

CPEC and WTO Law: Are China's Trade Preferences to Pakistan Consistent with WTO Obligations?

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Abstract

The China-Pakistan Economic Corridor (CPEC), as a central element of China's Belt and Road Initiative (BRI), has significantly transformed trade, investment, and infrastructure cooperation between the two countries. Although CPEC promises Pakistan a huge reward in its economy and well as achievement of Chinese regional policy agenda, legal consequences of such preferential trade agreements derived by this project are questionable depending on the legal aspects of the international trade regime. More particularly, how the regularity of such preferences is in tandem with the requirements of the World Trade Organization (WTO) should be properly investigated legally. The most important concept of WTO legal perspectives is Most-Favored Nation (MFN) treatment which requires member states to treat each trading partner equally. With this principle, a benefit of trade to a couple of members must be presented to others. China's preferential treatment of Pakistan under CPEC, particularly in the form of tariff concessions, investment guarantees, and special economic zones, appears to challenge this rule of equal treatment. Nonetheless, the WTO law has exceptions which may permit differentiation treatment in some occasions like regional trade and exemption in development for the developing nations. This paper looks into how the trade preferences to be enjoyed based on the CPEC lie within the acceptable pale of such exceptions. It looks into the legal specifications of WTO agreements on the preferential trade arrangements and determines whether CPEC fits the ardent requisites, including transparency, notification and liberalization on a two-way basis. In its enquiry, it also entails a doctrinal analysis of WTO case law, which has beaten out a narrow scope of scope under which developing countries can operate and practice discriminatory trade without being in violation of the WTO. The paper also takes into account the wider implications of the two countries being developing countries in the WTO framework (China and Pakistan). It examines the possibility of the trade arrangements provided under CPEC falling into the category of South-South cooperation and the degree at which such a classification enjoys legal protection of the WTO rules. The study also addresses the question whether the strategic and developmental objectives that are being sought to meet via CPEC are in line with the major principles of a multilateral trading system, or not very likely to affect coherence and credibility of the latter. The final argument given in the paper is that on the one hand, CPEC is a strategic vision of economic connectivity and regional development; on the other hand, the case poses a legal challenge to long-term stability and elasticity of WTO rules. Trade preferences granted by China to Pakistan should be organized in line with the law on WTO so that it does not conflict with international trade laws. To achieve such compatibility one needs to have a well-thought-out legal engineering, open institutional interaction and, perhaps, a review of the correctness of the balance in global trade development bilateralism and multilateralism.

Introduction

The World Trade Organization (WTO) is an organization formed in 1995 to support multilateral trading that runs under the principles of non-discrimination, Most-Favored Nation (MFN) treatment and national treatment. These underlying norms are oriented at making the global trade relations predictable, even-handed and open. But universalism of these principles has become steadily questioned by the emergence of bilateral and regional economic systems. Among the most considered ones is China-Pakistan Economic Corridor (CPEC), a showcase project of China which advances bilateral infrastructure build-up and ties up the economy of China and Pakistan with each other. CPEC is largely seen as an infrastructure-based development project; however, it also incorporates comprehensive preferential trade and investment agreements. These include tariff reductions and tax remission, opening up Special Economic Zones (SEZs), a better loan terms policy, and liberalization of market access in terms of demand, which suits Pakistan. Such arrangements can also contradict China in its WTO obligations owing to the influence of developmental and geopolitical considerations which might also run contrary to its commitments under the WTO law particularly, the Article 1 of the General Agreement on Tariffs and Trade (GATT) 1994 which binds the WTO members not to discriminate against each other.¹ The most substantial legal question in that respect is thus the compatibility of the Chinese CPEC-related trade preferences with the WTO. Is it a legitimate type of South-South cooperation, or a violation of China of the non-discrimination obligation under the WTO law? The WTO rules have also exceptions namely Article XXIV of GATT (that allows the formation of Free Trade Areas or Customs Union) and the Enabling Clause (that endorses the giving of preference in developing countries and this is not reciprocated).² It is the matter of the CPEC fitting in these exceptions and that, in case of such an exception, whether the conditions required to be satisfied procedurally and substantively, like notification, reciprocity, and consistency, have been fulfilled. The problem becomes even more complicated with the context of two-faced nature of China as it is a developing nation according to the WTO regulations, yet it acts as a large economic force in most respects. According to the arguments of the scholars, the growing bilateralism and selective preferences utilized by China would threaten the normative structure of WTO and equilibrium between the multilateralism and the state-led strategic trade.³ In addition, the constrained partaking of Pakistan in WTO dispute settlement routine as well as inadequate bicycle with multilateral trade talks leaves questions as to the formality by which CPEC-related commerce favor is indeed spoken and can unthinkingly pass on.⁴

The paper attempts to focus on these complexities with the help of a systematic analysis. It starts with a brief description of WTO legal framework of non-discrimination and its allowable exceptions and then delves deep into the specific trade preferences granted with Pakistan under CPEC. Their suitability with the provisions of the WTO is then examined logically especially through the prism of the WTO jurisprudence and discourse. The last sections discuss the larger implications of the law on developing countries and suggest the policy recommendations to reconcile the CPEC with the WTO law. It is stated that although the CPEC can be used to support

¹ "WTO | Legal Texts - Marrakesh Agreement," accessed December 18, 2024, https://www.wto.org/english/docs_e/legal_e/gatt94_e.htm.

² "WTO | Publications," accessed December 18, 2024, https://www.wto.org/english/res_e/publications_e/legal_texts_e.htm.

³ Bernard M. Hoekman and Petros C. Mavroidis, *World Trade Organization (WTO): Law, Economics, and Politics* (Routledge, 2015).

⁴ "Chapter 36: Global Commercial Constitutionalization: The World Trade Organization in: Handbook on Global Constitutionalism," accessed December 18, 2024, <https://www.elgaronline.com/edcollchap/book/9781802200263/book-part-9781802200263-46.xml>.

legitimate developmental interests, CPEC has to be reconciled with international legal responsibilities to maintain legitimacy and consistency of the multilateral trading regime.⁵

Legal Framework of WTO Obligations on Non-Discrimination

Principle of non-discrimination is fundamental in WTO legal system and it mainly appears as two fundamental obligations namely Most-Favored Nation (MFN) treatment and National treatment. These commitments lie at the heart of WTO in its endeavor to provide leveled competitive terms in international trade and are devices to deter protectionism and partiality in international trade. The issue whether Chinese CPEC-related preferences given to Pakistan are in line with WTO commitments necessitates us to have a clear grasp of these guiding principles of the law as well as the exception to the same as known in the WTO law. Article I of the General Agreement on Tariffs and Trade (GATT) 1994 incorporates the MFN principle that requires members of WTO to extend to products of a given country any advantage given to the products of another country immediately and unconditionally, to like products of any other WTO member.⁶ The inevitability of this rule is that it is aimed at avoiding discriminatory action against trading partners and fosters multilateral openness of commerce. The identical duty may be found in the General Agreement on Trade in Services (GATS) in Article II, which further generalizes the MFN principles to the provision of services. The reason given to MFN is that it prevents preferential trading conditions which can cause a skewed competition and that it can also cause a loss of predictability in trade relations.⁷ However, WTO law also recognizes that strict adherence to MFN may not always be feasible or desirable, particularly in the context of regional integration and development cooperation. Two major exceptions to the MFN obligation exist: the regional trade agreement (RTA) exception under Article XXIV of GATT, and the Enabling Clause adopted in 1979, which permits non-reciprocal trade preferences in favor of developing countries.⁸ Article XXIV allows members to form Free Trade Areas (FTAs) or Customs Unions, provided that such arrangements cover “substantially all trade” among the parties and do not raise barriers to trade with other WTO members. Notification and transparency obligations under WTO rules require that such arrangements be reviewed by the WTO’s Committee on Regional Trade Agreements. The Enabling Clause, by contrast, allows developed countries to grant preferential treatment to developing countries without the need for reciprocity. However, this clause has also been interpreted to permit developing–developing country preferences, such as South-South cooperation frameworks. Yet, WTO case law, especially the “*European Communities – Tariff Preferences*” case, has established that preferences under the Enabling Clause must be transparent, objective, and non-discriminatory among similarly situated beneficiaries.⁹ Therefore, while China may extend preferences to Pakistan as a developing country, the legal permissibility of such preferences under CPEC must satisfy certain legal tests of consistency and justifiability.

The WTO dispute settlement system has clarified the importance of procedural compliance with these exceptions. In “*Turkey – Textiles*”, the Appellate Body emphasized that any deviation from

⁵ Asif Qureshi, *The World Trade Organization : Implementing International Trade Norms*, Manchester University Press, 2022, 1–272.

⁶ “WTO | Publications,” accessed December 18, 2024, https://www.wto.org/english/res_e/publications_e/legal_texts_e.htm.

⁷ “‘The World Trade Organization: Law, Practice, and Policy’ by Mitsuo Matsushita, Thomas J. Schoenbaum et Al.,” accessed December 18, 2024, <https://scholarship.law.columbia.edu/books/131/>.

⁸ “International Trade, Domestic Coalitions and Liberty: Comparative Resp,” accessed December 18, 2024, <https://www.taylorfrancis.com/chapters/edit/10.4324/9781315495811-21/international-trade-domestic-coalitions-liberty-comparative-responses-crisis-1873%E2%80%931896-peter-alexis-gourevitch>.

⁹ “WTO | Dispute Settlement - the Disputes - DS246,” accessed December 18, 2024, https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds246_e.htm.

general WTO rules must be “justified in both form and substance” under the relevant exceptions.¹⁰ This jurisprudence underscores that trade preferences, even if economically or politically motivated, must be legally structured in accordance with multilateral obligations. In the context of CPEC, the absence of a WTO-notified RTA or express reliance on the Enabling Clause may place China’s trade preferences to Pakistan in a zone of legal ambiguity. To conclude, although WTO law allows some sort of preferential trade arrangement it has to fit within the pre-established legal system in order to qualify as an exception to the MFN principle. Any exception should be based on open, notified and duly formed legal instruments within WTO agreements. The following discussion is going to look into the fact that CPEC fulfills these legal requirements, or it can be seen as a de facto discrimination that cannot align with WTO requirements.

China’s Trade Preferences to Pakistan under CPEC

The China-Pakistan Economic Corridor (CPEC) has evolved from a connectivity-driven infrastructure programme into a broader framework for trade and investment facilitation between the two countries. As of 2024, CPEC encompasses more than \$60 billion in investment commitments and covers a wide range of sectors, including energy, transport, agriculture, and digital connectivity.¹¹ Though not formally registered as a free trade agreement (FTA) or regional trade agreement (RTA) under WTO rules, CPEC includes preferential terms that give Pakistani firms and goods privileged access to Chinese capital, markets, and technical assistance. These preferences, while deeply strategic, raise significant questions about their compliance with WTO legal norms. At the heart of these preferences lies the Pakistan-China Free Trade Agreement (PCFTA), signed in 2006 and revised in 2019, which operates alongside the broader CPEC framework. The second phase of the PCFTA introduced major tariff concessions, with China reducing tariffs to zero on approximately 313 high-priority Pakistani export products.¹² These concessions are more generous than those China extends to other developing or least-developed countries under its generalized system of preferences (GSP). While such preferential treatment is common in bilateral relations, WTO law mandates that such arrangements must fall under either Article XXIV of GATT (as a properly constituted FTA) or the Enabling Clause. Beyond tariff preferences, CPEC involves non-tariff advantages such as preferential bidding rights for Pakistani companies in Chinese-funded projects, tax holidays in Special Economic Zones (SEZs), and financial facilitation through concessional loans and state-backed guarantees. These non-tariff measures, though not always classified as trade in goods, directly affect market access and competitive neutrality under WTO disciplines. For instance, preferential participation of Pakistani firms in Chinese state-funded projects under CPEC may conflict with the WTO’s plurilateral Agreement on Government Procurement (GPA), which encourages open, non-discriminatory bidding processes.¹³ While China is not yet a full party to the GPA, its practices are nonetheless subject to transparency and non-discrimination standards under broader WTO disciplines. Additionally, the Gwadar Port, a flagship component of CPEC, provides logistical and operational preferences to Chinese and Pakistani shipping companies. These preferences include reduced port fees, security clearances, and infrastructure access, all of which indirectly contribute to trade

¹⁰ “WTO | Dispute Settlement - the Disputes - DS34,” accessed December 18, 2024, https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds34_e.htm.

¹¹ “CPEC: PAK-CHINA ECONOMIC CORRIDOR VISION 2024 | New Horizons,” accessed December 18, 2024, <http://www.greenwichjournals.com/index.php/NH/article/view/263>.

¹² “PROTOCOL TO AMEND THE FREE TRADE AGREEMENT BETWEEN THE GOVERNMENT OF THE PEOPLE’S REPUBLIC OF CHINA AND THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF PAKISTAN - Ministry of Commerce | Government of Pakistan,” accessed December 18, 2024, <https://www.commerce.gov.pk/protocol-on-phase-ii-china-pakistan-fta/>.

¹³ Pedro Infante Mota, “Government Procurement and Sustainable Development in the WTO,” in *Sustainable Finances and the Law: Between Public and Private Solutions*, ed. Rute Saraiva and Paulo Alves Pardal (Springer Nature Switzerland, 2024), https://doi.org/10.1007/978-3-031-49460-4_10.

advantages outside formal tariff structures. Although such infrastructure preferences fall in a legal grey area, WTO jurisprudence has increasingly acknowledged the “effect-based” interpretation of trade discrimination.¹⁴ This means that even de facto advantages, if they distort trade competitiveness, could potentially violate WTO norms. Another concern is the absence of formal WTO notification of CPEC-related preferences. While the Pakistan-China FTA is notified under WTO provisions, the broader investment and financial frameworks of CPEC remain outside WTO scrutiny. This raises legal issues regarding transparency and accountability, as required under Article XXIV:7 of GATT and subsequent WTO decisions on regional agreements.¹⁵ Without proper notification, member states may challenge such preferences on grounds of concealed or unreviewed trade distortions, especially if similar access is denied to other WTO members. In conclusion, China’s trade preferences to Pakistan under CPEC, spanning tariff reductions, non-tariff benefits, preferential infrastructure, and financial instruments, go beyond the scope of traditional trade facilitation and enter the domain of strategic economic alignment. While these preferences serve political and developmental aims, they exist in a space where WTO compatibility is far from assured. The next section will analyze whether such preferences can be legally justified under WTO’s permitted exceptions or whether they risk breaching fundamental multilateral trade obligations.

Analyzing Compatibility with WTO Obligations

To assess whether China’s trade preferences to Pakistan under the CPEC framework comply with WTO obligations, one must apply a doctrinal approach based on GATT 1994, the Enabling Clause, and relevant WTO jurisprudence. The question of compatibility hinges on whether the preferential treatment granted falls within the narrow legal exceptions to the Most-Favored Nation (MFN) rule and whether it is implemented in a manner consistent with procedural and substantive WTO requirements. As noted earlier, Article I of GATT requires that any advantage granted to one WTO member must be extended to all others “immediately and unconditionally.”¹⁶ CPEC-related preferences appear to deviate from this rule, given their exclusivity and strategic orientation toward Pakistan. For these preferences to be justified, China would need to rely on one of two key legal exceptions: (i) Article XXIV of GATT for Free Trade Agreements (FTAs), or (ii) the 1979 Enabling Clause, which permits differential treatment among developing countries under certain conditions. The first potential justification Article XXIV permits WTO members to establish free trade areas or customs unions, provided these arrangements meet three core criteria: (1) they cover “substantially all trade”; (2) they do not raise barriers to trade with third parties; and (3) they are notified and subject to review by the WTO.¹⁷ While China and Pakistan do have a formal FTA, CPEC as a broader framework does not constitute an FTA or customs union in itself. Moreover, the trade preferences embedded in CPEC particularly those relating to infrastructure, finance, and investment fall outside the narrow scope of goods and services liberalization typically addressed by Article XXIV. Thus, Article XXIV provides only partial cover at best. The second legal avenue is the Enabling Clause, which allows developing countries to extend non-reciprocal trade preferences to other developing countries. However, WTO jurisprudence, especially the Appellate Body’s ruling in “*European Communities – Tariff Preferences*”, has clarified that preferences

¹⁴ “Beyond the WTO? An Anatomy of EU and US Preferential Trade Agreements - Horn - 2010 - The World Economy - Wiley Online Library,” accessed December 18, 2024, <https://onlinelibrary.wiley.com/doi/abs/10.1111/j.1467-9701.2010.01273.x>.

¹⁵ “High-Standard Regional Free Trade Agreements: Features, Directions and Their Practical Paths to Promote Trade,” accessed December 18, 2024, <https://www.scrip.org/journal/paperinformation?paperid=138316>.

¹⁶ “WTO | WTO Analytical Index — Guide to WTO Law and Practice (Updated Electronic Version),” accessed December 18, 2024, https://www.wto.org/english/res_e/publications_e/ai17_e/gatt1994_e.htm.

¹⁷ Silvia Nuzzo, “‘No Safe Haven’: Why the GATT ‘Regional Exception’ Does Not Apply to Technical Barriers to Trade,” *Global Policy* 15, no. 3 (2024): 528–38, <https://doi.org/10.1111/1758-5899.13344>.

under the Enabling Clause must be based on objective criteria, be transparent, and not discriminatory among similarly situated countries.¹⁸ In the case of CPEC, the preferences are tailored exclusively for Pakistan and are not made available to other developing countries under similar terms. This undermines the claim that such preferences are development-oriented within the meaning of the Enabling Clause. Furthermore, WTO law emphasizes that notification and transparency are not procedural formalities but substantive obligations. Under the WTO's Transparency Mechanism for Regional Trade Agreements (2006), members are required to notify and publish detailed terms of all preferential arrangements.¹⁹ The fact that the broader CPEC trade and investment framework has not been notified to the WTO raises serious questions about its legal defensibility. Lack of transparency not only reduces confidence in the multilateral system but may also deprive other members of the opportunity to assess or challenge potentially trade-distorting measures. Additionally, the WTO legal system has moved toward an "effects-based" interpretation of discrimination. In *"Turkey Textiles"*, the Appellate Body held that even if an arrangement is motivated by development or security concerns, it must be demonstrably consistent with WTO rules.²⁰ Applying this reasoning to CPEC, the mere invocation of development goals or strategic cooperation is insufficient. The trade preferences must be legally structured to ensure compliance with the WTO's framework of obligations and exceptions.

Lastly, the potential distortion of competition in third markets must be considered. If CPEC-related preferences result in trade diversion, whereby Pakistani exports displace other WTO members' exports due to artificial advantages, the WTO could view this as a violation of the MFN principle. This is especially relevant in sectors such as textiles, agriculture, and logistics, where CPEC offers sector-specific support through infrastructure and subsidies. To sum this up, CPEC trade benefits that China intends to provide Pakistan are not serious under the WTO requirements. Although some aspects of it are possibly sheltered by the currently existing legal exemptions, the lack of official notification, the deficit of the multilateral transparency, and the discriminating tendency of the preferences bring much doubt on how legal they are under the WTO regulations. To be able to pass the test of scrutiny, China would have to reconstitute these preferences within the formal FTA, make them available to more developing countries through the Enabling Clause, or seek the waiver under Article IX of the WTO Agreement it does not happen very often and is hard to obtain. The following part will discuss the feasibility of such flexibilities and the impacts of the developing country status on legal compliance of the WTO rules.

Developing Country Flexibilities and Regional Exceptions

The WTO legal framework incorporates several flexibilities for developing countries, often referred to as Special and Differential Treatment (SDT) provisions. These are designed to recognize economic disparities and allow developing and least-developed countries (LDCs) to enjoy more lenient obligations. Both China and Pakistan classify themselves as developing countries under the WTO system. The interplay of this shared status raises questions about the legal permissibility of China's preferential treatment under CPEC and whether it can be justified under WTO rules concerning South-South cooperation or regional economic integration.²¹

¹⁸ "The European Community | A Superpower in the Making | Johan Galtung |," accessed December 18, 2024, <https://www.taylorfrancis.com/books/mono/10.4324/9781003149279/european-community-johan-galtung>.

¹⁹ "Retooling the Sustainability Standards in EU Free Trade Agreements | Journal of International Economic Law | Oxford Academic," accessed December 18, 2024, <https://academic.oup.com/jiel/article/24/1/25/6146679>.

²⁰ "WorldTradeLaw.Net," accessed December 18, 2024, [https://worldtradelaw.net/document.php?id=reports/wtoab/turkey-textiles\(ab\).pdf](https://worldtradelaw.net/document.php?id=reports/wtoab/turkey-textiles(ab).pdf).

²¹ "Emerging Powers and the World Trading System: The Past and Future of International Economic Law. By Gregory Shaffer. Cambridge, UK: Cambridge University Press, 2021. Pp. Xxii, 321. | American Journal of International Law | Cambridge Core," accessed December 18, 2024,

The 1979 Enabling Clause serves as the cornerstone of SDT, permitting developing countries to extend non-reciprocal preferences to one another. These can include tariff reductions, technical assistance, or other trade-related measures. However, as emphasized by WTO dispute panels, the legality of such measures depends on transparency, objectivity, and non-discrimination among similarly situated beneficiaries.²² In the context of CPEC, the exclusive nature of the preferences raises questions about the discrimination of similarly situated states like Bangladesh, Sri Lanka, or Nepal. The WTO's jurisprudence suggests that preferences cannot be granted solely on political or strategic grounds; they must reflect developmental necessity based on objective criteria.²³ A possible justification lies in the concept of South-South regional cooperation, which has gained prominence within WTO negotiations and UNCTAD initiatives. China may argue that CPEC is part of a broader developmental strategy aligned with Article 2(c) of the Enabling Clause, allowing mutual benefits among developing countries. While WTO law does not prohibit such arrangements, the legal defense would still require that the cooperation is extended beyond a bilateral model and conforms to WTO transparency and notification rules. As CPEC remains largely unnotified, such a defense may falter in legal terms.²⁴ Moreover, the WTO allows for regional trade agreements under Article XXIV of GATT and Article V of GATS, which may offer broader flexibilities if formalized. Although China and Pakistan signed a Free Trade Agreement in 2006, CPEC operates as a parallel framework, incorporating elements that fall outside the scope of the FTA such as energy investments, debt financing, and industrial park development. This divergence weakens the claim that CPEC is part of an existing WTO-compliant FTA structure. If preferences under CPEC are viewed independently, they must be evaluated on their own WTO compatibility.²⁵ Another underutilized mechanism is a waiver under Article IX: 3 of the Marrakesh Agreement, which allows members to request exemptions from WTO obligations, subject to approval by three-fourths of the membership. Such waivers have been used in limited cases, including for the African Growth and Opportunity Act (AGOA). However, no such waiver has been sought or obtained for CPEC-related preferences. The absence of this procedural safeguard exposes China and Pakistan to potential legal challenge by other WTO members.

These flexibilities have two implications. To begin with, the legal framework of WTO is not limitless in its ability to grant fair amount of leeway to the developing nations. Flexibilities should however not be in violation of multilateralism, non-discrimination and due process. Second, politically and economically important as the CPEC framework is, it has not been organized and launched in such a manner that it makes the best use of existing legal procedures under the law of WTO. The bilateralism of the arrangement, geopolitical overtures and the lack of official notification procedures are issues that weaken its defensibility on the basis of SDT provisions. To conclude, the flexibility option of developing countries presents a legal platform on which much of the Chinese choices can be admitted into Pakistan but currently the modelling of the CPEC falls short of the test of legality and probity, leave alone the principle of pejoration. China and Pakistan

<https://www.cambridge.org/core/journals/american-journal-of-international-law/article/abs/emerging-powers-and-the-world-trading-system-the-past-and-future-of-international-economic-law-by-gregory-shaffer-cambridge-uk-cambridge-university-press-2021-pp-xxii-321/A7442E0CEA770200E8EEF2D37E1235C9>.

²² "(PDF) The WTO Enabling Clause and Positive Conditionality in the European Community's GSP Program," *ResearchGate*, n.d., <https://doi.org/10.1093/jiel/6.2.507>.

²³ Lorand Btels, "The Appellate Body Report in European Communities—Conditions for the Granting of Tariff Preferences to Developing Countries and Its Implications for Conditionality in GSP Programmes," in *Human Rights and International Trade*, ed. Thomas Cottier et al. (Oxford University Press, 2005), <https://doi.org/10.1093/acprof:oso/9780199285822.003.0024>.

²⁴ "Development at the WTO - Hardback - Sonia E. Rolland - Oxford University Press," accessed December 18, 2024, <https://global.oup.com/academic/product/development-at-the-wto-9780199600885?cc=pk&lang=en&>.

²⁵ Sparsha Janardhan, "Harnessing Trade and Investment Agreements to Promote Public Health," *Drug and Alcohol Review* 40, no. 1 (2021): 41–49, <https://doi.org/10.1111/dar.13153>.

must restructure the CPEC by employing a transparent multilateral platform or they might require legal liberation by using the prevailing WTO forums.

Challenges and Policy Implications for Multilateral Trade Governance

As far as the China-Pakistan Economic Corridor (CPEC) is bilaterally advantageous, it still poses a number of challenges to the multilateral trade regime of the World Trade Organization (WTO). Designed to enjoy preferential treatment, lack transparency and institutional clarity and to be bilateral, its structure may in fact jeopardize WTO core values of transparency, most-favored nation (MFN) treatment and multi-lateral reciprocity. The WTO which is already weakened by the changing geopolitical relationships has to deal with these new and complex differences in economic alignment that do not easily match the existing legal structures.²⁶ Among the most important, is the wearing out of the principle of the MFN which is basic in WTO the law? Although such scenarios are possible under regional trade agreements (RTAs) or some special and differential treatment, CPEC does not fall in any of these common applicators, but instead provides preferences that do not have clear provisions in WTO-approved agreements. Such a pick and choose trade facilitation is likely to encourage other countries to pursue a more bilateral or plurilateral path further undermining the substantive multilateral rules-based system.²⁷ The proliferation of such framework's risks fragmenting global trade law into overlapping and often conflicting regimes, with WTO law losing its normative primacy. Second, the non-notification of CPEC-related arrangements to the WTO poses a significant institutional concern. Article XXIV of GATT and the Enabling Clause require that members notify preferential agreements and provide justifications for exemptions. China and Pakistan have not fully reported or explained how CPEC's tariff and investment incentives conform to these obligations. This lack of transparency not only violates procedural expectations but also limits other members' ability to challenge or understand the legal basis of such preferences. Without proper WTO oversight, bilateral arrangements like CPEC may evolve unchecked, eroding trust in the system.²⁸ Third, CPEC exemplifies the geoeconomic entanglement of trade and strategic interests, where economic tools are increasingly used to secure geopolitical leverage. This presents a conceptual and legal dilemma for the WTO, which was designed to govern commerce, not strategy. The WTO's current framework does not adequately address state-led economic interventions such as those found in China's Belt and Road Initiative (BRI). Trade preferences driven by strategic objectives blur the line between lawful trade facilitation and disguised protectionism. The WTO faces a policy imperative to revisit its definitions of "preferential treatment," "trade advantage," and "market access" in light of such state-capitalist models.²⁹

Another pressing issue is the weak enforcement environment within the WTO dispute settlement system. The paralysis of the Appellate Body since 2019 has severely diminished the WTO's ability to adjudicate legal inconsistencies arising from preferential trade agreements. Even if another member were to challenge CPEC-based preferences as WTO-inconsistent, enforcement would be uncertain. This impunity undermines the credibility of WTO law and encourages non-compliance.

²⁶ "Revitalizing the Global Trading System: What Could the G20 Do? | Request PDF," *ResearchGate*, n.d., <https://doi.org/10.1111/cwe.12166>.

²⁷ "The Quest for the Future of the WTO: From the Perspective of World Order | Yale Journal of International Law," June 1, 2024, <https://yjil.yale.edu/posts/2024-06-01-the-quest-for-the-future-of-the-wto-from-the-perspective-of-world-order>.

²⁸ "Legal Challenges to the Belt and Road Initiative | SpringerLink," accessed December 18, 2024, https://link.springer.com/chapter/10.1007/978-981-13-2098-9_9.

²⁹ "(PDF) The Digital Silk Road and China's Influence on Standard Setting," *ResearchGate*, accessed December 18, 2024, https://www.researchgate.net/publication/360225949_The_Digital_Silk_Road_and_China's_Influence_on_Standard_Setting.

Unless the dispute settlement system is revitalized, preferential arrangements like CPEC may continue to proliferate without legal accountability.³⁰

Lastly, the overall policy implication of this is that the WTO has to play catch-up with the current realities of global trade without loss of the normative basis of the organization. The increasing popularity of plurilateral initiatives, regional compacts as well as infrastructure-based trade agreements requires a more adaptable system of WTO. Instead of holding them as threats, the WTO may incorporate aspects of such projects as CPEC into its normative agenda through revised transparency practices, technical cooperation between infrastructure trade partners, and specialized dispute settlement systems on hybrid agreement. To conclude, the CPEC poses a multilateral trade governance challenge that is not that simple. It highlights the fact that WTO needs reforming, specifically in the field of transparency, dispute settlement, and legal regulation of trade initiatives initiated by states. Whether it is through globalization or regionalization we are seeing the emergence of a new and different configuration of trade, the survival of a coherent multilateral order will be determined by the degree to which it can take into account this new reality without.

Conclusion

The China-Pakistan Economic Corridor (CPEC), as an essential component of China's broader Belt and Road Initiative, represents a paradigmatic shift in how states are reimagining economic partnerships outside the traditional multilateral trade system. Legal and policy considerations of such arrangement not only have great implications on China and Pakistan but have immense implications on the architecture of international trade law that is guided by World Trade Organization (WTO).

The current paper has indicated that the trade preferences offered by China to Pakistan under CPEC raise complicated dilemmas as far as they are related to consistency with the obligations of the WTO. Although the WTO regime allows some derogation to the Most-Favoured Nation concept, by means of regional trade accords and special and different treatment to the developing nations, the legal nature of CPEC related preferences continues to be clouded. Free trade agreements that incorporate all elements of corridor and, relatively, the lack of transparency and WTO notification, adds more turmoil to the legal compliance and system compatibility problems.

The bone of contention here is the conflict between bilateralism in economics and multi-literalism in law. CPEC is reminiscent of a new pattern of state-led, infrastructure-based, economic integration, to be based, not on non-discriminatory trade liberalization, but on the strategic coordination of projects and actors. Although it might be serving significant developmental and geopolitical concerns, this model undermines the whole principles of the WTO regime, which was established on the antics of predictability, non-discrimination and reciprocity between the members. In case such bilateral or plurilateral arrangements replace the WTO laws in the national policies of major economies, there is a danger of fragmentation, with the loss of normative value in the global trading system.

Moreover, it has been shown in the paper that WTO has a significant challenge in trying to deal with these new realities. Its existing institutional processes especially in dispute resolution, transparency and regulation are not spared to address the new generation trade and investment partnerships that are highly integrated with infrastructure, finance and foreign policy. The inability

³⁰ Bernard M Hoekman and Petros C Mavroidis, "To AB or Not to AB? Dispute Settlement in WTO Reform," *Journal of International Economic Law* 23, no. 3 (2020): 1–20, <https://doi.org/10.1093/jiel/jgaa020>.

of the Appellate Body, absence of effectual enforcement procedures, and the strictness of interpreting its rules are the factors to underestimate the capability of the organization, to respond significantly to such a project as CPEC. It does not have to be a conclusion of legal pessimism, though. Instead, CPEC can see as a chance of WTO to readjust itself and adapt to a more liberal and embrative strategy that takes into consideration the validity of development-centered collaboration but preserves fundamental values of equity and accountability. The gap between bilateralism and multilateralism can be narrowed through legal innovation, procedural reform and normative discussions among members. In the case of China and Pakistan, it is high time that the gains of CPEC should be safeguarded against the uncertainty of law and some international distruts. Through pre-emptive consultation of the WTO notification procedures, developmentally explaining the trade preferences, and ensuring their consistency with their prior trade obligations both countries would be able to convert CPEC, a contested exception, into an example of compatible WTO-consistent cooperation.

To conclude, the capabilities of the multilateral trade governance to deal with such projects as CPEC will determine its future. The issue is not that such initiatives ought to be kept or not, but how these can coexist with the rules, institutions and expectations of the international trade order. The solution is not contained in the acceptance of confrontation, but in positive and creative legal adaptation and principled interaction.

References

- “Beyond the WTO? An Anatomy of EU and US Preferential Trade Agreements - Horn - 2010 - The World Economy - Wiley Online Library.” Accessed December 18, 2024. <https://onlinelibrary.wiley.com/doi/abs/10.1111/j.1467-9701.2010.01273.x>.
- Brtels, Lorand. “The Appellate Body Report in European Communities—Conditions for the Granting of Tariff Preferences to Developing Countries and Its Implications for Conditionality in GSP Programmes.” In *Human Rights and International Trade*, edited by Thomas Cottier, Joost Pauwelyn, and Elisabeth Bürgi. Oxford University Press, 2005. <https://doi.org/10.1093/acprof:oso/9780199285822.003.0024>.
- “Chapter 36: Global Commercial Constitutionalization: The World Trade Organization in: Handbook on Global Constitutionalism.” Accessed December 18, 2024. <https://www.elgaronline.com/edcollchap/book/9781802200263/book-part-9781802200263-46.xml>.
- “CPEC: PAK-CHINA ECONOMIC CORRIDOR VISION 2024 | New Horizons.” Accessed December 18, 2024. <http://www.greenwichjournals.com/index.php/NH/article/view/263>.
- “Development at the WTO - Hardback - Sonia E. Rolland - Oxford University Press.” Accessed December 18, 2024. <https://global.oup.com/academic/product/development-at-the-wto-9780199600885?cc=pk&lang=en&>.
- “Emerging Powers and the World Trading System: The Past and Future of International Economic Law. By Gregory Shaffer. Cambridge, UK: Cambridge University Press, 2021. Pp. Xxii, 321. | American Journal of International Law | Cambridge Core.” Accessed December 18, 2024. <https://www.cambridge.org/core/journals/american-journal-of-international-law/article/abs/emerging-powers-and-the-world-trading-system-the-past-and-future-of-international-economic-law-by-gregory-shaffer-cambridge-uk-cambridge-university-press-2021-pp-xxii-321/A7442E0CEA770200E8EEF2D37E1235C9>.
- “High-Standard Regional Free Trade Agreements: Features, Directions and Their Practical Paths to Promote Trade.” Accessed December 18, 2024. <https://www.scirp.org/journal/paperinformation?paperid=138316>.

- Hoekman, Bernard M, and Petros C Mavroidis. "To AB or Not to AB? Dispute Settlement in WTO Reform." *Journal of International Economic Law* 23, no. 3 (2020): 1–20. <https://doi.org/10.1093/jiel/jgaa020>.
- Hoekman, Bernard M., and Petros C. Mavroidis. *World Trade Organization (WTO): Law, Economics, and Politics*. Routledge, 2015.
- "International Trade, Domestic Coalitions and Liberty: Comparative Resp." Accessed December 18, 2024. <https://www.taylorfrancis.com/chapters/edit/10.4324/9781315495811-21/international-trade-domestic-coalitions-liberty-comparative-responses-crisis-1873%E2%80%931896-peter-alexis-gourevitch>.
- Janardhan, Sparsha. "Harnessing Trade and Investment Agreements to Promote Public Health." *Drug and Alcohol Review* 40, no. 1 (2021): 41–49. <https://doi.org/10.1111/dar.13153>.
- "Legal Challenges to the Belt and Road Initiative | SpringerLink." Accessed December 18, 2024. https://link.springer.com/chapter/10.1007/978-981-13-2098-9_9.
- Mota, Pedro Infante. "Government Procurement and Sustainable Development in the WTO." In *Sustainable Finances and the Law: Between Public and Private Solutions*, edited by Rute Saraiva and Paulo Alves Pardal. Springer Nature Switzerland, 2024. https://doi.org/10.1007/978-3-031-49460-4_10.
- Nuzzo, Silvia. "'No Safe Haven': Why the GATT 'Regional Exception' Does Not Apply to Technical Barriers to Trade." *Global Policy* 15, no. 3 (2024): 528–38. <https://doi.org/10.1111/1758-5899.13344>.
- "(PDF) The WTO Enabling Clause and Positive Conditionality in the European Community's GSP Program." *ResearchGate*, n.d. <https://doi.org/10.1093/jiel/6.2.507>.
- "PROTOCOL TO AMEND THE FREE TRADE AGREEMENT BETWEEN THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA AND THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF PAKISTAN - Ministry of Commerce | Government of Pakistan." Accessed December 18, 2024. <https://www.commerce.gov.pk/protocol-on-phase-ii-china-pakistan-fta/>.
- Qureshi, Asif. *The World Trade Organization : Implementing International Trade Norms*. Manchester University Press, 2022, 1–272.
- ResearchGate. "(PDF) The Digital Silk Road and China's Influence on Standard Setting." Accessed December 18, 2024. https://www.researchgate.net/publication/360225949_The_Digital_Silk_Road_and_China's_Influence_on_Standard_Setting.
- "Retooling the Sustainability Standards in EU Free Trade Agreements | Journal of International Economic Law | Oxford Academic." Accessed December 18, 2024. <https://academic.oup.com/jiel/article/24/1/25/6146679>.
- "Revitalizing the Global Trading System: What Could the G20 Do? | Request PDF." *ResearchGate*, n.d. <https://doi.org/10.1111/cwe.12166>.
- "The European Community | A Superpower in the Making | Johan Galtung |." Accessed December 18, 2024. <https://www.taylorfrancis.com/books/mono/10.4324/9781003149279/european-community-johan-galtung>.
- "The Quest for the Future of the WTO: From the Perspective of World Order | Yale Journal of International Law." June 1, 2024. <https://yjil.yale.edu/posts/2024-06-01-the-quest-for-the-future-of-the-wto-from-the-perspective-of-world-order>.
- "'The World Trade Organization: Law, Practice, and Policy' by Mitsuo Matsushita, Thomas J. Schoenbaum et Al." Accessed December 18, 2024. <https://scholarship.law.columbia.edu/books/131/>.
- "WorldTradeLaw.Net." Accessed December 18, 2024. [https://worldtradelaw.net/document.php?id=reports/wtoab/turkey-textiles\(ab\).pdf](https://worldtradelaw.net/document.php?id=reports/wtoab/turkey-textiles(ab).pdf).

- “WTO | Dispute Settlement - the Disputes - DS34.” Accessed December 18, 2024.
https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds34_e.htm.
- “WTO | Dispute Settlement - the Disputes - DS246.” Accessed December 18, 2024.
https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds246_e.htm.
- “WTO | Legal Texts - Marrakesh Agreement.” Accessed December 18, 2024.
https://www.wto.org/english/docs_e/legal_e/gatt94_e.htm.
- “WTO | Publications.” Accessed December 18, 2024.
https://www.wto.org/english/res_e/publications_e/legal_texts_e.htm.
- “WTO | Publications.” Accessed December 18, 2024.
https://www.wto.org/english/res_e/publications_e/legal_texts_e.htm.
- “WTO | WTO Analytical Index — Guide to WTO Law and Practice (Updated Electronic Version).” Accessed December 18, 2024.
https://www.wto.org/english/res_e/publications_e/ai17_e/gatt1994_e.htm.