that production process is quantified, verified, and compared across jurisdictions.

Therefore, the interface between the renewed generation of PPMs oriented towards sustainability and the World Trade Organization (WTO) law that upholds non-discrimination, transparency, and restraint against unnecessary trade restrictions becomes even more intricate.[8] The key challenge concerns not only whether sustainability goals are legitimate, but also whether the trading system can accommodate PPM-related measures that rely on complex, contested, and evolving methods for measuring production-related harm. This article offers an updated understanding of how these renewed PPMs are likely to be treated under WTO rules. At stake is the broader question of whether the WTO can reconcile members' sustainability ambitions with trade disciplines in an era of decarbonization.

2. The Case Studies – The European Union Batteries Regulation and the United Kingdom Electric Car Grant

This article examines two recent policy instruments that illustrate the new generation of sustainability-oriented PPMs: the EU's Batteries Regulation and the UK's Electric Car Grant (ECG). The two schemes adopt criteria based on process and production-related carbon emissions to shape market access and public support, respectively. As a result, both foreign and domestic producers must meet the specified requirements to place their products on the market or become eligible for government support.

The EU Batteries Regulation, with the aim of making batteries sustainable throughout their entire life cycle, introduces carbon footprint requirements for certain battery categories, including electric vehicle batteries.[9] Representing the first requirements of their kind globally, the Regulation will, in the coming years, evolve from a mandatory declaration of the battery's carbon footprint and performance class to a maximum carbon footprint threshold that batteries must meet to enter the EU market.[10] Manufacturers that fail to declare or meet the minimum standards will be rejected from entering the EU market.

The UK government launched the ECG, a £650 million fund supporting the purchase of new zero-emission vehicles priced at or below £37,000, set to run through at least the 2028-29 financial year.[11] Unlike the previous scheme, the ECG introduced sustainability standards into the grant's design and established a two-tiered subsidy: vehicles meeting the highest sustainability credentials by exceeding

8 For a thorough discussion of a broader group of countries' sustainability-oriented policy measures and the WTO consistency, see, Sherzod Shadikhodjaev, *Industrial Policy and the World Trade Organization* (Cambridge University Press, 2018), at 194-233.

9 Regulation (EU) 2023/1542 of the European Parliament and of the Council of 12 July 2023 on batteries and waste batteries, amending Directive 2008/98/EC and Regulation (EU) 2019/1020 and repealing Directive 2006/66/EC.

10 Ibid.

11 'How to Apply for Vehicle Eligibility for the Electric Car Grant' (GOV.UK, 1 April 2026) <https://www.gov.uk/government/publications/how-to-apply-for-vehicle-eligibility-for-the-electric-car-grant/how-to-apply-for-vehicle-eligibility-for-the-electric-car-grant>.

basic requirements through greener production, lower lifecycle emissions, and supply chain innovation receive a £3,750 grant; those satisfying only the baseline environmental criteria are eligible for £1,500; and vehicles lacking a verified science-based target are excluded.[12]

Given the size of the European and UK markets, the impacts of the Batteries Regulation and ECG on international trade in batteries and electric vehicles are expected to be significant. Although both policy instruments apply to foreign and domestic producers alike, irrespective of their origin, the *de facto* implications are likely to differ. For instance, the vast majority, if not all, of the vehicle models listed as eligible for the two ECG bands are manufactured or assembled in the UK or Europe.[13] Manufacturers based in East Asian countries, notably China and South Korea, are struggling to meet the ECG criteria.[14] Since the Batteries Regulation, with a phased approach, has entered into the early stage with relatively minimal obligation, the full impact on international trade remains to be seen. However, the compliance costs and regulatory burdens may fall more heavily on manufacturers outside the EU, particularly those less integrated into EU regulatory and supply-chain systems.

Both the EU Batteries Regulation and the UK ECG use emissions embedded in a product's production process as a key metric for differentiating within the same product group. At the core of these carbon-based PPMs lies the methodology for measuring and verifying emissions, for which no international agreement yet exists. The methodological complexities involved in calculating the carbon footprint of industrial goods, such as batteries and electric vehicles, should not be underestimated. In the absence of a global consensus, the EU and UK authorities have adopted their own methodological guidelines to provide a standardized approach, although these have also attracted criticism for their accuracy, restrictiveness, and other related concerns.[15]

For instance, the methodology under the EU Batteries Regulation uses the national average electricity mix as the default benchmark, while allowing direct connection to electricity in limited circumstances.[16] Similarly, the UK ECG relies on country-level electricity emissions factors in assessing production-related carbon emissions.[17] Such methodological requirements may be especially burdensome for manufacturers in geographically vast countries where electricity grids and carbon intensity vary significantly across regions. In these cases, a single national benchmark may fail to capture meaningful sub-national differences in emissions intensity, potentially placing firms in low-carbon regions at a disadvantage and weakening the accuracy of the comparative assessment. While the EU Batteries Regulation allows departure from the national average electricity mix, the requirements for invoking

12 Ibid.

13 'Zero Emission Vehicles Eligible for a Grant' (GOV.UK, 21 May 2026) <https://www.gov.uk/zero-emission-vehicle-grants/cars>.

14 Will Rimell, 'Fiat the Latest to Bring in Own Discount Ahead of Electric Car Grant' (Autocar, 5 August 2025) <https://www.autocar.co.uk/car-news/electric-cars/fiat-latest-bring-own-discount-ahead-electric-car-grant>.

15 See, Hans Eric Melin et al., 'Global Implications of the EU Battery Regulation' (2021) 373(6553) Science 384; Mandy Meng Fang, ''Regulating EV Batteries Carbon Footprint: EU's Climate Ambition or Green Protectionism?' (2023) 53(7) Environmental Law Reporter 10590.

16 Andreasi Bassi et al., 'Rules for the Calculation of the Carbon Footprint of Electric Vehicle Batteries' (JRC Science for Policy Report, 2023).

17 GOV.UK, *supra* note 11.

that deviation remain onerous, leading even some advanced European economies, such as Germany, to question their practical feasibility.[18]

3. The New PPMs and the WTO Law

A survey of the new generation of sustainability-oriented PPMs reveals potential frictions with WTO law, which is built on non-discrimination, trade-distortion reduction, and restraint on unnecessary trade restrictions. Unlike earlier forms of PPMs, which were assessed mainly through the lenses of national treatment and most-favored-nation obligations, the renewed generation raises more complex questions that go beyond discrimination alone. These measures increasingly implicate issues of regulatory autonomy, methodological feasibility, and evidentiary reliability. It is therefore important to examine whether the EU Batteries Regulation constitutes a technical regulation that creates unnecessary obstacles to international trade and thus breaches Article 2.2 of the Agreement on Technical Barriers to Trade (TBT).[19] Equally intriguing is whether the UK ECG qualifies as an actionable subsidy and, if so, whether it could be challenged under the Agreement on Subsidies and Countervailing Measures (ASCM).[20]

While a detailed examination of the WTO compatibility of the two instruments is beyond the scope of this article, it is worth noting that the EU Batteries Regulation and the UK ECG may each be susceptible to trade law challenge, especially under the TBT Agreement and the ASCM, respectively.[21] The Batteries Regulation may be scrutinized under Article 2.2 of the TBT Agreement,[22] while the ECG may potentially be viewed as an actionable subsidy with adverse effects on the interests of other WTO members.[23]

The significance of these measures lies not only in their doctrinal implications under WTO law, but also in the institutional challenge they pose for the trading system. The issue is no longer limited to the legitimacy of the underlying sustainability objectives; rather, it concerns whether the WTO framework can meaningfully assess and guide regulatory measures that depend on contested and still-developing methodologies for measuring production-related impacts. The existing rules, negotiated and enacted decades ago, may fall short of adequately addressing highly data-intensive, methodologically contested forms of environmental and sustainability regulation.

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18 Benjamin Wehrmann, 'EU's Planned Battery Carbon Footprint Index Worries German Manufacturers' (Clean Energy Wire, 27 August 2024) <https://www.cleanenergywire.org/news/eus-planned-battery-carbon-footprint-index-worries-german-manufacturers>.

19 For a relevant discussion of the issue, see, Fang, *supra* note 15.

20 For a relevant discussion of this issue, see, Arwel Davies, 'WTO Law Compatibility of the UK's New Electric Vehicle Grant Scheme' (IELPB, 21 July 2025) <https://ielp.worldtradelaw.net/2025/07/guest-post-wto-law-compatibility-of-the-uks-new-electric-vehicle-grant-scheme.html>.

21 The EU Batteries Regulation has received specific trade concerns raised by other WTO members under the TBT committee since 2024. See, 'European Union – Methodology for the Calculation and Verification of the Carbon Footprint of Electric Vehicle Batteries (ID 838)' (WTO Trade Concerns Database) <https://tradeconcerns.wto.org/en/stcs/details?imsId=838&domainId=TBT>.

22 The TBT Article 2.2 requires that technical regulations shall not be more trade restrictive than necessary.

23 See, SCM Agreement Articles 5 and 6.

At this critical juncture, it is essential to strengthen the WTO's capacity to address new forms of PPMs marked by methodological uncertainty and, in some cases, significant opacity. A preferable approach is one of disciplined conditional acceptance rather than categorical approval or outright rejection. Such an approach would strike a delicate balance between enabling governments to pursue decarbonization and environmental protection in a more targeted, policy-relevant manner, while also addressing concerns about the scientific robustness and reliability of methodologies.

A first step toward this objective would be to establish a dedicated sustainability expert mechanism within the WTO to provide informed guidance on the scientific and methodological issues raised by sustainability-related trade measures before members move to the dispute settlement stage.[24] Such a mechanism could enhance the WTO's ability to engage with the complex intersection of trade, science, and climate governance, while also improving the rigor, consistency, and legitimacy of legal assessment in disputes involving new-generation PPMs. This would also enable the WTO to remain relevant at a time when multilateralism is under unprecedented strain, and the relationship between trade liberalization and sustainability is increasingly contested.

[24] One option is to set the mechanism under the WTO Committee on Trade and Environment, which is the standing forum for government dialogue on the trade-environment interface.

CHAPTER 17

Reforming the WTO Regime on Special and Differential Treatment of Developing Countries

Sherzod Shadikhodjaev[1]

1. Developing Country Status in the WTO

The preamble of the Marrakesh Agreement Establishing the World Trade Organization (WTO) (hereinafter 'the WTO Agreement') explicitly recognizes the need for positive efforts to ensure that developing countries and least-developed counties (LDCs) secure a share in the growth in international trade commensurate with their economic development needs. More than two-thirds of WTO members are developing countries, including LDCs.

According to Article XVI:1 of the WTO Agreement, unless provided otherwise, 'the WTO shall be guided by the decisions, procedures and customary practices followed by the CONTRACTING PARTIES to GATT 1947 and the bodies established in the framework of GATT 1947'. It has become a customary practice to grant developing country status upon self-declaration of interested members and consensus-based acceptance by the WTO membership. No pre-defined criteria for such a determination exist, except for LDCs, which, unlike other developing countries, are recognized as such in the WTO if formally designated so by the United Nations.

In the Uruguay Round, it was decided that LDC members, for so long as they remain in this category, 'will only be required to undertake commitments and concessions to the extent consistent with their individual development, financial and trade needs or their administrative and institutional capabilities'.[2] At the Abu Dhabi Ministerial Conference (2024), it was decided that members graduating from LDC status will continue to benefit from the application of the special procedures for LDCs set out in Article 24 of the Dispute Settlement Understanding and from LDC-specific technical assistance and capacity building under the WTO framework for a period of three years after graduation.[3]

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2 See WTO Agreement, Article XI:2; Decision on Measures in Favour of Least-Developed Countries, para. 1.

3 WTO Smooth Transition Support Measures in Favour of Countries Graduated from the LDC Category – Ministerial Decision, WT/MIN(24)/34, WT/L/1189 (4 March 2024), paras. 1–2.

2. Evolution of the Special and Differential (S&D) Treatment Regime

Although roughly half of the GATT founding members were from the developing world, the original GATT text was written with arguably less attention to their special needs and concerns. As observed in the literature, the S&D regime in the GATT period evolved over three phases, reflecting distinct shifts in approach: an initial focus on expanding market access for developing country exports (1948–1973), followed by greater implementation flexibility for developing countries and the institutionalization of unilateral preferences through the Enabling Clause (1973–1979, Tokyo Round), and, finally, a move towards a higher level of commitments by developing countries in the Uruguay Round, including in services, agriculture, and intellectual property (1979–1995).[4] It is argued that the Uruguay Round marked a dramatic shift in the focus of S&D from broader development constraints to primarily implementation difficulties, while binding developing countries to all agreements under the single undertaking.[5]

According to the WTO Secretariat's typology, 157 S&D provisions are scattered across one of the six categories (see Table 1):[6]

(i) increasing the trade opportunities of developing country members;

(ii) safeguarding the developing country interests;

(iii) flexibility of commitments, of action, and use of policy instruments;

(iv) transitional periods;

(v) technical assistance; and

(vi) LDC members.

[4] Alexander Keck and Patrick Low, 'Special and Differential Treatment in the WTO: Why, When and How?', Staff Working Paper ERSD-2004-03, 2004, pp. 3–6.

[5] Cuba, Dominican Republic, Honduras, India, Indonesia, Kenya, Malaysia, Pakistan, Sri Lanka, Tanzania, Uganda and Zimbabwe, WT/GC/W/442 (19 September 2001), para. 7.

[6] Special and differential treatment provisions in WTO Agreements and Decisions – Note by the Secretariat, WT/COMTD/W/271 (16 March 2023), paras. 1.5–1.6.

Table 1: S&D Provisions by Type and WTO Agreement

Agreement	Provisions aimed at increasing the trade opportunities of developing country members	Provisions that require WTO members to safeguard the interests of developing country members	Flexibility of commitments, of action, and use of policy instruments	Transitional time-periods	Technical assistance	Provisions relating to LDC members	Total by Agreement
General Agreement on Tariffs and Trade 1994	**8**	**13**	**4**				**25/25**
Understanding on Balance of Payments of GATT 1994			**1**		**1**		**2/2**
Agreement on Agriculture	**1**		**9**	**1**		**3**	**14/13**
Agreement on the Application of Sanitary and Phytosanitary (SPS) Measures		**2**		**2**	**2**		**6/6**
Agreement on Technical Barriers to Trade	**3**	**10**	**2**	**1**	**9**	**3**	**28/25**
Agreement on Trade-Related Investment Measures (TRIMs)			**1**	**2**		**1**	**4/3**
Agreement on Implementation of Article VI of GATT 1994		**1**					**1/1**
Agreement on Implementation of Article VII of GATT 1994		**1**	**2**	**4**	**1**		**8/8**
Agreement on Import Licensing Procedures		**3**		**1**			**4/4**
Agreement on Subsidies and Countervailing Measures (SCM)		**2**	**10**	**7**			**19/16**
Agreement on Safeguards		**1**	**1**				**2/2**
Agreement on Trade Facilitation (TFA)			**3**	**7**	**7**	**9**	**26/10**
General Agreement on Trade in Services (GATS)	**3**	**4**	**4**		**2**	**2**	**15/13**
Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)				**2**	**1**	**3**	**6/6**
Understanding on Rules and Procedures Governing the Settlement of Disputes.		**7**	**1**		**1**	**2**	**11/11**
Agreement on Government Procurement (2012) (GPA 2012)		**5**	**6**		**1**	**3**	**15/12**
TOTAL	**15**	**49**	**44**	**27**	**25**	**26**	**186/157**

Source: WT/COMTD/W/271 (16 March 2023).

Note: A number of provisions are placed in more than one category. The total of 157 over all the agreements counts the provisions once, while the total of 186 is the total of all listed provisions.

Despite the seemingly high number of S&D provisions in WTO agreements, they have been criticized as not fully meeting developing countries' expectations or not conferring them tangible benefits. This is partly due to the fact that many S&D provisions lack implementation guidelines and contain vague formulations and best endeavour or 'soft law' obligations.[7] Take the Agreement on Technical Barriers to Trade, which has the largest number of S&D provisions, as an example.[8] Article 12.3 of this agreement requires WTO members, in the preparation and application of technical regulations, standards and conformity assessment procedures, to 'take account of the special development, financial and trade needs of developing country Members, with a view to ensuring that such [measures] do not create unnecessary obstacles to exports from developing country Members'. That Article 12.3 is virtually toothless was once again illustrated in *EU – Palm Oil* (DS593 and DS600) – one of the latest WTO cases. There, Malaysia and Indonesia argued that this provision requires active and meaningful consideration of developing country needs, and Malaysia also submitted that 'prior panels have been too undemanding in their interpretation of Article 12.3'. But the panel noted a difficulty in establishing a precise legal and evidential benchmark for a 'take into account' test and determined that this test would normally require an assessment based on circumstantial evidence and inferences, rather than direct evidence. This and previous panels were reluctant to interpret Article 12.3 as requiring a regulating member to document specifically in its legislative and rule-making processes how it actively considered a developing country's special development, financial and trade needs.[9]

3. S&D Reform

To address S&D shortcomings, members in the Doha Ministerial Conference (2001) agreed to review all S&D provisions 'with a view to strengthening them and making them more precise, effective and operational'.[10] They also instructed the WTO Committee on Trade and Development to identify mandatory S&D provisions and assess the implications of making currently non-mandatory provisions binding.[11] As part of this process, more than 80 proposals were submitted to introduce or enhance S&D provisions through revised wording across WTO agreements.[12]

Further, the Bali Ministerial Conference (2013) established a monitoring mechanism on S&D as the WTO's 'focal point' to review S&D implementation, with the possibility of making recommendations to the relevant WTO bodies for the consideration of actions or initiating negotiations to improve the

7 See Sonia E. Rolland, *Development at the World Trade Organization* (Oxford University Press, 2012), pp. 109–38.

8 See Sherzod Shadikhodjaev, *Energy and the Environment: Exploring the Nexus under International Economic Law* (Cambridge University Press, 2024), pp. 164–167.

9 Panel Reports, *EU – Palm Oil*: WT/DS593/R, paras. 7.949, 7.956–7.957; WT/DS600/R, paras. 7.929, 7.934–7.937; Panel Reports, *US – COOL*, WT/DS384/R, WT/DS386/R, para. 7.787. See also Sherzod Shadikhodjaev, 'Biofuel Restrictions and Indirect Land-Use Change: What Does the WTO Say?', 34 *Review of European, Comparative & International Environmental Law* (RECIEL) 572 (2025).

10 Ministerial Declaration, WT/MIN(01)/DEC/1 (20 November 2001), para. 44.

11 Implementation-Related Issues and Concerns – Decision of 14 November 2001, WT/MIN(01)/17 (20 November 2001), para. 12.1.

12 WTO, 'Special and Differential Treatment: Stronger Support for Development', Hong Kong WTO Ministerial 2005: Briefing Notes, https://www.wto.org/english/thewto_e/minist_e/min05_e/brief_e/brief17_e.htm.

S&D provisions reviewed.[13] Monitoring under this mechanism should be undertaken based on, inter alia, member's written submissions. But since no submissions have been made to date,[14] the monitoring mechanism has been virtually inoperative.

Meanwhile, members managed to conclude the Trade Facilitation Agreement containing an innovative S&D section, which may well serve as a model for future legal texts to follow.[15] It is unique in giving developing countries the choice to self-designate the status of envisaged commitments and to link the implementation of certain commitments to receipt of technical assistance and capacity building support from donor countries. This approach gives more room for member-specific flexibilities in implementing multilateral rules, contrasting with traditional S&D provisions, which have generally relied on universal or group-based flexibilities for developing countries.[16]

As one of the latest developments, the issue of improving the S&D regime is currently part of the ongoing WTO reform process. In June 2025, Mr. Petter Ølberg (Norway) was appointed as a facilitator to advance WTO reform discussions by seeking members' views in the areas of decision-making, development and S&D treatment, and levelling the playing field. His consultations with representatives of members confirm that development remains central to the WTO, with no member advocating the elimination of S&D treatment. His consultations also reveal that S&D is generally seen as an important but insufficient tool that must become more targeted, dynamic and effective to reflect diverse and evolving needs, while balancing flexibility with broader participation in common rules. Although views diverge on developing-country differentiation, self-designation and eligibility criteria, there is broad agreement on pursuing pragmatic, needs-based approaches to enhance integration of developing countries into global trade and maintain the system's legitimacy.[17]

With respect to specific members' positions, the United States criticizes the developing-country self-declaration as outdated and proposes moving towards objective country differentiation based on certain criteria, depriving four categories of members from S&D benefits: an OECD member or applicant; a G20 member; a WTO member that is designated as a 'high income' country by the World Bank; and a WTO member accounting for no less than 0.5 per cent of global merchandise trade.[18] The United Kingdom observes that over 75% of members (including some of the largest economies) have access to S&D treatment, which cannot be right. It proposes a case-by-case, agreement-by-agreement approach to S&D, with voluntary and legally binding opt-outs by relevant members recorded in a register to reserve trade concessions to the most deserving members.[19] Similarly, the EU stresses the need for more

[13] Monitoring Mechanism on Special and Differential Treatment – Ministerial decision of 7 December 2013, WT/MIN(13)/45, WT/L/920 (11 December 2013), para. 6.

[14] WT/COMTD/W/271, supra note 6, para. 1.6.

[15] Antonia Eliason, 'The Trade Facilitation Agreement: A New Hope for the World Trade Organization', 14 *World Trade Review* 643 (2015), p. 662.

[16] See Ben Czapnik, 'The Unique Features of the Trade Facilitation Agreement: A Revolutionary New Approach to Multilateral Negotiations or the Exception Which Proves the Rule?', 18 *Journal of International Economic Law* 773 (2015).

[17] Written Report by the Facilitator to the General Council – H.E. Mr Petter Ølberg (Norway), JOB/GC/483 (12 December 2025), paras. 3.14–3.22, p. 13.

[18] United States, WT/GC/W/757/Rev.1 (14 February 2019); WT/GC/W/998 (23 March 2026), paras. 19–20.

[19] UK, WT/GC/W/993 (6 March 2026), paras. 2.2 and 7.3.

granular, targeted and differentiated approaches to S&D.[20] Paraguay takes the view that the blanket S&D system without objective and graduation criteria disables consensus-building for creating new rules.[21]

In an apparent attempt to challenge criticisms of S&D and reframe the debate on fairness and reciprocity, some developing countries argue that developed country members have effectively benefitted from so-called 'reversed' S&D by securing flexibilities (e.g., country-specific carve-outs or waivers) comparable to S&D benefits, citing the following examples: the US decades-long waiver from Article XI of the General Agreement on Tariffs and Trade allowing quantitative restrictions on agricultural imports; extensive textile quotas by developed countries under the Multi-Fibre Arrangement; and disproportionally large subsidy entitlements (AMS) of developed countries in the agricultural sector.[22]

The African Group strongly opposes 'any attempt at forced "graduation" of developing countries based on arbitrary income criteria' and stresses, instead, a 'treaty-embedded right' to S&D and the need for policy space to promote industrialization (including through a review of subsidy rules), diversification and integration into global value chains.[23] Similarly, some members, including developed countries, consider that negotiating criteria for accessing S&D is not productive, so S&D should rather be tailored to the specific and evolving development needs of members across different economic sectors.[24] China advocates a more precise and effective implementation of S&D provisions and maintaining development flexibility when updating the WTO subsidy rulebook.[25] The ACP Group calls for the preservation of the S&D principle while considering how to allow for clear voluntary opt outs.[26] There are also calls for keeping the status quo, including developing countries' unconditional rights to S&D and self-declaration principle, and upholding current S&D provisions and provision of S&D in current and future negotiations.[27]

4. Way Forward

The S&D regime is designed to provide implementation flexibilities and enhanced trading opportunities for developing country members, facilitating their integration into the global economy and preparing them to undertake more commitments over time. Its limitations are well recognized, so reforms are required. But given the lack of progress in improving S&D provisions to date, the WTO appears to have reached a point where improvements in this field are unlikely without revisiting the long-standing self-declaration practice.

[20] EU, WT/GC/W/986 (21 January 2026), pp. 4–5.

[21] Paraguay, WT/GC/W/987 (3 February 2026), para. 3.9.

[22] China, India, South Africa, Venezuela, Lao PDR, Bolivia, Kenya, Cuba, Central African Republic and Pakistan, WT/GC/W/765/Rev.2 (4 March 2019), paras. 5.4–5.9.

[23] African Group, WT/GC/W/992 (5 March 2026), paras. 4.4–4.8.

[24] Norway, Canada, Hong Kong, Iceland, Mexico, New Zealand, Singapore and Switzerland, WT/GC/W/770/Rev.3 (8 May 2019), para. 2.4.

[25] China, WT/GC/W/989 (18 February 2026), para. 9.

[26] ACP Group, WT/GC/W/975 (28 November 2025), paras. 2.2.

[27] African Group, Cuba, India and Pakistan, WT/GC/W/778/Rev.5 (18 July 2022), para. 3.6.

At present, S&D treatment largely applies to developing countries as a homogenous group without sufficient differentiation. The key question is not whether such treatment is justified, but how to tailor it to those most in need to maximize sustained gains from trade.[28] This requires agreed criteria for differential application and graduation that better reflect the varying needs of developing countries.[29] This approach is not entirely new, as it is reflected in part, for example, in the Agreement on Subsidies and Countervailing Measures, which accords more lenient treatment to export subsidies of certain, rather than all, developing countries for as long as they remain listed in Annex VII.[30] Alternatively, members may voluntarily forego S&D, as exemplified by Singapore, Korea, Chinese Taipei, Brazil, Costa Rica and China, which have announced that they will not seek or use S&D treatment in future WTO negotiations. While this entails relinquishing associated benefits, it may enhance their negotiating leverage in non-S&D areas as they no longer have to seek a trade-off between preserving S&D flexibilities and securing concessions in other negotiating areas.

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[28] Pierre Sauvé, 'Special and Differential Treatment as If It Could Be Reformed', 56 *Journal of World Trade* 879 (2023), p. 880.

[29] See Bernard Hoekman, 'Operationalizing the Concept of Policy Space in the WTO: Beyond Special and Differential Treatment', 8 *Journal of International Economic Law* 405 (2005), pp. 412–413; Keck and Low, supra note 4, pp. 25–26.

[30] Sherzod Shadikhodjaev, 'Industrial Policy in Asia-Pacific Integration: Localization Measures and Subsidies in ASEAN Countries', 31 *Asia Pacific Law Review* 618 (2023), p. 634.

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