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NOTE FROM THE CHIEF EDITOR'S DESK

DR. BIPIN KUMAR*

Dear Reader,

It is with great pleasure that I welcome you to Volume 17.2 of Trade, Law and Development (TL&D). With this General Issue, we bring the seventeenth volume of the Journal to a close. Before you turn to the contributions that follow, I would like to offer a few reflections on the Journal itself, and on the state of affairs of the international trade in which this issue appears.

For readers encountering the Journal for the first time, I am Dr. Bipin Kumar, Chief Editor and Faculty-in-Charge of TL&D, and an Associate Professor at National Law University, Jodhpur, specialising in international trade law. Since its founding in 2009, TL&D has grown into a credible and independent forum for rigorous scholarship in international trade, economic, and investment law, a standing sustained entirely by the quality of the work our authors entrust to us and the care with which our editors refine it. That the Journal has, over the years, carried the writing of leading figures in the field alongside emerging voices remains, for me, its defining strength.

If the Special Issue that opened this volume invited us to look "into the future of global trade," the months since its publication have supplied an unusually candid answer. The past year has tested not only the openness of the trading system but the legal architecture that sustains it, and it has done so on three fronts at once: the limits of unilateral power, the fragility of the multilateral order, and the quiet migration of trade governance toward bilateral and regional arrangements.

The first is the reassertion of legal constraint. Over the preceding year, the sweeping tariffs imposed by the United States (U.S.) had come to symbolise what commentators have described as the "weaponisation" of trade. In February 2026, however, the U.S. Supreme Court held, by a six-to-three majority, that the International Emergency Economic Powers Act does not confer upon the President the power to impose tariffs, reasoning that the authority to tax rests with Congress

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and cannot be read into a statute that never mentions duties.[1] The decision mattered not only for the measures it invalidated but for what it affirmed: that even in a moment of acute economic nationalism, the imposition of tariffs remains a legal act, answerable to constitutional limits rather than to executive will. Its practical effect, however, has been more equivocal. Within hours, the administration turned to alternative statutory authorities to reconstitute broadly similar duties,[2] a manoeuvre that reveals how resilient the protectionist impulse has become even where a particular legal instrument is withdrawn.

The second front is the continuing strain on the multilateral system itself. The World Trade Organization's (WTO) Fourteenth Ministerial Conference, held in Yaoundé, Cameroon, in March 2026, closed without a consensus outcome. Members could not agree even to extend the moratorium on customs duties on electronic transmissions, a fixture of the digital economy for close to three decades, and the broader agenda of institutional reform, including the long-awaited restoration of a fully functioning dispute settlement system, was left unresolved.[3] This episode is a reminder that the difficulty confronting the WTO is not merely political but structural a member-driven, consensus-based organisation strains to legislate for a fragmenting world.[4] And yet the same conference disclosed the direction in which governance is drifting, as coalitions of willing members pressed ahead with plurilateral initiatives outside the consensus framework.[5] Indeed, notwithstanding the continuing paralysis of the Appellate Body, the dispute settlement system found, by 2025, unexpected reserves of resilience: members brought thirteen new disputes to the WTO that year, the highest annual total since the Appellate Body ceased functioning in 2019, while the Multi-Party Interim Appeal Arbitration Arrangement

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[1] *See* Learning Resources, Inc. v. Trump, 607 U.S. __ (2026), decided together with V.O.S. Selections, Inc. v. Trump, State of Oregon v. Trump, No. 25-00066 (Ct. Int'l Trade 2025).
[2] In the immediate aftermath, the administration invoked Section 122 of the Trade Act of 1974 to impose across-the-board duties, complemented by sector-specific measures under Section 232 of the Trade Expansion Act of 1962; *See generally*, Kimberly Clausing & Maurice Obstfeld, *What the Supreme Court's Tariff Ruling Changes, and What It Doesn't*, PETERSON INST. FOR INT'L ECON. (Feb. 23, 2026), https://www.piie.com/blogs/realtime-economics/2026/what-supreme-courts-tariff-ruling-changes-and-what-it-doesnt.
[3] *See* Office of the U.S. Trade Representative, Press Release Regarding the WTO's 14th Ministerial Conference (Mar. 2026); *See also*, WORLD TRADE ORG., *14th Ministerial Conference*, https://www.wto.org/english/thewto_e/minist_e/mc14_e/mc14_e.htm.
[4] Robert Wolfe & Peter Ungphakorn, *On the Rocks: The WTO's Member-Driven, Consensus Decision-Making*, 16(2) TRADE L. & DEV. 358 (2025).
[5] Directorate-General for Trade and Economic Security, *Outcome of the 14th WTO Ministerial Conference*, EUROPEAN COMMISSION (Mar. 30, 2026), https://policy.trade.ec.europa.eu/news/outcome-14th-wto-ministerial-conference-2026-03-30_en.

continued to supply, for its participants, the appellate review that the WTO's own institutions could not.[6]

The third front is perhaps the most instructive for readers of this Journal, for it is where India's own trade diplomacy comes into view. In January 2026, India and the European Union concluded a comprehensive free trade agreement, among the most ambitious either party has ever negotiated, after nearly two decades of intermittent talks.[7] Taken together with the Comprehensive Economic and Trade Agreement with the United Kingdom and a widening network of bilateral and regional pacts, it marks the most sustained phase of trade-agreement making in India's history. These developments carry a double lesson. On one hand, they suggest that rules-based cooperation retains its appeal even as multilateralism falters, and that middle powers can help shape, rather than merely absorb, the terms of global exchange. On the other hand, they surface hard questions that agreements alone cannot settle: the reach of instruments such as the European Union's carbon border adjustment mechanism, the unfinished business of investment protection, and the perennial tension between liberalisation and the safeguarding of domestic constituencies.[8] The point is not academic: the carbon border adjustment mechanism's (CBAM) definitive phase, in force since 1 January 2026, now requires European Union (EU) importers to purchase certificates against the embedded emissions of goods such as steel and aluminium, and early trade data already show Indian exporters, whose production carries roughly twice the carbon intensity of their European counterparts, adjusting their product mix and destination markets well before the free trade agreements' own tariff concessions have had occasion to operate.[9]

The same period supplied a pointed counterpoint to this bilateral turn, and one in which India's own diplomacy occupies an ambivalent position. At the WTO's Fourteenth Ministerial Conference, one hundred and twenty-nine members issued a joint declaration in support of incorporating the Investment Facilitation for Development Agreement into the WTO's own rulebook as an Annex 4 plurilateral — a project six years in the negotiating and, by its proponents' own account,

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[6] *See* World Trade Organization, *WTO Reform: Post-MC14 Briefing Note* (2026), https://www.wto.org/english/thewto_e/minist_e/mc14_e/briefing_notes_e/wtoreform_e.htm.

[7] European Commission Press Release IP/26/184, EU and India Conclude Landmark Free Trade Agreement (Jan. 27, 2026).

[8] *See* Prakash Pillai & Perry Wong, *India-EU Free Trade Agreement: An Unfinished Treaty*, CLYDE & CO. (Feb. 24, 2026), https://www.clydeco.com/en/insights/2026/02/india-eu-free-trade-agreement-an-unfinished-treaty.

[9] *See* Early Signs that the EU Carbon Border Adjustment Mechanism is Reshaping EU-India Steel Trade, NATURE CLIMATE CHANGE (June 8, 2026), https://www.nature.com/articles/s41558-026-02607-y.

deliberately modest in ambition, touching neither market access nor investor-State dispute settlement.[10] India alone withheld the consensus required for incorporation, after Türkiye and South Africa withdrew their own objections, reprising the position it has long taken that the joint-statement initiatives were launched without a multilateral mandate and ought not be admitted into the WTO's architecture by the back door.[11] Whatever the merits of that objection, the episode illustrates a paradox worth sitting with: that a State so evidently persuaded of the value of negotiated trade rules, as its own recent diplomacy attests, remains among the more resistant to their plurilateral articulation, preferring to extend the frontiers of cooperation bilaterally even while withholding its assent to extending them at Geneva.

None of this unfolds against a settled backdrop of demand. United Nations Conference on Trade and Development's (UNCTAD) first trade update of 2026 forecast global growth slowing to 2.6 per cent, with developing economies excluding China slowing further still, even as world trade itself continued to expand; it recorded some eighteen thousand new discriminatory trade measures introduced since 2020, and noted the emergence of so-called connector economies — Vietnam, Egypt, Cambodia and Indonesia among them — absorbing and redirecting flows disrupted by the decoupling of the U.S. and China.[12] For countries such as India, the lesson this carries is double-edged: fragmentation opens room to manoeuvre for those able to position themselves as connectors or dealmakers, but it also raises, for economies still climbing the ladder of industrial capability, the cost of the very predictability that the multilateral system was built to supply.

Taken together, these developments describe a trading order that is neither collapsing nor recovering, but reorganising — its centre of gravity shifting from a single multilateral forum towards a denser and less orderly web of bilateral, regional, and plurilateral arrangements, policed increasingly by domestic courts and legislatures as much as by international institutions. It is precisely these transformations, and the difficult normative choices they impose on developing countries in particular, that the contributions to this General Issue take up: examining the causes and consequences of fragmentation, the legal boundaries of

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[10] *See* World Trade Organization, *Members Participating in IFD Agreement Issue Joint Ministerial Declaration at End of MC14* (Mar. 30, 2026), https://www.wto.org/english/news_e/news26_e/infac_30mar26_353_e.htm.

[11] *See* Karl P. Sauvant & Rajesh Aggarwal, *Impasse at the WTO on Investment Facilitation—The Way Forward*, INT'L ECON. L. & POL'Y BLOG (June 5, 2026), https://ielp.worldtradelaw.net/2026/06/impasse-at-the-wto-on-investment-facilitation-the-way-forward/.

[12] *See* UN Trade and Development, *Global Trade Update: Top Trends Redefining Global Trade in 2026* (Jan. 15, 2026), https://unctad.org/publication/global-trade-update-january-2026-top-trends-redefining-global-trade-2026.

protectionist measures, and the strategies available to States seeking to remain both open and secure in a more transactional world.

I extend my sincere gratitude to every author whose work appears in this issue; their scholarship upholds the standards of rigour and independence that TL&D has always sought to embody. I am also deeply grateful to our Chief Patron, our esteemed Vice Chancellor, Professor (Dr.) Harpreet Kaur, whose steadfast support and guidance continue to sustain the journal's growth. I wish, further, to thank the Editors-in-Chief — Alka Nanda Mahapatra and Samiksha Lohia — for their leadership in steering this issue from conception to publication, and, above all, the entire Board of Editors, whose diligence and countless hours of work have been indispensable in shaping each manuscript into its final form. My thanks go, too, to the anonymous peer reviewers who examined these submissions, often to tight deadlines and without any recognition beyond the knowledge of work well done; the quality of a journal rests as much on such unseen labour as on the visible names that eventually appear in print.

TL&D remains committed to fostering critical and forward-looking scholarship in international trade, economic, and investment law, whatever the prevailing political weather. It is my hope that this issue will not only inform but provoke, inviting the readers to question inherited assumptions, to engage with emerging realities, and to contribute to the evolving conversation on the future of global trade governance.

Thank you for your continued support and engagement with the Journal. We look forward to hearing your thoughts on this issue, and would be glad to consider your own opinions and submissions for the issues to come.