THE ROLE OF INTERNATIONAL ECONOMIC DIPLOMACY IN PROMOTING GLOBAL TRADE AND SUSTAINABLE DEVELOPMENT: A LEGAL PERSPECTIVE*

Abstract
Trade has never been a purely economic affair. Behind every tariff schedule, market access commitment and regional trade bloc sits a web of negotiation, persuasion and legal engineering that diplomats and trade officials carry out largely outside the public eye. This article examines the legal dimensions of international economic diplomacy using doctrinal approach and asks how it has shaped, and continues to shape, the twin objectives of expanding global trade and embedding sustainable development within that trade. It traces the institutional architecture built after Bretton Woods and Marrakesh, considers how instruments such as the Doha Ministerial Declaration and the Rio Declaration have tried to fuse commercial liberalization with environmental and developmental concern, and uses the WTO's Shrimp-Turtle dispute and the African Continental Free Trade Area as illustrations of economic diplomacy translated into binding legal commitment. The article argues that economic diplomacy functions as the connective tissue of the international economic legal order: without it, treaties remain unsigned, disputes remain unresolved, and the ambitious language of sustainable development remains aspirational rather than operative. It concludes that a more coherent legal framework, one that treats trade and sustainability as mutually reinforcing rather than competing goals, is achievable only through sustained and well-institutionalized diplomatic practice.

Keywords: Economic Diplomacy, Global Trade, Sustainable Development, World Trade Organization, International Economy

1. Introduction

Most people, when queried about the shaping factors of global trade, will likely refer to tariffs, shipping routes or even to a trade war that caught the headlines. There will be fewer who will talk about diplomacy. However, very little of the modern trading system would exist without it. All multi-lateral trade agreements, all regional economic agreements and every outcome from a dispute are, in essence, the result of the ongoing negotiation between states which seek to advance parallel but seldom-identical interests.[1] As this article explains, a bunch of diplomats, trade ministries, central bankers and international organizations have been working that negotiation for the past several months, and that's what we're talking about here: international economic diplomacy—diplomatic tools and processes used to advance a state's economic interests and to define the rules for cross-border trade, investment, and finance.[2]

The risks of the diplomacy have increased significantly since the mid-1900s. The Bretton Woods institutions and later, the General Agreement on Tariffs and Trade (GATT), were designed to avoid the beggar-thy-neighbour protectionism that had worsened the interwar depression. In 1995, the creation of the World Trade Organization (WTO) brought decades of fragmented negotiations together into one institutional and legal forum, including a first-ever binding dispute settlement mechanism, which gives trade law for the first time a bite to eat.[3] This did not occur on its own. They occurred because diplomats worked tirelessly over the years, in some cases for decades, drafting the texts line by line, making concessions, and developing the political consensus to convert the economic vision into a legal commitment.[4]

In parallel to this liberalization trend, another, at first fairly independent one was developing: the sustainable development movement.[5] In the Rio Declaration on Environment and Development (1992), a concept was expressed for the first time in a declaration of similar political stature as the trade instruments: the possibility of an economy that is not indifferent towards its environmental and social impacts. The 2030 Agenda for Sustainable Development, adopted by the UN General Assembly in 2015, took it one step further, and integrated trade-related targets into a framework of 17 interdependent development goals.[6] For years, the two types of lawyers traded blows in institutional silos: trade attorneys vs. environmental attorneys. The meeting of these two currents has taken place increasingly in the space of economic diplomacy, albeit not perfectly.[7]

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[1] Bayne, N. and Woolcock, S. (eds.), *The New Economic Diplomacy: Decision-Making and Negotiation in International Economic Relations,* 4th ed., Abingdon, Routledge, 2017, 3.
[2] Ibid.
[3] Articles of Agreement of the International Monetary Fund, 27 December 1945, 2 UNTS 39, Preamble.
[4] Marrakesh Agreement Establishing the World Trade Organization, 15 April 1994, 1867 UNTS 154, art III. See also; Zhao, X., *Integrating the UN SDGs into WTO Law*, Cham, Springer, 2024.
[5] Rio Declaration on Environment and Development, UN Doc A/CONF.151/26 (Vol I), 12 August 1992, Principle 12.
[6] United Nations General Assembly, Transforming our World: The 2030 Agenda for Sustainable Development, UNGA Res 70/1, 25 September 2015.
[7] Ibid.

None of this is entirely new. States have used economic leverage and negotiated commercial arrangements for centuries, from the mercantilist trade treaties of early modern Europe to the imperial preference systems of the twentieth century. What distinguishes the contemporary period is the degree to which economic diplomacy has become institutionalized, conducted not merely through bilateral envoys but through standing multilateral bodies, permanent secretariats, and a growing body of adjudicative jurisprudence that gives legal texture to what were once purely political bargains. That institutionalization is itself a diplomatic achievement, and it is one that this article treats as central rather than incidental to understanding how global trade law actually functions.

This article is concerned with how that meeting occurs, and with what legal consequences. Section two conceptualizes international economic diplomacy and situates it within the broader discipline of diplomatic law. Section three surveys the legal and institutional architecture within which economic diplomacy operates. Section four examines economic diplomacy's role in driving trade liberalization. Section five turns to the more difficult question of how trade law has attempted, and often struggled, to accommodate sustainable development. Section six considers the African Continental Free Trade Area as a case study in regional economic diplomacy. Section seven draws together further illustrative episodes, including the WTO's Shrimp-Turtle dispute. Section eight identifies persistent challenges, and section nine proposes a more coherent legal framework before the article concludes.

2. Conceptualizing International Economic Diplomacy

Diplomacy, in its classical sense, is the conduct of relations between states by peaceful means, typically through accredited representatives.[8] The Vienna Convention on Diplomatic Relations, still the foundational instrument of diplomatic law more than sixty years after its adoption, records among the functions of a diplomatic mission the promotion of friendly relations and the development of economic, cultural and scientific relations between the sending and receiving states.[9] Economic diplomacy narrows this general function to a specific domain: the pursuit, through negotiation, representation and persuasion, of a state's trade, investment, monetary and development objectives.[10] Bayne and Woolcock's, one of the most widely cited in the discipline, separation between economic diplomacy and traditional political diplomacy is not methodological in nature, but rather defined by the subject matter. After all the weapons are common: negotiation, coalition, signalling, compromise; but not for territorial gain or for security but to gain commercial and financial advantage.[11] They also point out that economic diplomacy takes place on two interconnected levels: at the domestic level, governments need to balance and sort out conflicting interests among industries, labour groups and civil society before they can even get to the negotiating table, and at the international level, the negotiating position is then put to the test against the positions of other states.[12] The first step in a successful trade negotiation is to obtain agreement at home, and this is particularly evident when the negotiations are stalled because there is no political will at home rather than any irreconcilable difference between the states.[13]

However, the term ‘economic diplomacy’ should not be equated with an informal or political tool that does not involve law. Quite the contrary: economic diplomacy, in a meaningful sense, is a way of making international economic law. Treaties are not written by themselves. The texts of the Marrakesh Agreement, the Agreement on Agriculture, and the many bilateral investment treaties that are in effect are the outcome of diplomatic negotiation.[14] After they are over, these instruments, in turn, limit future diplomacy because states that are engaging in negotiations within a rules-based system cannot just walk away from obligations that they entered into. Economic diplomacy and international economic law are thus engaged in a dynamic and reciprocal relationship, a relationship which can only be a perpetual one; diplomacy generates law, and law sets the limits of what diplomacy can do.[15]

Noting how recent this institutionalization really, it is worth pausing on. Economic diplomacy for much of recorded history consisted simply of the exchange of treaties of amity and commerce, between the representatives of two states, and enforced by their reciprocity, or by the threat of retaliation.[16] The world of economic diplomacy was transformed by the growth of permanent international institutions following 1945, such as the IMF, the World Bank and,

[8]Shaw, M.N., *International Law*, 9th ed., Cambridge, Cambridge University Press, 2021, 596.
[9]Vienna Convention on Diplomatic Relations, 18 April 1961, 500 UNTS 95, art 3(1)(e).
[10]Bayne and Woolcock (n 1) 5.
[11] Bayne, N. and Woolcock, S. (eds.), *The New Economic Diplomacy: Decision-Making and Negotiation in International Economic Relations,* 4th ed., Abingdon, Routledge, 2017, 3.
[12] Ibid. See also; Leal-Arcas, R. (ed.), *International Trade and Sustainability: Perspectives from Developing and Developed Countries*, Cham, Springer, 2022.
[13] Bayne, N. and Woolcock, S. (eds.), *The New Economic Diplomacy: Decision-Making and Negotiation in International Economic Relations,* 4th ed., Abingdon, Routledge, 2017, 7.
[14] Marrakesh Agreement, *op. cit*
[15] Ibid.
[16] Leal-Arcas, R. (ed.), *International Trade and Sustainability: Perspectives from Developing and Developed Countries*, Cham, Springer, 2022.

eventually, the WTO. The negotiators no longer simply negotiated with one another, but instead negotiated inside institutional structures with their own procedural rules, their own voting systems and, over time, their own 'pooled' cases of jurisprudence.[17] The change did not mark the end of political economic diplomacy, but rather an increased structure and predictability for economic diplomacy as a whole, which included the use of rules. This change did not remove the political nature of economic diplomacy, but rather it did add a degree of predictability and rule structure to economic diplomacy as a whole, including the use of rules.[18]

In an increasingly globalized and interdependent world, where state interests have become more closely linked together, the State's role in negotiating trade agreements has grown in significance, and has thus become more relevant in the process of reconciling economic interests, as Sajadi has noted in the literature review. An important antidote to any possible inclination to regard economic diplomacy as a side note to trade law. It is, on the contrary, the process by which the abstract obligations of trade law come to life, and by which the obligations are resocialized from time to time as conditions evolve.[19]

3. The Legal and Institutional Architecture of Global Trade

The modern international economic order rests on institutions conceived largely in the aftermath of the Second World War. The Articles of Agreement of the International Monetary Fund, concluded in 1945, established, a framework for monetary cooperation intended to prevent the competitive currency devaluations that had characterized the 1930s.[20] Alongside the Fund, the International Bank for Reconstruction and Development, the original constituent of what is now the World Bank Group, was tasked with financing post-war reconstruction and, later, development.[21] Trade itself was to have been governed by a third institution, the International Trade Organization, but when the United States Congress declined to ratify the Havana Charter, states fell back on the General Agreement on Tariffs and Trade as a provisional and, as it turned out, remarkably durable substitute.[22] The failure of the Havana Charter is itself a cautionary tale about the limits of economic diplomacy: even a text painstakingly negotiated by dozens of states over several years can founder entirely if domestic political support in a pivotal negotiating state fails to materialize, a risk that continues to hang over ambitious multilateral undertakings to this day.[23]

That the GATT, which was supposed to be a temporary measure that would last for the short term, remained a governing body for world trade for almost 50 years is a testament to how economic diplomacy can achieve long-lasting results despite shoddy institutional beginnings.[24] The disciplines of the GATT gradually grew beyond basic tariff reductions, through the Kennedy Round of the 1960s, the Tokyo Round of the 1970s, and so on in the following negotiating rounds, in each case the result of new diplomatic negotiation by an ever larger group of member countries.[25]

The trading system did not receive a permanent institutional home until the World Trade Organization (WTO) was established by the Marrakesh Agreement in 1994, after almost five decades of intermittent negotiating rounds. The WTO Agreement was more than a change of name for the GATT secretariat.[26] It imposed on member states a single commitment for goods, services and intellectual property; and it established, in the Understanding on Rules and Procedures Governing the Settlement of Disputes, a truly adjudicative mechanism with the capacity to deliver binding decisions on which retaliatory measures can be authorized.[27] This was a turning point for economic diplomacy. Negotiators no longer worked solely within the realm of political opinion; now they worked with, and against a background of, a binding law.[28]

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[17] Shaw *op. cit.* 900.
[18] Sajadi, D., 'The Role of Economic Diplomacy in Shaping Global Trade Agreements: A Review of the Literature', *Eurasian Journal of Management & Social Sciences*, Vol 3(1) 2024, 12.
[19] Ibid, See also; Trachtman, J.P., *Crafting Trade and Investment Accords for Sustainable Development: Athena's Treaties*, Oxford, Oxford University Press, 2024.
[20] Articles of Agreement of the International Monetary Fund *op. cit.* art I.
[21] Shaw *op. cit.* 902.
[22] Bayne and Woolcock *op. cit.* 15.
[23] Trachtman, J.P., *Crafting Trade and Investment Accords for Sustainable Development: Athena's Treaties*, Oxford, Oxford University Press, 2024.
[24] Van den Bossche, P. and Zdouc, W., *The Law and Policy of the World Trade Organization: Text, Cases and Materials*, 5th ed., Cambridge, Cambridge University Press, 2022.
[25] World Trade Organization 2024, *The GATT years: From Havana to Marrakesh*. World Trade Organization.
[26] Marrakesh Agreement *op. cit.*
[27] Van den Bossche, P. and Zdouc, W., *The Law and Policy of the World Trade Organization: Text, Cases and Materials*, 5th ed., Cambridge, Cambridge University Press, 2022.
[28] *Ibid.*

The activities of the Fund itself are a prime example of the ongoing nature of economic diplomacy in a rule-based institution. A process, though with language that can sound technocratic, is actually diplomatic, as access to Fund financing has been long made dependent on the policy pledges that must be negotiated by the borrowing state and Fund staff, and on the extent to which each wants to commit to one another to the pace and sequencing of reform, to the political feasibility of specific conditions and to the credibility of their pledges.[29] Against the backdrop of contemporary demands for more attention to sustainability and social protection in the conditions imposed by the Fund, criticism of the IMF conditionality – that sometimes it has focused on fiscal orthodoxy and neglected social and developmental issues – is a criticism of the outcomes of that diplomatic bargaining, not a criticism of the diplomatic bargaining itself.[30]

There has never been a static architecture in this design. The Doha Ministerial Declaration of 2001, which established the Doha Development Round, explicitly recognized the need for more trade liberalization to benefit the needs of the poorer members and directed WTO institutions to ensure that sustainable development is suitably addressed in the outcome of the negotiations.[31] The fact that the Doha Round, 20 years later, has not been completed demonstrates just what can be achieved through economic diplomacy, when fundamental interests of the great trading powers, especially with respect to agriculture, are too conflicting to reconcile.[32] But an incomplete round is not without legal repercussions, as the Doha Declaration is a continuing diplomatic commitment and is frequently invoked by the delegations of developing countries at later ministerial conferences as evidence that they are being kept to the commitments made in 2001 by the richer countries.[33]

Regional and bilateral instruments have, in the meantime, proliferated alongside the multilateral system, sometimes complementing it and sometimes, critics argue, fragmenting it into an unwieldy patchwork of overlapping rules.[34] Whatever view one takes of this proliferation, its sheer scale, running now into the thousands of agreements, testifies to the intensity of contemporary economic diplomacy and to the continuing appetite of states for negotiated, legally binding arrangements over unilateral action.

4. Economic Diplomacy as a Vehicle for Trade Liberalization

Trade liberalization has rarely, if ever, been self-executing. Tariff reductions, the dismantling of quotas, and the harmonization of regulatory standards all require states to accept short-term domestic costs, whether to protected industries or to politically influential constituencies, in exchange for longer-term aggregate gains that are often diffuse and difficult to communicate to voters.[35] Bridging that gap between concentrated cost and diffuse benefit is, at heart, a diplomatic task. It requires building coalitions among like-minded states, offering side payments or transitional arrangements to reluctant partners, and sequencing concessions so that no single round of negotiation asks any one state to bear an unsustainable share of the adjustment burden.[36]

The Uruguay Round, which produced the Marrakesh Agreement itself, is instructive here. Negotiations ran from 1986 to 1994, spanning multiple changes of government among the major participants, and required negotiators to hold together an extraordinarily complex package covering agriculture, services, intellectual property and dispute settlement simultaneously.[37] Had any single element been negotiated in isolation, it is doubtful the round would have concluded at all; agricultural exporters were only willing to accept disciplines on intellectual property because they, in turn, secured commitments on agricultural market access, and vice versa. This kind of cross-issue linkage, trading concessions across ostensibly unrelated policy areas to construct a package acceptable to all, is a hallmark of skilled economic diplomacy and one that a purely legal or economic analysis of the resulting text can easily overlook.[38]

Economic diplomacy also performs a quieter but no less important function in the day-to-day administration of the trading system, smoothing frictions before they escalate into formal disputes. The WTO's various councils and committees provide standing forums in which trade officials can raise concerns about a partner's measures, seek

[29] Shaw *op. cit.* 905.
[30] Bayne and Woolcock *op. cit.* 210.
[31] World Trade Organization, Doha Ministerial Declaration, WT/MIN(01)/DEC/1, adopted 14 November 2001, para 6.
[32] Messenger, G., 'Free Trade Agreements as Sites of Economic Diplomacy: Agreeing Common Standards for Sustainable Development', *World Trade Review*, Vol 24(2) 2025, 194.
[33] Doha Ministerial Declaration *op. cit.* para 2.
[34] Shaw *op. cit.* 940.
[35] Bayne and Woolcock *op. cit.* 55. See also; Matsushita, M. and Schoenbaum, T.J. (eds.), *Emerging Issues in Sustainable Development: International Trade Law and Policy Relating to Natural Resources, Energy, and the Environment*, Singapore, Springer, 2017.
[36] Bayne and Woolcock *op. cit.* 58.
[37] Marrakesh Agreement *op. cit.* Final Act, Preamble.
[38] Bayne and Woolcock *op. cit.* 60.

clarification, and negotiate accommodations without resort to litigation.[39] Litigation, when it does occur, is itself preceded by a mandatory consultation phase precisely because the drafters of the Dispute Settlement Understanding recognized that many disagreements are better resolved through negotiation than adjudication.[40] Formal law, in other words, is deliberately structured to leave room for diplomacy to operate first, and litigation functions as a backstop rather than a first resort.

None of this is to suggest that economic diplomacy always succeeds, or that it succeeds evenly across states. Smaller and developing economies frequently lack the negotiating capacity, the depth of technical expertise, and the market leverage that larger economies bring to the table, a structural imbalance that shapes outcomes regardless of the formal legal equality nominally enjoyed by all WTO members.[41] This asymmetry is a recurring theme in the sustainable development discussion to which the article now turns, since it is often precisely the states least equipped to negotiate effectively that stand to gain or lose the most from how trade rules interact with environmental and developmental objectives.[42]

The practical response to this imbalance has itself become a subject of economic diplomacy in its own right. WTO members have, over successive rounds, negotiated special and differential treatment provisions intended to give developing and least-developed members longer implementation periods, technical assistance, and in some cases outright exemptions from particular disciplines.[43] Whether these provisions have delivered proportionate benefit is genuinely contested; some economists argue that longer transition periods simply delay necessary adjustment rather than easing it, while many developing country negotiators regard special and differential treatment as an indispensable, if imperfect, counterweight to structural bargaining asymmetries that no amount of formal legal equality can by itself correct.[44] The debate is unlikely to be settled by legal analysis alone, since it turns as much on empirical questions about the actual effects of preferential treatment as on questions of principle, but it illustrates once again how thoroughly economic diplomacy and distributive justice concerns are intertwined within the trading system's day-to-day operation.

5. The Nexus between Trade Law and Sustainable Development

For much of the post-war period, trade law and environmental or developmental concern occupied largely separate legal universes. The original GATT said almost nothing directly about sustainability, reflecting the priorities of an era in which the principal anxiety was reconstructing a war-torn trading system rather than managing its ecological footprint.[45] That began to change from the early 1990s onward. The Rio Declaration, adopted at the 1992 Earth Summit, proclaimed among its twenty-seven principles that states should cooperate to promote a supportive and open international economic system that would lead to economic growth and sustainable development in all countries, explicitly linking, for the first time in an instrument of comparable political stature, trade openness with environmental stewardship.[46] Some of this language was so incorporated into the preamble to the Marrakesh Agreement, which states that 'WTO members' relations in the field of trade should be based on a commitment to raising standards of living, with the aim of protecting and preserving the environment and the optimal use of the world's resources within the framework of the objective of sustainable development.[47] That was no rhetorical commitment.[48] The WTO Appellate Body relied on this language in its interpretation of the scope of the general exceptions in Article XX of the GATT 1994 in the Shrimp-Turtle case, interpreting the term exhaustible natural resources to include natural living resources, like endangered sea turtles, and not only finite mineral resources, as a more literal reading might have led it to believe.[49]

The Shrimp-Turtle case is one of the most obvious examples of the interplay between legal interpretation and economic diplomacy. The Appellate Body concluded that the United States' import ban, which was designed to stop

[39]Shaw *op. cit.* 945. See also; Matsushita, M. and Schoenbaum, T.J. (eds.), *Emerging Issues in Sustainable Development: International Trade Law and Policy Relating to Natural Resources, Energy, and the Environment*, Singapore, Springer, 2017.
[40]Understanding on Rules and Procedures Governing the Settlement of Disputes *op. cit.* art 4.
[41]Sajadi *op. cit.* 15.
[42] Messenger, G., 'Free Trade Agreements as Sites of Economic Diplomacy: Agreeing Common Standards for Sustainable Development', *World Trade Review*, Vol 24(2) 2025, 194.
[43]General Agreement on Tariffs and Trade 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1A, 1867 UNTS 187, Part IV.
[44]Sajadi *op. cit.* 17.
[45]Shaw *op. cit.* 948.
[46]Rio Declaration (n 5) Principle 12.
[47] Khan, Z., 'Trade-Sustainable Development Relationship: The Role of WTO Adjudication in Interpreting and Operationalizing Sustainable Development', *McGill Journal of Sustainable Development Law*, Vol 14(1) 2018, 33.
[48] Marrakesh Agreement *op. cit.* Preamble.
[49] United States – Import Prohibition of Certain Shrimp and Shrimp Products, WTO Appellate Body Report, WT/DS58/AB/R, adopted 6 November 1998, para 129.

shrimp-trawling practices that risked harming sea turtles, was justifiable under Article XX (g) as a measure relating to the conservation of exhaustible natural resources, but that the use of the standard was unjustifiably discriminatory, having engaged in serious negotiations with some shrimp-exporting States while applying the same standard unilaterally to others.[50] The Appellate Body's message was clearly diplomatic: a trade measure taken in the pursuit of a legitimate environmental goal has much greater chances of passing legal muster, if it is the result of a genuine and good faith negotiation with the trading partners affected by the measure, rather than a unilateral action. In this reading, the practice of diplomacy is less a matter of policy nicety and more akin to a legal condition precedent to achieving measures that aim to balance the openness of trade with the protection of environment.[51] This nexus is now more institutionally expressed in the 2030 Agenda for Sustainable Development. University of Maryland Professor A. Ali S. R. Qasim, among the organizers, noted that Sustainable Development Goal no. 17 explicitly includes a 'universal, rules-based, open, non-discriminatory and equitable multilateral trading system', whereas other goals mention trade-related SDG targets such as duty-free access to markets for least-developed countries or harmful fisheries subsidies. Fixing these intentions into legal agreements has, in turn, been reliant on economic diplomacy.[52] As one of only a few examples, the Agreement on Fisheries Subsidies that eventually became part of the WTO and was negotiated for over two decades is often referred to as a successful success story in the 2030 Agenda, which brought a specific sustainability objective into a meaningful multilateral trade agreement, a process that demanded patient and technically demanding diplomatic work to balance interests between key fishing countries and coastal and developing states most reliant on fish for food security.[53]

It is worth recalling the history of the negotiation of that agreement. Fisheries subsidies had been on the formal agenda of the WTO since 2001, but it would take another 21 years and many near successes at successive ministerial conferences before members finally agreed at Geneva in June 2022.[54] It was not that the underlying legal text changed, but rather the diplomatic packaging: negotiators agreed to make an initial round of disciplines more modest – on factors such as illegal fishing and overfished stocks – and to leave more difficult issues, like subsidies that help overcapacity, for a later round of discussions.[55] It is a technique that is a common occurrence in economic diplomacy in general: an agreement that is deemed too bold to be finalized in one sitting can be salvaged and broken down into a series of smaller, more bite-sized commitments, albeit at the cost of not resolving substantive issues on an immediate basis.[56] None of this suggests the tension between trade liberalisation and sustainable development has been resolved. Developing countries frequently, and not without justification, view environmentally motivated trade measures as a potential vehicle for disguised protectionism, a concern the Appellate Body itself acknowledged when it insisted that such measures must not constitute arbitrary or unjustifiable discrimination.[57] Reconciling these competing readings of the same underlying facts, is a measure a genuine environmental safeguard or a protectionist device in environmental dress, remains one of the more persistent items on the agenda of contemporary economic diplomacy.

6. Regional Economic Diplomacy: The African Continental Free Trade Area

If the multilateral system illustrates economic diplomacy operating at its most complex and, at times, most sluggish, the African Continental Free Trade Area illustrates what sustained regional diplomacy can achieve within a comparatively compressed timeframe. Adopted in Kigali in March 2018 and entering into force just fourteen months later, the AfCFTA brought together fifty-four of Africa's fifty-five states in what is now the largest free trade area by number of participating countries anywhere in the world.[58] The speed of its conclusion, especially set against the multi-decade timelines typical of comparable multilateral undertakings, owed a great deal to sustained diplomatic momentum generated through the African Union's own institutional architecture, which allowed negotiators to build political consensus continent-wide rather than negotiating bilaterally with each prospective member.[59]

The AfCFTA's own text makes its developmental orientation explicit, situating the agreement expressly within the framework of the African Union's Agenda 2063 and the United Nations' 2030 Agenda for Sustainable Development, and committing states parties to promote sustainable and inclusive socio-economic development, gender equality and structural transformation of African economies.[60] This is a markedly different drafting choice from the comparatively

[50] Shrimp-Turtle Appellate Body Report *op. cit.*) para 176.
[51] Shrimp-Turtle Appellate Body Report *op. cit.* para 172.
[52] 2030 Agenda for Sustainable Development *op. cit.* Goal 17, Target 17.10.
[53] World Trade Organization, Agreement on Fisheries Subsidies, adopted 17 June 2022, entered into force 15 September 2025
[54] Khan, Z., 'Trade-Sustainable Development Relationship: The Role of WTO Adjudication in Interpreting and Operationalizing Sustainable Development', *McGill Journal of Sustainable Development Law*, Vol 14(1) 2018, 33.
[55] Agreement on Fisheries Subsidies *op. cit.* Preamble.
[56] Agreement on Fisheries Subsidies *op. cit.* arts 3-5.
[57] Shrimp-Turtle Appellate Body Report *op. cit.* para 150.
[58] Agreement Establishing the African Continental Free Trade Area, adopted 21 March 2018, Kigali, entered into force 30 May 2019, art 3.
[59] Bayne and Woolcock *op. cit.* 250.
[60] African Continental Free Trade Area Agreement *op. cit.* Preamble.

terse sustainability language of the original GATT, and it reflects how far the diplomatic conversation around trade agreements has moved since 1947: sustainability is no longer an afterthought bolted onto a primarily commercial text but a stated organizing objective from the outset.

Implementation, inevitably, has proven harder than negotiation. Tariff liberalization schedules, rules of origin, and the phased introduction of protocols on services, investment, competition policy and intellectual property all require continuing technical negotiation among fifty-four economies of vastly differing size, infrastructure and administrative capacity.[61] Economic diplomacy here operates less as a single dramatic negotiation and more as an ongoing, almost bureaucratic process of committee work, dispute avoidance and capacity-building support, work considerably less visible than the signing ceremony in Kigali but arguably just as consequential to whether the AfCFTA ultimately delivers on its sustainable development ambitions. The rules of origin negotiations alone, determining what proportion of a product's value must originate within Africa for it to qualify for preferential tariff treatment, have required years of sector-by-sector technical negotiation, since overly generous rules risk simply relabeling third-country goods as African while overly strict rules risk excluding precisely the nascent regional value chains the agreement is meant to encourage.[62] Nigeria's own initial hesitation to sign the agreement in 2018, followed by its ratification the following year after extensive domestic consultation with manufacturers and labour groups, is a useful reminder that regional economic diplomacy, like its multilateral counterpart, must first be won at home before it can be delivered abroad.[63]

Comparison with other regional trading arrangements sharpens what is distinctive about the AfCFTA's diplomatic trajectory. The European Union's internal market, the most deeply integrated regional trading arrangement in existence, took decades of incremental treaty amendment, from the Treaty of Rome through to Maastricht and beyond, to arrive at anything resembling its current form, with sustainability and social objectives folded in only gradually as the Union's competences expanded.[64] The ASEAN Free Trade Area, by contrast, proceeded through a more gradualist, consensus-based diplomatic style characteristic of the so-called ASEAN Way, prioritizing non-binding consultation and incremental tariff reduction over the kind of single-undertaking package that characterized both the Uruguay Round and, in more compressed form, the AfCFTA negotiations.[65] Set against these two contrasting models, the AfCFTA represents something of a diplomatic hybrid: a single comprehensive undertaking negotiated on a continent-wide scale, but concluded in a fraction of the time either the European or Southeast Asian experience might have suggested was achievable, a testament to the particular diplomatic momentum the African Union was able to generate through Agenda 2063 and the accompanying political consensus that regional integration was no longer optional but existential for the continent's development prospects.[66]

7. Further Illustrations: Diplomacy Translated into Legal Commitment

The Shrimp-Turtle dispute and the AfCFTA are not isolated examples. The TRIPS and Public Health Declaration, adopted at the same Doha ministerial that launched the Development Round, offers another instructive case. Facing intense diplomatic pressure from developing countries and public health advocates during the HIV/AIDS crisis, WTO members agreed that the TRIPS Agreement does not and should not prevent members from taking measures to protect public health, and specifically affirmed each member's right to grant compulsory licenses and to determine the grounds upon which such licences are granted.[67] The declaration did not amend the underlying treaty text at Doha itself; that came later, through a 2005 protocol negotiated over several further years of diplomatic engagement.[68] But the political commitment secured in 2001 fundamentally reshaped how the TRIPS Agreement would subsequently be interpreted and applied, demonstrating how a diplomatic declaration, even one without immediate binding legal force, can exert lasting influence over the trajectory of a formally binding treaty regime.[69]

A rather different illustration comes from the ongoing, still unresolved, negotiations over a multilateral framework for digital trade and cross-border data flows. Here, economic diplomacy has so far struggled to produce the kind of comprehensive package achieved in the Uruguay Round, in part because the underlying subject matter, data governance, privacy, and digital taxation, cuts across trade policy, competition policy and national security in ways

[61]African Continental Free Trade Area Agreement *op. cit.* art 5.
[62] Khan, Z., 'Trade-Sustainable Development Relationship: The Role of WTO Adjudication in Interpreting and Operationalizing Sustainable Development', *McGill Journal of Sustainable Development Law*, Vol 14(1) 2018, 33.
[63]Bayne and Woolcock *op. cit.* 255.
[64]Shaw *op. cit.* 955.
[65]Bayne and Woolcock *op. cit.* 230. See also; Messenger, G., 'Free Trade Agreements as Sites of Economic Diplomacy: Agreeing Common Standards for Sustainable Development', *World Trade Review*, Vol 24(2) 2025, 194.
[66]African Continental Free Trade Area Agreement (n 39), Preamble.
[67]World Trade Organization, Declaration on the TRIPS Agreement and Public Health, WT/MIN(01)/DEC/2, adopted 14 November 2001, para 4.
[68]Bayne and Woolcock *op. cit.* 215.
[69] Lydgate, E.B., 'Sustainable Development in the WTO: From Mutual Supportiveness to Balancing', *World Trade Review*, Vol 11(2) 2012, 297.

that resist the traditional trade-off logic of tariff-for-tariff negotiation.[70] The comparative slowness of these talks is itself a useful diagnostic: economic diplomacy tends to succeed most readily where issues can be packaged and cross-linked, and to struggle where the underlying interests are too heterogeneous, or too politically salient in domestic terms, to be bundled into a single mutually acceptable trade-off.

8. Persistent Challenges to Effective Economic Diplomacy

Several recurring obstacles limit how effectively economic diplomacy can deliver on the twin goals of trade expansion and sustainable development. The first is the familiar problem of unequal bargaining power. Smaller and least-developed states frequently negotiate with a fraction of the technical staff and legal expertise available to major trading powers, a disparity that shapes outcomes long before any formal text is tabled.[71] Capacity-building commitments, of the kind found throughout the Doha Declaration, exist precisely to address this imbalance, but their implementation has often lagged well behind the rhetoric with which they were originally announced.[72]

A second problem is that economic diplomacy, on the bilateral and regional level, may result in pockets of inconsistent and overlapping rules, standards and dispute procedures, which exporters would need to navigate through various bilateral and regional agreements to which their transactions might fall under. Whereas multilateral economic diplomacy is slower, it has the comparative advantage of producing one set of rules, more coherent, which, in turn, is where multilateral negotiation runs into difficulties, as the Doha Round shows, states inevitably resort to regional and bilateral avenues, thus reinforcing the fragmentation that multilateralism was meant to eradicate.[73] Economic diplomats know this well: the negotiators of various agreements in the region regularly go back to the text of previous agreements to avoid unwarranted divergence, but the incentive structure for each new agreement runs counter to convergence, regardless of the extent of common drafting language used.[74]

A third, growing, worry is the credibility of sustainability pledges that are achieved via economic diplomacy. Critics, especially from the Global South, have raised concerns about the efficacy of sustainability catch phrases that were added to trade agreements by the more affluent negotiating partners, and used to make the agreement more palatable to those who did not want them.[75] Even if one does not agree to this assessment in its entirety, it is a fair argument to make that sustainability provisions that have not been fully embraced by all parties are unlikely to be fully and faithfully put into practice, however elegant they may be in print.[76]

A fourth source of friction is the rise of unilateral climate related trade measures, not negotiated within the WTO. The European Union's Carbon Border Adjustment Mechanism on carbon pricing for imports of carbon-intensive goods that would otherwise lead to carbon leakage, was adopted by the European Union's own internal legislative process, and has been harshly criticized by several developing and emerging economies, who see it as a unilateral standard like the unilateralism the Appellate Body warned against in Shrimp-Turtle.[77] That the measure has an environmental benefit, whatever that benefit may be, reasonably enough, is not accepted by everyone, but its adoption without any negotiated, multilateral or plurilateral framework reflects a more general trend in contemporary economic diplomacy: as the importance of environmental considerations intensifies, so too does the pressure to act unilaterally, rather than be willing to invest in the slower processes of multilateral or plurilateral negotiation, with implications for the coherence and perceived legitimacy of the broader trading system.[78]

9. Towards A More Coherent Legal Framework

There is no realistic option to overcome these challenges other than economic diplomacy in order to find consensus around rules between independent states with different interests. It does need, however, a more conscious attempt to ensure that the institutional framework in which economic diplomacy takes place is aligned with the economic diplomacy goals to which it is meant to serve. It implies, first, a fresh focus on building up technical and legal capacity in smaller and developing economies, not as an afterthought during trade negotiations, but as an essential basis for the negotiations to lead to outcomes that can realistically be called 'fair' and not simply 'equal through an exchange of formal rights.[79] Second, it recommends that the standing committee processes of the WTO itself become more

[70]Sajadi *op. cit.* 20.
[71]Sajadi *op. cit.* 16.
[72]Doha Ministerial Declaration *op. cit.* para 38.
[73] Shaw *op. cit.* 960.
[74] Ibid.
[75] Sajadi *op. cit.* 22. See also; Lydgate, E.B., 'Sustainable Development in the WTO: From Mutual Supportiveness to Balancing', *World Trade Review*, Vol 11(2) 2012, 297.
[76] Ibid.
[77] Regulation (EU) 2023/956 of the European Parliament and of the Council of 10 May 2023 establishing a carbon border adjustment mechanism, OJ L 130, 16 May 2023, 52.
[78] Shrimp-Turtle Appellate Body Report *op. cit.* para 172.
[79] Bayne and Woolcock op. cit 265.

systematic in incorporating sustainability considerations, on the basis of the Committee on Trade and Environment (CTE), and incorporate them into the work of WTO committees on a regular basis instead of bringing them up at the periphery of ministerial conferences.[80] It recommends thirdly, that the AfCFTA and other existing regional initiatives provide a template that could be learnt by multilaterals, even though the region itself requires strengthened monitoring and enforcement mechanisms for the implementation of sustainable development provisions, as they are currently just aspirational preamble.[81]

There is also a lesson here in what could be called 'diplomatic sequencing': taking an initially unmanageable fisheries subsidies negotiating agenda and breaking it up into smaller, sequential commitments. If that is the case, then the lesson could be more broadly applied to the moribund Doha Round, which would suggest that multilateral negotiators would be better off finding smaller, attainable packages like has been done in some of the other areas being negotiated such as trade facilitation and fisheries subsidies, instead of hanging on to a single large package that has proven elusive for more than 20 years.[82] But what is possible is to do so without going completely outside of the multilateral system, there is one institutionally coherent means of achieving such sequencing, viz. plurilateral initiatives within smaller coalitions of willing states, within the WTO framework itself and as is becoming common practice.[83]

Finally, and perhaps most importantly, a more coherent framework requires recognizing that the legal texts produced by economic diplomacy are only ever as good as the diplomatic relationships that sustain their implementation. A treaty is not self-enforcing. Its provisions on sustainable development, capacity-building or technical assistance depend, in practice, on continued diplomatic engagement long after the signing ceremony has ended, engagement that maintains the trust and reciprocal expectation without which even the most carefully drafted legal text will struggle to achieve its stated purpose.[84]

10. Conclusion and Recommendations

The argument of this article is that international economic diplomacy is not a law 'sideshow' or 'mere' political supplement to international trade law but instead the means through which the law is created, interpreted and, ultimately, brought into play. The rules of trade have been negotiated between states, not spontaneously designed by lawyers, in every instance they have been created, from the Bretton Woods institutions to the Marrakesh Agreement, the Doha Ministerial Declaration, and the African Continental Free Trade Area. It is the same with the more recent and still ongoing attempt to combine that trade framework with sustainable development goals, an effort that has been only partially successful, with some success (the Shrimp-Turtle jurisprudence and the fisheries subsidies negotiations, for instance), but not elsewhere.

Three recommendations follow. States and international bodies must see capacity development of developing country negotiators as a structural condition for more effective and equitable economic diplomacy, rather than a favour to be done after substantive negotiations have been established. Secondly, the concept of sustainability should not only be integrated into the institutional setting of trade negotiation and administration but also into the operative nature of the process, in the sense of preambular formulations or ad hoc (nonsystematic) and ad hoc (high level) statements with little binding effect. Third, regional and multilateral negotiators, as well as legal bodies like the WTO Appellate Body, should give more weight to the importance of legal, not political, acceptability of trade measures taken under the pretext of sustainable development, which includes the diplomatic groundwork, transparency, genuine consultation, and absence of unilateral imposition. Not the unregulated liberalization, or assertive unilateral environmentalism, but this patient, institutionally based diplomacy remains the best route to a balance between global trade and sustainable development in an orderly and legitimate international legal system.

The larger point if there is one is that the law of international trade should not be treated as a static and complete document which has been handed down and which waits to be applied. It is more like a living settlement, which is constantly renegotiated, sometimes subject to modification, that always relies for its effectiveness upon the diplomatic relations which first created it and which must continue to uphold it. It is not an academic nicety to consider economic diplomacy as part and parcel of, and not separate from, the legal study of world trade and sustainable development. It influences the nature by which lawyers, policy makers and civil society should interact with the trading system, as it is not some finished body of law already established, but as a space of negotiation whose ultimate products are far from guaranteed.

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[80] Shaw *op. cit.* 965. See also; Lydgate, E.B., 'Sustainable Development in the WTO: From Mutual Supportiveness to Balancing', *World Trade Review*, Vol 11(2) 2012, 297.
[81] Shaw *op. cit.* 965.
[82] World Trade Organization. *Fisheries subsidies negotiations: From the Doha mandate to MC12*. World Trade Organization, 2025.
[83] World Trade Organization, *Doha Development Agenda*. World Trade Organization, 2024.
[84]Bayne and Woolcock *op. cit.* 270.