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**“THE GHOST OF WESTPHALIA AND THE LEGALITY
OF UNILATERAL ECONOMIC MEASURES: CASE
STUDY OF U.S. TARIFF ON INDIA”**

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ABSTRACT

This paper analyzes the contradictory legacy of Westphalian sovereignty in today's international law by focusing on the 2025 unilateral economic measures that the United States imposed on India. It specifically examines the legality and effects of the U.S. imposing cumulative tariffs of 50%, along with secondary sanctions on India's imports of Russian oil, under the International Emergency Economic Powers Act. These measures challenge fundamental principles of sovereign equality, non-intervention, and territorial jurisdiction as outlined in the UN Charter and customary international law. Through a detailed legal analysis based on important cases like *Nicaragua v. United States*, key UN resolutions and the weakening dispute mechanisms of the World Trade Organization, the study clarifies how economic pressure works as both a tool of state power and a breach of international legal standards. The paper argues that these unilateral economic sanctions illustrate the "Ghost of Westphalia," a framework where sovereignty is used both as a defense and a weapon. This reveals the tensions and contradictions in a fragmented and multipolar global environment. Ultimately, it calls for reform of multilateral institutions and a renewed commitment to sovereign equality to support the rule of law and maintain the integrity of the international system.

RESEARCH OBJECTIVES

1. To analyze the legal framework governing unilateral economic measures under public international law, particularly in the context of sovereignty, non-intervention, and territorial jurisdiction.
2. To investigate the legality and implications of the 2025 U.S. tariffs on India, especially the secondary sanctions targeting India's imports of Russian oil.
3. To explore the concept of the "Ghost of Westphalia," assessing how Westphalian sovereignty is paradoxically invoked as both shield and sword in modern international relations.
4. To evaluate institutional fragmentation and the failure of international dispute settlement mechanisms in addressing unilateral economic coercion.

RESEARCH QUESTIONS

1. How do unilateral economic sanctions align or conflict with principles of sovereign equality and non-intervention under the UN Charter and customary international law?

2. Are the U.S. tariffs imposed on India in 2025 legally justified under domestic and international law frameworks, including WTO rules and the International Emergency Economic Powers Act?
3. In what ways does the U.S.-India tariff dispute reveal the contradictions inherent in the Westphalian sovereignty model in the current multipolar global order?
4. How does the paralysis of multilateral institutions like the WTO Appellate Body affect the enforcement of international legal norms against unilateral economic coercion?

CHAPTER I: INTRODUCTION

The U.S.-India tariff crisis of 2025 is a clear example of how economic measures can exploit geopolitical issues during a time of rising global tensions. In August 2025, after President Donald Trump took office again, the United States intensified ongoing trade disputes by imposing 50% tariffs on most Indian exports. This included 25% duties under Sections 232 and 301 of U.S. trade law for perceived trade imbalances and an extra 25% penalty aimed specifically at India's purchases of discounted Russian oil. This action was taken under the International Emergency Economic Powers Act (IEEPA) and impacted \$48.2 billion in annual exports, with pharmaceuticals, semiconductors, and energy products being the only exceptions. This 2025 crisis occurred despite record bilateral trade of \$132 billion in FY 2024-25. India's \$40 billion trade surplus frustrated the U.S. and deviated from a February 2025 agreement intended to reach \$500 billion in trade by 2030. Trump's quick 50% tariff decision, described as the "*Tariff Tsunami*", was much tougher than previous measures such as the 2019 GSP removal or the 2018 steel tariffs. It showed a mix of protectionism and pressure over India's imports of Russian oil amid the conflict in Ukraine. Rather than retaliate, India sought to diversify its exports to Russia, Africa, and the UK, while also providing support to MSMEs through subsidies and AI-driven logistics. Following a call between Trump and Modi on October 20, discussions advanced on reducing tariffs to 15-16% in return for India gradually lowering Russian oil imports and increasing its purchases of U.S. corn.¹²

Longstanding trade gaps, with \$87 billion in exports compared to \$45 billion in imports, along

¹ Manoj Kumar, *India, U.S. Nearing Trade Deal That Would Slash Tariffs on Indian Exports to 15-16%*, Reuters (Oct. 22, 2025), <https://www.reuters.com/world/india/india-us-nearing-trade-deal-that-would-slash-tariffs-indian-exports-15-16-mint-2025-10-22/>.

² Dharendra Kumar & Puja Mehra, *India, U.S. Trade Deal Likely Soon, Huge Tariff Cuts on the Horizon*, LiveMint (Oct. 22, 2025, 06:00 AM IST), <https://www.livemint.com/economy/india-us-trade-deal-likely-soon-huge-tariffcuts-on-the-horizon-11761046733288.html>.

with previous complaints from the U.S., increased pressure on the situation. The tariffs disrupted supply chains, raised prices in the U.S., and tested India's economic strength. However, India's growth outlook is still steady at 6.4%, and new export markets are appearing. A resolution might be reached at the ASEAN Summit since both sides are looking for a compromise based on shared interests in defense, technology, and countering China. This highlights India's effort to balance self-reliance with global cooperation.³ This dispute goes beyond trade. It represents what this study calls the "Ghost of Westphalia," which critiques the lasting but contradictory impact of Westphalian sovereignty in today's international law. This model promotes territorial sovereignty, equality, and non-intervention. However, powerful states now use these principles to defend themselves while employing unilateral coercive measures that undermine the sovereignty of others.⁴ The U.S. sanctions show this contradiction. They claim sovereign rights to justify economic pressure. This pressure limits India's ability to make its own decisions about energy partnerships.

This research looks at how U.S. secondary tariffs on India for Russian oil imports reveal contradictions within the Westphalian system and show the limits of international law in stopping economic coercion. It examines whether these tariffs align with the U.N. Charter's principles of sovereign equality (Art. 2(1))⁵ and non-intervention (Art. 2(7))⁶, customary law from the 1970 Friendly Relations Declaration, and the ICJ's Nicaragua v. U.S. ruling. It also evaluates the WTO's weakened dispute system, particularly given the Appellate Body's paralysis. Beyond the U.S.–India situation, the study shows how economic power undermines sovereignty. This reflects great-power rivalry during the Russia-Ukraine war and rising U.S.–China tensions.

CHAPTER II: THE WESTPHALIAN PARADOX: SOVEREIGNTY AS SHIELD AND SWORD

A. The Westphalian Legacy in International Law

The Peace of Westphalia, signed in 1648 to end the brutal Thirty Years' War, is seen as the

³ TOI Business Desk, *India-US ties: Jaishankar meets Marco Rubio on ASEAN sidelines amid tariff tensions; talks on 'regional, global issues'*, The Times of India (Oct. 27, 2025), <https://timesofindia.indiatimes.com/business/india-business/india-us-ties-jaishankar-meets-marco-rubio-onasean-sidelines-amid-tariff-tensions-talks-on-regional-global-issuessean/articleshow/124839167.cms>.

⁴ Ho Yin Lam, *State Sovereignty and International Law: A Modern Legal Dilemma in Global Governance*, 42 J. Educ., Humanities & Soc. Scis. 211 (Dec. 9 2024), <https://doi.org/10.54097/w3dzg273>.

⁵ Charter of the United Nations art. 2, ¶ 1.

⁶ Charter of the United Nations art. 2, ¶ 7.

foundation of the modern state system. It established important principles that still influence international law. At its core is territorial sovereignty, which gives states exclusive control over their land, free from outside influence. This was a significant shift from the broken feudal and imperial systems of medieval Europe. Another key principle is sovereign equality, which means that all states, no matter their size or power, have the same legal status in the international community. This encourages mutual recognition and diplomatic exchange. The third principle, non-intervention, prevents countries from interfering in the internal matters of other states, which helps protect their independence and stops the religious and dynastic conflicts that devastated the continent. The Westphalian system proposed that political power would now rest with the states themselves rather than with larger entities like the Papacy or the Holy Roman Empire. This sovereignty is expressed through control of territory, legal independence, and mutual recognition among politically equal units.

This legacy found formal codification in the United Nations Charter of 1945, which operationalized Westphalian ideals amid the ashes of World War II. **Article 2(4)** mandates that "*All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state,*"⁷ codifying non-intervention as a *jus cogens* norm and anchoring the prohibition on aggressive war. **Article 2(7)** reinforces this by declaring, "*Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state,*"⁸ except for enforcement measures under Chapter VII to maintain peace. These provisions turned general ideas into binding responsibilities. They shaped customary international law and treaties, such as the 1970 UN Declaration on Friendly Relations, which expands the idea of non-intervention to cover economic coercion. The Charter's framers aimed for a balanced system where sovereignty protects vulnerable nations from domination. They sought to promote collective security through the Security Council.

Yet, the Westphalian legacy is more myth than reality. It is a story shaped to support the Eurocentric state model while ignoring its shortcomings. Scholars like Stephen Krasner argue that 1648 did not create sovereignty; it formalized existing practices. Hierarchies persisted, empires often interfered, and equality was mostly symbolic, favoring great powers.⁹ This

⁷ Charter of the United Nations art. 2, ¶ 4.

⁸ *Supra* note 6.

⁹ Krasner, Stephen D.. *Sovereignty: Organized Hypocrisy*, Princeton: Princeton University Press, 1999. <https://doi.org/10.1515/9781400823260>.

"Westphalian myth" still serves as a protective idea in today's relationships. It is used to challenge supranationalism in groups like the EU or WTO. However, it is often ignored through interventions, including those in Kosovo in 1999 and Iraq in 2003.¹⁰ Westphalia's ideals support stability, but they struggle against the effects of globalization and uneven power, resulting in sovereignty becoming a debated idea instead of a fixed reality. It continued colonial legacies while claiming to uphold universal principles, pushing non-European systems to the sidelines, as postcolonial scholars note. Thus, Westphalia's influence shows a system that is constantly torn between ambition and practicality, shaping law and diplomacy.¹¹

B. The "Ghost of Westphalia" Framework

Charles W. Kegley Jr. and Gregory A. Raymond, in their 2002 work *“Exorcising the Ghost of Westphalia”*, explore how the idea of sovereignty continues to shape global politics after the Cold War. They describe this “ghost” of Westphalia as a lingering concept that states both defend and exploit. Sovereignty serves as a **shield**, protecting regimes from outside interference and enabling repression under the guise of non-intervention. At the same time, it acts as a **sword**, allowing powerful states to justify unilateral actions like drone strikes or economic sanctions in the name of security. Kegley and Raymond argue that this duality weakens multilateralism, as the ghost whispers justifications for hypocrisy while nations condemn interventions that they themselves orchestrate.¹²

At the heart of this framework is the conflict between the idea of equal sovereignty and the reality of power imbalances. Article 2(1)¹³ of the U.N. Charter states that all countries are equal, but the veto powers held by the Security Council maintain the dominance of powerful nations and reflect longstanding hierarchies. For smaller countries, like island nations facing threats from climate change, the notion of equal sovereignty often becomes irrelevant when major polluters use their sovereignty to evade responsibility. This imbalance creates frustration and motivates groups like BRICS to push back against Western dominance, even as they pick and choose which liberal principles to adopt.

¹⁰ Andreas Osiander, Sovereignty, International Relations, and the Westphalian Myth, 55 *Int'l Org.* 251 (2001), <http://www.jstor.org/stable/3078632>.

¹¹ Benjamin Mueser, Why Westphalia Still Matters: Territorial Rights under Empire, *International Studies Review*, Volume 26, Issue 2, June 2024, viae024, <https://doi.org/10.1093/isr/viae024>.

¹² Charles W. Kegley & Gregory A. Raymond, *Exorcising the Ghost of Westphalia: Building World Order in the New Millennium* (Prentice Hall 2002).

¹³ *Supra* note 5.

Economic interdependence challenges the limits of territorial sovereignty and makes the Westphalian view outdated. Global supply chains, digital finance, and trade agreements like NAFTA go beyond borders. They weaken the ability of states to control economic policy. As Anthony McGrew notes, globalization "fundamentally challenges the Westphalian ideal." It forces countries to harmonize regulations, which reduces their autonomy; think of EU single-market rules or WTO dispute panels that can override national tariffs.¹⁴ Capital flows and multinational corporations have real power, pressuring governments to make concessions that mix domestic and foreign interests. We see this in debt crises, where IMF conditions limit governments' control over their budgets.

States selectively invoke sovereignty to justify unilateral actions while limiting their rivals. This tactic, described by Raymond as "organized hypocrisy," shows in various examples. The U.S. uses it as a weapon, applying extraterritorial sanctions against Iran but protecting allies like Israel from ICC investigations under the pretense of non-intervention. Russia claims sovereignty to justify its annexation of Crimea while criticizing NATO's bombing in Kosovo as interference. This selective approach erodes trust in institutions and fuels ongoing cycles of retaliation. Kegley and Raymond propose "exorcism" through reforms that boost human rights efforts and shared sovereignty in areas like cyber norms, which can help overcome these challenges. Essentially, the framework reveals that sovereignty is not a rigid shield but a flexible concept that needs adjustment to create a fair global order.

CHAPTER III: UNILATERAL ECONOMIC MEASURES UNDER PUBLIC INTERNATIONAL LAW

A. The Legal Framework

International law distinguishes sharply between **multilateral sanctions** authorized by the United Nations Security Council under *Chapter VII of the UN Charter* and **unilateral sanctions** imposed by individual states or coalitions acting outside this framework. Multilateral sanctions derive their legitimacy from collective decision-making. *Article 39* empowers the Security Council to "*determine the existence of any threat to the peace, breach of the peace, or act of aggression,*"¹⁵ and *Article 41* authorizes "*measures not involving the use of armed*

¹⁴ Held, David, and Anthony McGrew. "Political Globalization: Trends and Choices." In *Global Public Goods: Managing Globalization*, edited by Inge Kaul et al., 185–199. New York: Oxford University Press, 2003. <https://doi.org/10.1093/0195157400.003.0008>.

¹⁵ Charter of the United Nations art. 39.

force" including "complete or partial interruption of economic relations".¹⁶ These measures bind all UN member states under Article 25, which mandates compliance with Security Council decisions¹⁷. Only the Security Council has the power given to it by member states to impose binding economic sanctions as part of the centralized collective security system.

Unilateral sanctions, by contrast, lack authorization from any multilateral body and represent the autonomous exercise of state sovereignty. While international law does not categorically prohibit unilateral economic measures, their legality depends on compliance with fundamental principles including *non-intervention, sovereign equality, and treaty obligations*. The principle of non-intervention, codified in customary international law and enshrined in UN Charter Article 2(7),¹⁸ prohibits states from interfering "directly or indirectly, for any reason whatever, in the internal or external affairs of any other State". The International Court of Justice in *Nicaragua v. United States* (1986)¹⁹ clarified that "*intervention becomes wrongful when it employs "methods of coercion" regarding matters where states are entitled to decide freely, including "the choice of a political, economic, social and cultural system, and the formulation of foreign policy"*".

The key question is whether economic coercion counts as prohibited intervention. The ICJ's ruling in *Nicaragua* showed a lot of uncertainty on this point. Nicaragua claimed that U.S. actions, such as cutting off economic aid, reducing sugar import quotas by 90 percent, and enforcing a trade embargo, violated the principle of non-intervention. While the Court recognized these actions as "economic constraint," it concluded that the trade embargo, although it violated bilateral treaty obligations, did not break "the customary law principle of non-intervention." The Court argued that states have the freedom to decide "which other States they want to give economic support to," implying that simply ending economic relations does not automatically mean wrongful intervention. This ruling has faced much criticism for creating a gap in the protection provided by international law against economic issues.

Nonetheless, *UN General Assembly Resolution 2625 (the Declaration on Friendly Relations, 1970)* explicitly addresses economic coercion, stating: "No State may use or encourage the use of economic political or any other type of measures to coerce another State in order to obtain

¹⁶ Charter of the United Nations art. 41.

¹⁷ Charter of the United Nations art. 25.

¹⁸ *Supra* note 6.

¹⁹ *Nicaragua v. United States of America*, 1986 SCC OnLine ICJ 3.

from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind"²⁰. This formulation prohibits coercive economic measures that seek to undermine another state's ability to make decisions. Subsequent General Assembly resolutions have consistently condemned "unilateral economic coercive measures against developing countries" as breaches of the UN Charter and international law. The international community, particularly the Global South, has continuously argued that economic coercion which has effects similar to military force should be viewed as intervention. This challenges the Global North's narrow, tool-focused interpretation that excludes economic measures from the ban on force in Article 2(4).²¹

B. The U.S. Tariffs on India: A Legal Analysis

The Trump administration's tariff policy against India came through Executive Orders under the International Emergency Economic Powers Act (IEEPA) and had two main parts. First, on July 31, 2025, there was a 25% "reciprocal tariff" aimed at addressing trade imbalances. Second, on August 6, 2025, a 25% "secondary tariff" was implemented, targeting India's imports of Russian oil. Altogether, these measures imposed an additional 50% duty on Indian exports, which were among the highest imposed on any U.S. trading partner.

These actions are unilateral coercive measures that directly affect India's economic and foreign policy decisions. The secondary tariff specifically penalizes India for exercising its right to decide its own energy procurement strategy, which is a matter "essentially within the domestic jurisdiction" of states according to UN Charter Article 2(7). By making market access contingent on India stopping its imports of Russian oil, the U.S. uses economic pressure "to obtain from it the subordination of the exercise of its sovereign rights," which is exactly what Resolution 2625 prohibits. India's purchase of Russian oil is a valid commercial decision based on energy security and economic needs, not a violation of international law. The U.S. wants India to change its foreign economic policy to match American goals concerning Russia. This is a clear effort to limit India's ability to make independent decisions based on its own interests.²²

²⁰ G.A. Res. 2625 (XXV), Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among States in Accordance with the Charter of the United Nations, U.N. Doc. A/RES/2625 (Oct. 24, 1970).

²¹ Alexandra Hofer, *The Developed/Developing Divide on Unilateral Coercive Measures: Legitimate Enforcement or Illegitimate Intervention?* 16 *Chin. J. Int'l L.* 175 (2017), <https://doi.org/10.1093/chinesejil/jmx018>.

²² Patrick C. R. Terry, 'Secondary Sanctions: Why the US Approach Is Unlawful and the EU's Response Is Ineffective', (2022), 17, *Global Trade and Customs Journal*, Issue 9, pp. 370-379, <https://kluwerlawonline.com/journalarticle/Global+Trade+and+Customs+Journal/17.9/GTCJ2022052>

The tariffs undermine sovereign equality by asserting U.S. authority to dictate India's trade partners. Under *Article 2(1) of the U.N. Charter*, sovereign equality requires respect for each state's autonomy in its own affairs. By penalizing India for trading with Russia absent any binding U.N. sanctions, the U.S. effectively denies India equal status, claiming the power to decide which economic ties other states may maintain.

The tariffs also create significant issues regarding extraterritorial jurisdiction. Customary international law allows jurisdiction only based on grounds like territoriality or nationality. However, the U.S. secondary tariff targets an India-Russia oil trade that takes place entirely outside U.S. territory and does not involve any U.S. parties. The only link is India's access to the U.S. market, which makes this an unjustified extraterritorial claim of authority under international law. Recently, U.S. federal courts recognized that even the legal basis for these tariffs is doubtful. In May 2025, the U.S. Court of International Trade decided that IEEPA does not give the president the power to impose unlimited tariffs. The court found that both the reciprocal and secondary tariffs went beyond what the law allows.²³

The Court of Appeals for the Federal Circuit later overturned this ruling for procedural reasons, but the key legal questions remain. On the international level, the tariffs have no backing under WTO law or bilateral treaties. The U.S. use of the "essential security" exception (GATT Article XXI) to defend these measures makes a nearly unlimited claim of self-judging power. If accepted, this claim would make WTO obligations meaningless. In conclusion, the U.S. tariffs on India represent unilateral economic pressure that breaches basic principles of sovereign equality, non-intervention, and territorial authority, while having no solid legal basis in either domestic or international law.²⁴

CHAPTER IV: EXTRATERRITORIALITY AND SECONDARY SANCTIONS: THE EROSION OF THIRD-PARTY SOVEREIGNTY

Secondary sanctions, which target both the principal offender and third-party entities involved in economic dealings with that offender, are an extension of economic statecraft beyond the primary jurisdiction of a sanctioning state²⁵. Secondary sanctions function extraterritorially, by

²³ Slip Op. No. 25-66, *V.O.S. Selections, Inc. v. United States*, Ct. Int'l Trade (May 28, 2025).

²⁴ General Agreement on Tariffs and Trade art. XXI.

²⁵ Fred Kahn, Understanding Primary Sanctions and Secondary Sanctions, FINCRIME CENTRAL, <https://fincrimecentral.com/primary-vs-secondary-sanctions-key-differences/>.

penalizing foreign citizens, businesses or even governments for interacting with the target of the primary sanctions. This is in contrast to primary sanctions, which explicitly forbid domestic enterprises from conducting business with designated individuals, states or sectors²⁶. In the past few years, the United States has regularly used secondary sanctions while exploiting its economic hegemony and command over the world's financial system to pressure non-U.S. entities into compliance by threatening dire economic repercussions. Practically speaking, these sanctions frequently prevent a foreign entity from accessing U.S. markets, financial institutions or global dollar transactions if the entity continues to have business dealings with a target that has been sanctioned by the United States. This creates a coercive contradiction between economic exclusion and sovereign independence²⁷.

The current oil deals between Russia and India serve as a prime example of secondary sanctions in modern diplomacy. Washington took extraordinary punitive action against India for its decision to buy Russian-origin crude oil, as mentioned above, during a period of increased U.S. sanctions against Russia. This included reciprocal tariffs on Indian exports as well as additional surcharges that were directly linked to India's ongoing business dealings with Russian suppliers. Regardless of any direct violations of U.S. law under Indian jurisdiction, this action reveals the quintessential secondary sanction wherein a third-party state, India is being punished for doing business with a sanctioned state, Russia²⁸. The United States essentially forces other sovereign entities to follow Washington's foreign policy aims or face economic isolation by enforcing secondary sanctions, which establish extraterritorial jurisdiction and extend American regulatory reach well beyond its national borders²⁹. This extraterritoriality notion has been strongly opposed by some governments and international legal scholars, who contend that it violates the fundamental requirement that legal jurisdiction be geographically limited or, at the very least, exhibit a distinct and acknowledged international connection. According to customary international law, which typically forbids external interference and coercion in a state's domestic affairs without a recognized connection or multilateral authorization, the international community considers such actions to be illegal³⁰.

²⁶ Iryna Berenstein, Primary and Secondary Sanctions Explained, Extradition Lawyers (Sept. 25, 2025), <https://extraditionlawyers.net/blog/primary-and-secondary-sanctions-explained/>.

²⁷ Sanctions Lawyers, What Are Primary and Secondary Sanctions?, <https://sanctionslawyers.net/blog-en/whatare-primary-and-secondary-sanctions/>.

²⁸ Sanctions.io, Primary and Secondary Sanctions Explained, <https://www.sanctions.io/blog/primary-andsecondary-sanctions-explained>.

²⁹ Eleanor Hume & Kyle Rutter, Sanctions by the Numbers: U.S. Secondary Sanctions, CNAS (Oct. 2025), <https://www.cnas.org/publications/reports/sanctions-by-the-numbers-u-s-secondary-sanctions>.

³⁰ Patrick C. R. Terry, Secondary Sanctions: Why the US Approach Is Unlawful and the EU's Response Is Ineffective, 17 *Global Trade & Customs J.* 370 (2022)

The application of secondary sanctions poses important legal and political concerns pertaining to third-party states' economic sovereignty³¹. As evidenced by recent U.S. moves against India, secondary sanctions have a direct economic impact on a state's capacity to decide on its energy and commercial policies³². Washington engaged in a type of coercive interference with India's strategic autonomy by requiring India to give up Russian oil imports in order to get access to the U.S. market. This undermined India's flexibility to pursue national interests and diversified supply chains, which are essential to New Delhi's energy security. This meddling goes beyond the bilateral relationship between the United States and India. By focusing on India's connections with Russia, the sanctions have an impact on global supply chains, reducing the potential for multilateral energy market diversification and South-South economic cooperation³³.

Notably, secondary sanctions function in an uneven manner. Although India was subject to direct economic penalties, the United States has historically applied and enforced similar restrictions differently against China and Turkey, two other major Russian oil importers, with decisions based more on strategic considerations than legal coherence³⁴. This discrepancy undermines trust in the predictability and equity of global economic governance by intensifying the sense of selective enforcement and further fracturing the international trade order. The ensuing atmosphere makes it very difficult for third-party states to protect themselves legally and commercially from exogenous shocks brought on by a powerful state's extraterritorial strategy, in addition to making it extremely difficult for them to retain sovereign economic policy.

The concept of economic sovereignty is extremely fragile and frequently unenforceable in practice due to the lack of legal remedies for coerced governments. Although challenges may be filed before international tribunals or within multilateral frameworks like the WTO, jurisdictional and enforcement obstacles still exist. The spread of secondary sanctions thus highlights the crisis of contemporary sovereignty; wherein formal legal equality is

³¹ The Cambridge Handbook of Secondary Sanctions and International Law, ch. 1, Introduction (Cambridge Univ. Press, Dec. 14, 2024), <https://www.cambridge.org/core/books/abs/cambridge-handbook-of-secondary-sanctionsand-international-law/introduction/B0BDE8EA731E318F363072DB6A4954BD>.

³² *Id.*

³³ Brishna Gehani, Extraterritorial Unilateral Sanctions, Third States and Collateral Damage, Research Society of International Law (Aug. 26, 2023), <https://rsilpak.org/2023/extraterritorial-unilateral-sanctions-third-states-and-collateral-damage/>.

³⁴ Jason Bartlett & Megan Ophel, Sanctions by the Numbers: U.S. Secondary Sanctions, Center for a New American Security (Aug. 26, 2021), <https://www.cnas.org/publications/reports/sanctions-by-the-numbers-u-s-secondary-sanctions>.

progressively eroded as economic and strategic asymmetries reshape the boundaries of international legal order and states are progressively unable to protect domestic economic decisions from external interference.

CHAPTER V: INSTITUTIONAL FRAGMENTATION: THE FAILURE OF INTERNATIONAL DISPUTE SYSTEM

The paralysis of the World Trade Organization's Appellate Body has revealed a significant breakdown in the global dispute resolution system. This situation weakens the rule-based international trading order. Since 2019, the United States has blocked the appointment of new judges to the Appellate Body. It cites concerns about judicial overreach, unauthorized mandate extensions, and the binding nature of decisions. This has effectively disabled the WTO's two-tier dispute settlement method. Many appeals remain unresolved, leading to what some call "appeals into the void." Cases are stuck without final decisions or enforceable outcomes³⁵³⁶.

This deadlock has not only weakened legal certainty for WTO members, but it has also encouraged unilateral trade actions and temporary agreements outside the multilateral system. This shift has led to a division in dispute settlement decisions, undermining the predictability and fairness expected in global trade governance³⁷. The Multi-Party Interim Appeal Arbitration Arrangement (MPIA) was created as a temporary solution to help fill the appellate gap. However, it has a limited membership and scope, which risks increasing legal fragmentation and creating unequal access to justice³⁸.

Institutional imbalance within the WTO goes beyond the paralysis of the Appellate Body. The consensus-based decision-making process allows responding parties to block the adoption of panel reports. This weakens panel effectiveness and encourages self-help measures that

³⁵ Ana Carolina Matos, What Are the Implications of the United States' Blockage of Appointments to the WTO Appellate Body?, Oxford Journal of International Studies (2025), <https://www.oxjournal.org/united-states-blockage-of-appointments-to-the-wto-appellate-body/> <https://www.oxjournal.org/united-states-blockage-of-appointments-to-the-wto-appellate-body/>.

³⁶ Simon Lester, United States Must Propose Solutions to End WTO Dispute Settlement Crisis, IISD (Nov. 5, 2025), <https://www.iisd.org/articles/united-states-must-propose-solutions-end-wto-dispute-settlement-crisis>.

³⁷ Robert McDougall, Crisis in the WTO: Restoring the WTO Dispute Settlement Function, CIGI Papers No. 194, Centre for International Governance Innovation (Oct. 2018), <https://www.cigionline.org/static/documents/documents/Paper%20no.194.pdf> <https://www.cigionline.org/static/documents/documents/Paper%20no.194.pdf>.

³⁸ *Supra* note 35.

challenge the organization's legitimacy³⁹⁴⁰. Major powers have exploited this structural complexity, which has increased geopolitical rivalries and challenged norms for resolving disputes cooperatively. This is evident in the 2025 U.S.-India tariff dispute⁴¹.

The legal implications are significant. A weakened and fragmented dispute settlement system reduces enforcement capacity, undermines the rule of law in international trade, and threatens the legitimacy of multilateral institutions based on principles of sovereign equality and non-intervention. Without urgent and comprehensive reform, including automatic judge appointments that are protected from single-member vetoes, procedural improvements, and renewed political commitment, the WTO risks losing its central role in resolving trade conflicts⁴².

CONCLUSION

The ongoing contradiction of Westphalian sovereignty in modern international law is clear. The ideas of territorial sovereignty, sovereign equality, and non-intervention are both respected and weakened. A striking example is the U.S.-India tariff dispute of 2025. The United States imposed 50 percent tariffs on Indian exports. These tariffs specifically affect India's choices regarding energy procurement from Russia. This move shows how economic pressure acts as an intervention, contradicting these fundamental standards. Economic power gaps allow strong nations like the United States to use sovereignty as a tool for coercion. This approach undermines the policy independence of weaker states under the guise of national security, even though the Westphalian system supports sovereign equality and autonomy.

This research highlights the shortcomings of current international legal frameworks when it comes to unilateral economic measures. The World Trade Organization's Dispute Settlement

³⁹ Sijuola Atanda-Lawal, World Trade Organization (WTO) Dispute Settlement Crisis (DSC): Legal Implications and Reform Proposals, 148 J. L. Pol'y & Glob. 59 (2025).

⁴⁰ Robert McDougall, Crisis in the WTO: Restoring the WTO Dispute Settlement Function, CIGI Papers No. 194 (Centre for International Governance Innovation, Oct. 2018), <https://www.cigionline.org/static/documents/documents/Paper%20no.194.pdf> <https://www.cigionline.org/static/documents/documents/Paper%20no.194.pdf>.

⁴¹ Tetyana Payosova, Matthew G. McQueen, and John W. Schott, The Dispute Settlement Crisis in the World Trade Organization: Causes and Cures, Peterson Institute for International Economics Policy Brief (Apr. 2018), <https://www.piie.com/publications/policy-briefs/dispute-settlement-crisis-world-trade-organization-causes-and-cures> <https://www.piie.com/publications/policy-briefs/dispute-settlement-crisis-world-trade-organization-causes-and-cures>.

⁴² Meeran Hameed, Nandang Sutrisno & Frances Annmarie Duffy, The Appellate Body Crisis: Challenges and Reforms to WTO Dispute Settlement System, 7 Prophetic L. Rev. 1 (2025), <https://journal.uui.ac.id/JPLR/article/view/36568>.

Mechanism is ineffective, and the International Court of Justice's hesitance in Nicaragua v. United Nations shows the fragmentation and enforcement issues that offer little support to victim nations. By penalizing third-party nations for their independent economic choices, the secondary penalties imposed by the United Nations outside its territory further weaken sovereign equality and breach customary jurisdictional limits.

In the end, the conflict reveals the Ghost of Westphalia. This is a lasting and contradictory legacy where sovereignty acts as both a sword that allows coercion and domination and as a shield that protects states from outside interference. The US tariffs on India illustrate this conflict and show the weakness of the Westphalian order amid rising great-power competition and complex multipolarity. We need reforms in multilateralism, better ways to resolve disputes, and genuine respect for sovereign equality to maintain a lasting international legal order. Without these changes, powerful governments will continue to exploit economic dominance and flaws in institutions. This will lead to ongoing cycles of unilateral coercion that threaten the foundations of the rule of law and peaceful international cooperation.

