



# Embedding Ethics in Trade Law: Toward Sustainable Global Governance

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**Abstract:** International trade law increasingly incorporates references to sustainability and ethical responsibility, yet these concerns remain weakly embedded in binding legal structures. This paper examines how ethics can be more effectively integrated into trade governance through a doctrinal and comparative analysis of selected instruments, including the Navigation Act of 1651, the UK Trade Act 2021, WTO jurisprudence, the European Union's Carbon Border Adjustment Mechanism (CBAM), and key soft-law frameworks such as the UN Guiding Principles and OECD Guidelines. The analysis demonstrates that, while ethical and sustainability considerations are formally recognized, they are typically confined to exceptions, soft commitments, or non-binding provisions, whereas core trade obligations remain legally enforceable. WTO case law further indicates that ethical regulation is permitted only within narrowly defined conditions of necessity and non-discrimination, thereby limiting policy space for developing countries. In response, the paper advances a WTO-consistent and development-sensitive model for embedding ethics in trade law, based on enforceable treaty provisions, cooperative compliance mechanisms, and inclusive negotiation strategies. By shifting from aspirational commitments to operational legal design, the paper contributes a more structured framework for aligning trade governance with sustainability objectives and equitable development.

**Keywords:** Bangladesh; Ethics; Global Governance; International Trade Law; Sustainability; Sustainable Development Goals.

## 1. Introduction

### 1.1 Background and Rationale

International trade has long served as a catalyst for global economic growth, as noted by Rodrik (2018), who emphasizes its role in driving structural transformation and market integration. Yet, legal frameworks governing trade often fail to incorporate ethical imperatives such as sustainability and social justice. Lydgate (2012) argues that the tension

between liberalisation and ethical safeguards remains unresolved in many World Trade Organization (WTO) commitments, leaving gaps that disproportionately affect developing nations.

## **1.2 Problem Statement**

In the case of Bangladesh, the World Bank (2020) has highlighted how the country's export-oriented growth model—particularly in the garments sector—has produced both economic gains and social costs, including labour exploitation and environmental degradation. These challenges are compounded by the voluntary nature of soft-law frameworks such as the United Nations Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises, which, according to the United Nations (2011) and OECD (2011), offer limited enforceability despite their normative influence.

## **1.3 Research Aim and Scope**

This study explores how international trade law can be restructured to embed ethics and sustainability more meaningfully. It adopts a doctrinal and comparative legal methodology to examine a range of instruments—from the historical Navigation Act of 1651 to modern statutes like the UK Trade Act 2021 and the EU's Carbon Border Adjustment Mechanism.

This study addresses three key questions: (i) to what extent ethical and sustainability principles are currently reflected in trade law, (ii) what structural limitations prevent their effective enforcement, and (iii) how trade law can be redesigned to incorporate binding and development-sensitive ethical obligations.

## **1.4 Thesis Statement**

Ultimately, the study argues that aligning trade liberalization with the Sustainable Development Goals (SDGs) requires not only legal reform but also ethically grounded negotiation strategies and inclusive governance structures. In doing so, the study proposes an “ethics-embedding” approach that combines binding obligations, compliance mechanisms, and development-sensitive design within existing trade law frameworks.

This study contributes to existing scholarship by developing a structured and WTO-consistent framework for operationalizing ethical obligations within trade law, with particular attention to developing country contexts.

Embedding ethics into trade law is therefore essential to ensuring that economic growth upholds both human dignity and ecological balance.

## **2. Conceptual Framework: Trade, Ethics, and Sustainability**

### **2.1 Ethics in International Trade Law**

International trade law has traditionally been shaped by economic goals such as efficiency, competitiveness, and market access. Ethical concerns—such as fairness, social justice, and human dignity—have generally remained outside the core structure of trade agreements. Petersmann (2022) explains that this separation has led to a fragmented system in which economic rules operate independently from human rights and environmental norms. As a result, trade law often treats ethical values as external considerations rather than integral elements of governance. Charnovitz (2007) notes that although the WTO has gradually acknowledged environmental concerns, ethical issues are still addressed in a limited and indirect manner, mainly through exceptions rather than affirmative obligations. Lydgate (2012) similarly observes that while sustainable development is frequently mentioned in trade texts, it lacks clear legal weight in interpretation and enforcement. This conceptual gap suggests that trade law has not fully adapted to modern global challenges, where economic activity is closely linked to social welfare and environmental protection. Embedding ethics within trade law therefore requires a shift in thinking—from viewing trade as a purely economic activity to understanding it as a system of global governance with moral responsibilities.

### **2.2 Trade, Sustainability, and the Sustainable Development Goals (SDGs)**

Sustainability has become a central concern in global economic governance, particularly in light of climate change, social inequality, and environmental degradation. The Sustainable Development Goals (SDGs) provide a shared international framework that links economic

growth with social inclusion and environmental protection. Although trade is not treated as a stand-alone SDG, it plays a crucial cross-cutting role in advancing goals related to poverty reduction, decent work, responsible production, and climate action. In this context, trade law has significant potential to support sustainable development, but only if it moves beyond a narrow focus on market efficiency.

International institutions increasingly acknowledge the relationship between trade and sustainability, yet this recognition has not translated into strong legal obligations. The World Trade Organization (2022) notes that trade policies can contribute to climate mitigation and sustainable development, but existing rules offer limited guidance on how environmental and social objectives should be balanced against liberalization commitments. Similarly, the United Nations Conference on Trade and Development (UNCTAD, 2023) emphasizes that without supportive legal frameworks, trade-led growth may intensify environmental stress and social inequality in developing countries.

The SDGs call for policy coherence across economic, social, and environmental domains, highlighting the need to align trade law with broader development objectives. However, current trade agreements often treat sustainability provisions as aspirational or peripheral, rather than as enforceable legal standards. This gap weakens the capacity of trade law to contribute meaningfully to sustainable development outcomes. For developing countries such as Bangladesh, the absence of binding sustainability obligations in trade regimes limits their ability to pursue development strategies that protect workers, communities, and ecosystems.

Embedding the SDGs more firmly within trade law requires rethinking how sustainability is conceptualized and operationalized. Rather than viewing sustainability as an external policy concern, trade agreements can incorporate clearer commitments related to labour standards, environmental protection, and climate responsibility. Aligning trade law with the SDGs would strengthen global efforts to ensure that economic integration supports inclusive growth, environmental stewardship, and long-term development, consistent with the ethical foundations of global trade governance.

## 2.3 Ethics, Sustainability, and Global Economic Governance

Global economic governance extends beyond market regulation and increasingly shapes how states address social welfare, environmental protection, and development priorities. International trade law is a central component of this governance structure, as it influences domestic policy choices and sets the boundaries within which states pursue economic growth. However, ethical and sustainability considerations remain unevenly integrated across global governance regimes, leading to fragmented and sometimes conflicting policy outcomes.

While parallel international frameworks—such as human rights law, environmental agreements, and labour standards—emphasize ethical responsibility and sustainability, trade law has historically operated with a narrower mandate focused on liberalization and non-discrimination. Petersmann (2022) argues that this separation weakens the legitimacy of trade governance by insulating economic rules from broader normative commitments to justice and human dignity. As a result, trade rules may constrain states' ability to implement social and environmental protections, particularly in developing countries with limited regulatory capacity.

The lack of coherence between trade law and other areas of global governance also undermines sustainability objectives. Lydgate (2012) observes that although sustainable development is recognized as a shared goal across international regimes, trade law often prioritizes economic commitments when conflicts arise. This imbalance limits the effectiveness of global governance responses to challenges such as climate change, labour exploitation, and inequality. Charnovitz (2007) similarly notes that ethical and environmental concerns are typically accommodated through exceptions rather than integrated as core principles of trade regulation.

Strengthening global economic governance therefore requires a more integrated approach in which ethics and sustainability are treated as foundational elements of trade law. Aligning trade rules with human rights and environmental norms would enhance policy coherence and support the achievement of sustainable development objectives. Such integration would also improve the fairness and legitimacy of the global trading system, ensuring that trade governance contributes to inclusive growth, social protection, and environmental stewardship rather than undermining them.

### **3. Methodology**

#### **3.1 Research Design**

This study employs a doctrinal legal research methodology, combined with comparative legal analysis. The doctrinal method allows a structured examination of trade-related legal instruments to understand the extent to which ethical and sustainability considerations are formally incorporated. Petersmann (2022) explains that this approach focuses on interpreting laws, treaties, and soft-law instruments within their legal and policy contexts.

In this study, doctrinal analysis focuses on the nature of legal obligations (binding versus non-binding), the availability of enforcement mechanisms, and the extent to which ethical considerations influence legal interpretation and application.

Comparative analysis is used to evaluate historical and modern legal frameworks across different jurisdictions, highlighting how ethical clauses have evolved over time and how they are applied differently depending on the policy context and region.

#### **3.2 Source Selection**

The study draws on a diverse range of sources to capture historical, contemporary, and normative legal perspectives. Davis (1962) provides insights into how the Navigation Act of 1651 prioritized mercantile interests over ethical obligations in early trade laws. Contemporary legal frameworks such as the United Kingdom's Trade Act 2021 and the European Union's Carbon Border Adjustment Mechanism (CBAM) are examined for their relevance to sustainability-oriented trade governance and their potential implications for developing countries, as discussed by the United Kingdom (2021) and the European Commission (2021).

WTO jurisprudence—including cases such as US–Shrimp, Brazil–Retreaded Tyres, and India–Solar Cells—is also examined to assess how dispute settlement bodies apply legal tests such as necessity and non-discrimination when balancing trade liberalization with environmental objectives.

In addition, the study incorporates soft-law instruments to evaluate ethical norms and voluntary standards influencing trade practices. The United Nations Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises serve as key references in this respect, as outlined by the United Nations (2011) and the OECD (2011).

### 3.3 Case Focus: Bangladesh and Developing Countries

Bangladesh serves as a representative case of a developing country deeply embedded within the global trading and investment system. Its economic trajectory, driven largely by export-oriented sectors such as garments, has yielded notable growth. However, this growth has been accompanied by significant ethical and environmental challenges, including exploitative labour conditions, low environmental compliance, and limited regulatory oversight. As noted by the World Bank (2020), integration into global value chains has enhanced economic competitiveness while increasing exposure to external shocks and governance risks. UNCTAD (2023) similarly observes that although trade contributes to GDP growth, its associated social and ecological externalities often remain insufficiently addressed in low-income economies.

A more recent and legally significant illustration of these dynamics is the Moheshkhali energy hub project in the Cox's Bazar district. Envisioned as a major infrastructure and energy corridor involving liquefied natural gas (LNG) terminals, deep-sea ports, and industrial zones, the project has attracted substantial foreign investment through bilateral and multilateral channels. While it aligns with Bangladesh's objectives of enhancing energy security and industrial capacity, it has also raised serious ethical and environmental concerns. Reports from civil society organisations and local media indicate that the project has resulted in displacement of coastal and indigenous communities, degradation of ecologically sensitive wetlands, and limited public consultation in land acquisition processes (Ain o Salish Kendra, 2023; Daily Star, 2022).

From a legal perspective, the Moheshkhali project highlights a structural asymmetry within international economic law. Foreign investors involved in large-scale infrastructure projects are typically protected under bilateral investment treaties (BITs), which provide substantive guarantees such as fair and equitable treatment, protection against expropriation, and access to investor–state dispute settlement (ISDS) mechanisms. These protections are designed to ensure investment security and reduce political risk. However, affected local communities do not possess equivalent rights or access to remedies within these international legal frameworks. Their claims are generally confined to domestic

legal systems, which may lack the institutional capacity or enforcement strength required to address complex environmental and social harms.

This contrast is used in the study to illustrate how legal protections for investors operate alongside comparatively weak mechanisms for addressing community-level harms.

This imbalance illustrates a broader limitation of prevailing trade and investment regimes: while capital flows are protected through binding legal obligations, ethical and sustainability concerns remain weakly institutionalised. The Moheshkhali case therefore demonstrates how development initiatives facilitated by global trade and investment frameworks can generate significant social and environmental externalities without corresponding mechanisms for accountability or redress. In this sense, the project functions not merely as an illustrative example, but as a legally grounded case highlighting the limitations of existing governance structures.

Comparable experiences in countries such as Kenya and Indonesia indicate that these challenges are not isolated. In some instances, domestic courts and policy reforms have sought to strengthen environmental safeguards and community participation in response to similar investment-driven projects (Mehling et al., 2019). However, such responses remain uneven and largely dependent on national legal capacity rather than embedded international obligations.

The Moheshkhali case thus reinforces this study's central argument: without incorporating binding sustainability and human rights obligations into trade and investment agreements, global economic governance will continue to prioritise investor protection over community welfare and environmental integrity. Embedding enforceable ethical standards within these frameworks is therefore essential to align trade and investment with the Sustainable Development Goals and principles of equitable development.

### **3.4 Analytical Structure**

The analysis is organized thematically and normatively. Each selected legal or policy instrument is examined for language and provisions relating to labour rights, environmental protections, social justice, and sustainability. These are then compared across time periods and jurisdictions to evaluate progress and consistency. The instruments are analyzed not only in terms of legal text but also in light of interpretive commentaries and existing

critiques. Lydgate (2012) and Rodrik (2018) provide foundational perspectives for assessing ideological and legal shifts in trade regulation.

The study also integrates normative analysis by evaluating the alignment of trade laws and policies with the Sustainable Development Goals, as articulated by the United Nations (2015). This structured and critical approach supports the development of practical recommendations for embedding ethics into international trade law.

## **4. Historical Roots of Ethical Exclusion in Trade Law**

### **4.1 The Navigation Act of 1651**

The Navigation Act of 1651 was one of the earliest legal instruments regulating international trade, introduced by England to secure its mercantilist dominance. As Davis explained in 1962, this Act restricted imports to English ships, deliberately excluding foreign competitors and reinforcing imperial trade control. This approach reflected a strategic emphasis on national economic advantage, offering little regard for equity, cooperation, or ethical considerations in commerce.

Ethical considerations such as justice, fairness, or the welfare of colonized populations were notably absent. Instead, trade law served as a tool of exclusion and extraction, positioning colonies like those in South Asia as suppliers of raw materials under exploitative terms. This historical model of trade law established a foundational logic centered on economic self-interest, rather than mutual benefit or sustainable development.

This logic continues to shape modern trade regimes. While contemporary trade agreements appear more cooperative, they often preserve power asymmetries embedded in their historical antecedents. Legal and economic structures that favor dominant economies remain intact, raising concerns about the legitimacy and fairness of current global trade frameworks.

### **4.2 Legacy of Historical Trade Inequities**

The legacy of exclusionary trade practices is evident in the persistent inequities within global trade governance. Rodrik emphasized in 2018 that many of the mechanisms in current trade regimes—such as rules on subsidies, technology transfer, and local content—

are rooted in historical efforts to constrain developing economies. These mechanisms limit policy space and restrict the ability of countries to promote domestic industries or apply ethical regulations.

For countries like Bangladesh, which have entered industrialization late, the structural constraints inherited from historical trade systems remain deeply entrenched. Bangladesh depends heavily on access to export markets, but faces legal and market pressures that limit its ability to implement labour protections or environmental standards. This asymmetry mirrors colonial trade arrangements where the terms of engagement were defined by more powerful actors with little regard for developmental equity.

Understanding the historical exclusion of ethics from trade law helps illuminate why modern frameworks still struggle with sustainability and fairness. Without acknowledging these roots, attempts at reform may overlook the systemic barriers that prevent ethical integration into trade governance. Recognizing this legacy is essential for crafting trade laws that genuinely support justice and sustainable development for the Global South.

## **5. Doctrinal Analysis of Contemporary Trade Law**

### **5.1 WTO Framework and Ethical Constraints**

The World Trade Organization (WTO) provides the central legal framework governing international trade, emphasizing principles such as non-discrimination, market access, and rule-based dispute settlement. While these principles promote predictability and stability, they also constrain the ability of states to pursue ethical and sustainability objectives through trade policy.

Environmental and public policy considerations are addressed primarily through Article XX of the General Agreement on Tariffs and Trade (GATT), which allows exceptions for measures necessary to protect human, animal, or plant life, as well as those relating to the conservation of exhaustible natural resources. However, these exceptions are subject to strict conditions, including the requirements of necessity and non-discrimination. WTO jurisprudence demonstrates that such measures must satisfy a structured legal test,

requiring that they are not applied in a manner that constitutes arbitrary or unjustifiable discrimination, as reflected in cases such as US–Shrimp and Brazil–Retreaded Tyres.

As a result, ethical considerations remain conditional within WTO law, operating as exceptions rather than as core legal principles. This limits the capacity of states—particularly developing countries—to implement robust environmental and social regulations without risking trade disputes.

## **5.2 Carbon Border Adjustment Mechanism (CBAM)**

The European Union’s Carbon Border Adjustment Mechanism (CBAM) represents a contemporary attempt to integrate environmental concerns into trade policy by imposing carbon-related costs on imported goods. The mechanism aims to prevent carbon leakage and ensure that domestic industries subject to climate regulations are not placed at a competitive disadvantage. From a legal perspective, CBAM raises important questions regarding its compatibility with WTO rules. While it may be justified under Article XX as a measure related to environmental protection, concerns remain regarding its potential discriminatory effects on developing countries, which may lack the technological and financial capacity to comply with carbon standards. This highlights the tension between environmental objectives and principles of equity, particularly in light of the concept of common but differentiated responsibilities in international environmental law. Consequently, CBAM illustrates both the potential and the limitations of integrating sustainability into trade law. While it reflects an effort to embed environmental considerations within trade measures, its design also risks reinforcing existing inequalities within the global trading system.

## **5.3 National Trade Frameworks: The UK Trade Act 2021**

The United Kingdom’s Trade Act 2021 provides an example of how national legislation addresses trade governance in a post-Brexit context. The Act primarily focuses on enabling the implementation of trade agreements and ensuring continuity of existing trade arrangements.

Although the Act includes references to sustainability and development, these provisions are largely framed in general or aspirational terms and lack binding enforcement mechanisms. As a result, ethical considerations remain peripheral within the legal structure of the Act.

This reflects a broader pattern in trade law, where ethical commitments are recognized rhetorically but are not translated into enforceable legal obligations.

## **6. Integrating Ethics through Soft Law Initiatives**

### **6.1 UN Guiding Principles on Business and Human Rights**

The UN Guiding Principles on Business and Human Rights (UNGPs), endorsed by the UN Human Rights Council in 2011, represent the most comprehensive global framework linking business conduct with human rights standards. They rest on three foundational pillars: the state's duty to protect human rights, the corporate responsibility to respect human rights, and access to remedy for victims of abuse. While the UNGPs are not legally binding, they serve as a globally accepted soft-law benchmark for ethical business conduct across borders.

The significance of the UNGPs in the context of international trade law lies in their potential to shape corporate behavior beyond the domestic legal framework. Their widespread adoption in corporate due diligence standards, particularly in supply chain governance, directly affects how trade operates. For developing countries like Bangladesh, which rely heavily on export-led industries such as garments, the implementation of UNGPs could enhance accountability and improve labour and environmental conditions without undermining trade competitiveness. United Nations (2011) emphasized that voluntary principles, when integrated into contractual obligations or national legislation, can elevate baseline protections for workers and communities. This demonstrates that while the UNGPs influence corporate conduct within global supply chains, their non-binding nature limits their effectiveness in ensuring consistent accountability across jurisdictions.

Despite their transformative promise, the integration of the UNGPs into trade agreements remains limited. Most trade treaties do not mandate human rights due diligence

or bind corporate actors to the standards outlined in the UNGPs. This gap presents both a risk and an opportunity. On one hand, it allows exploitative practices to persist under the guise of economic growth; on the other, it opens a space for reform, where sustainability and ethics are advanced not only through binding treaty law but also through normative alignment.

To embed the UNGPs into trade law meaningfully, states and negotiators must commit to referencing these principles in trade agreements and enforcing compliance through institutional mechanisms. This approach would help reframe trade not merely as an economic transaction but as a conduit for ethical global governance.

## **6.2 OECD Guidelines for Multinational Enterprises**

The OECD Guidelines for Multinational Enterprises represent another key soft law instrument that addresses ethical conduct and sustainability in global economic activity. The Guidelines provide voluntary principles and standards for responsible business behavior, covering areas such as labour rights, environmental protection, anti-corruption, and consumer interests. Although not legally binding, they are endorsed by governments and are intended to guide multinational enterprises operating across borders.

In the context of international trade, the OECD Guidelines are particularly relevant because multinational enterprises play a central role in global supply chains. Trade liberalization often enables firms to relocate production to jurisdictions with lower labour and environmental standards, increasing the risk of exploitation and ecological harm. The Guidelines seek to address these risks by encouraging companies to conduct due diligence, prevent adverse impacts, and contribute positively to sustainable development. This reinforces the broader limitation of soft-law approaches, where normative guidance exists without corresponding enforceable obligations within trade and investment frameworks.

However, like the UN Guiding Principles, the effectiveness of the OECD Guidelines is constrained by their voluntary nature. Compliance largely depends on corporate willingness and reputational incentives rather than enforceable legal obligations. While National Contact Points (NCPs) provide a forum for dialogue and dispute resolution, their decisions are non-binding and enforcement mechanisms remain limited. This weakens

the capacity of the Guidelines to protect workers and communities in developing countries where regulatory oversight may be insufficient.

For countries such as Bangladesh, reliance on voluntary corporate responsibility frameworks is often inadequate to address systemic labour and environmental challenges linked to export-oriented industries. Without stronger integration of the OECD Guidelines into trade agreements or domestic regulatory frameworks, ethical standards remain unevenly applied. This highlights the broader limitation of soft law approaches in trade governance and reinforces the argument that ethical and sustainability principles must be embedded more firmly within binding trade law structures.

### **6.3 Limitations of Soft Law in Trade Governance**

Soft law instruments such as the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises have played an important role in shaping ethical expectations in global economic activity. They have helped raise awareness of corporate responsibility, labour rights, and environmental sustainability within global supply chains. However, their impact within international trade governance remains limited due to their non-binding nature and weak enforcement mechanisms.

One of the central limitations of soft law is its reliance on voluntary compliance. States and corporations are encouraged—but not legally required—to follow ethical and sustainability standards. In the context of international trade, this often means that economic incentives linked to competitiveness and cost reduction outweigh voluntary ethical commitments. Where compliance depends on goodwill or reputational concerns, protections for workers and the environment remain uneven and uncertain, particularly in developing countries with limited regulatory oversight.

Soft law frameworks also lack effective accountability mechanisms. Although monitoring and reporting processes exist, they rarely result in meaningful sanctions or remedies for affected communities. This gap is especially problematic in export-oriented sectors where labour exploitation and environmental harm are closely tied to global trade dynamics. Without binding obligations, affected individuals and communities have limited avenues to seek redress when ethical standards are violated. This gap underscores the

structural limitation of soft law in addressing systemic issues within global trade governance.

The limitations of soft law highlight the need for stronger integration of ethical and sustainability principles into binding trade law. While soft law can complement formal legal rules by setting norms and guiding behavior, it cannot substitute for enforceable obligations within trade agreements. Addressing the ethical and sustainability challenges of global trade therefore requires moving beyond voluntary frameworks toward legal structures that ensure accountability, equity, and protection for vulnerable actors within the global trading system.

## **7. Impacts on Developing Countries**

### **7.1 Environmental and Social Costs of Trade in Developing Countries**

The environmental and social costs of international trade are most visible in developing countries, where export-led growth often depends on resource-intensive production and low-cost labour. While trade has supported economic expansion and employment, it has also contributed to environmental degradation, unsafe working conditions, and social vulnerability. These costs are frequently externalized, meaning that they are borne by workers, communities, and ecosystems rather than reflected in market prices or trade agreements.

In countries such as Bangladesh, export-oriented industries—particularly in manufacturing and agriculture—have placed significant pressure on natural resources and urban environments. Rapid industrialization has led to water pollution, poor waste management, and increased carbon emissions, while weak enforcement of environmental regulations limits effective mitigation. At the same time, labour-intensive sectors linked to global supply chains have been associated with low wages, long working hours, and inadequate workplace safety. These outcomes highlight the imbalance between economic gains from trade and the protection of social and environmental interests. This reflects a structural imbalance in trade governance, where economic gains are prioritized while social and environmental protections remain weakly enforced.

Global trade rules have struggled to address these challenges effectively. Environmental and labour standards are often treated as secondary concerns, included through non-binding provisions or narrow exceptions. As a result, developing countries face pressure to remain competitive by maintaining low production costs, even when this undermines sustainability and social welfare. This dynamic reinforces a development model in which economic growth is achieved at the expense of environmental protection and human dignity.

The experience of Bangladesh illustrates the broader implications of this imbalance. Without stronger ethical and sustainability protections within trade law, developing countries continue to absorb the negative externalities of global trade. This demonstrates how the absence of binding ethical obligations within trade law contributes to the persistence of these externalities. Addressing these environmental and social costs requires trade frameworks that recognize sustainability and equity as core objectives rather than optional considerations.

## **7.2 Policy Space and Development Constraints**

Policy space refers to the ability of governments to design and implement economic, social, and environmental policies that reflect national development priorities. In the context of international trade, policy space is often constrained by legal commitments undertaken through trade agreements and global trade rules. For developing countries, these constraints can limit flexibility in regulating markets, protecting workers, and safeguarding the environment. This constraint highlights the tension between trade liberalization commitments and the need for development-oriented regulatory autonomy.

Trade agreements frequently include obligations that restrict the use of industrial policy tools, subsidies, local content requirements, and regulatory measures. While such commitments are intended to promote predictability and fairness in trade, they may also reduce the capacity of developing countries to pursue development strategies suited to their economic and social conditions. In practice, governments may avoid introducing stronger labour or environmental regulations due to concerns about trade disputes, investment withdrawal, or loss of competitiveness.

These constraints are particularly challenging for countries like Bangladesh, where development needs remain urgent and institutional capacity is still evolving. Limited fiscal resources, dependence on export markets, and pressure from multinational enterprises further narrow policy choices. When trade rules prioritize liberalization over development objectives, governments face difficult trade-offs between economic growth and social protection.

The restriction of policy space reinforces existing inequalities in global trade governance. While developed countries often retain greater regulatory flexibility through institutional capacity and negotiation power, developing countries operate within tighter legal and economic constraints. Addressing these imbalances requires rethinking trade law to allow greater policy autonomy for developing countries, enabling them to pursue sustainable development strategies that protect workers, communities, and the environment without fear of trade-related penalties.

## 8. Findings

This study identifies four principal findings based on the doctrinal and comparative analysis.

**First**, contemporary international trade law continues to prioritize liberalization through binding and enforceable obligations, while ethical and sustainability considerations remain weakly institutionalized. Across the instruments examined, core trade commitments—such as market access and non-discrimination—are legally precise and enforceable, whereas sustainability provisions are typically framed as policy objectives, soft commitments, or exceptions.

**Second**, WTO jurisprudence does not exclude ethical regulation, but it permits such measures only within narrowly defined legal conditions. The cases analysed demonstrate that environmental and developmental measures must satisfy strict requirements of necessity, consistency, and non-discrimination. As a result, ethical considerations operate within constrained legal space rather than as foundational principles of trade governance.

**Third**, soft-law frameworks, including the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises, play an important normative role but lack enforceability. While these instruments shape expectations and standards, their voluntary nature limits their capacity to address systemic labour and environmental harms unless incorporated into binding legal or regulatory frameworks.

**Fourth**, the analysis indicates that these structural limitations disproportionately affect developing countries. The interaction between binding trade obligations and weak ethical safeguards restricts policy space, making it difficult for countries such as Bangladesh to implement social and environmental protections without risking trade disputes or competitive disadvantage.

Taken together, these findings demonstrate that embedding ethics in trade law requires a shift from exception-based accommodation to obligation-based integration supported by enforceable legal mechanisms.

## **9. Limitations of the Study**

This study has several limitations that should be acknowledged. First, the analysis is primarily doctrinal and qualitative, relying on legal texts, policy documents, and scholarly literature rather than empirical data. As a result, the findings focus on normative and structural issues in trade law rather than measuring the practical impact of ethical and sustainability provisions through quantitative methods.

Second, the paper adopts a selective comparative approach, examining specific historical and contemporary trade instruments to illustrate broader patterns in global trade governance. While these examples are relevant and representative, they do not capture the full diversity of trade regimes or national experiences. The focus on Bangladesh and other developing countries provides contextual depth but may limit the generalizability of the conclusions to different economic or regional contexts.

Finally, the study emphasizes ethics, sustainability, and development concerns within trade law and does not fully explore political or power-based constraints that may affect the implementation of proposed reforms. Future research could build on this work by

incorporating empirical analysis, broader comparative case studies, or stakeholder perspectives to further assess how ethical trade reforms operate in practice.

## **10. Strategies for Embedding Ethics in Trade Law**

### **10.1 Ethical Legal Drafting in Trade Agreements**

Ethical legal drafting refers to the deliberate incorporation of social, environmental, and human rights considerations into the core provisions of trade agreements. Rather than treating ethics and sustainability as peripheral or aspirational goals, ethical drafting places these values alongside traditional trade objectives such as market access and non-discrimination. This approach recognizes that trade law shapes development outcomes and therefore carries moral and social responsibilities.

In practice, ethical legal drafting can take several forms. Trade agreements may include binding commitments on labour standards, environmental protection, and corporate responsibility, supported by clear definitions and measurable obligations. Such provisions can move beyond general statements of intent by specifying minimum standards, compliance requirements, and monitoring mechanisms. Embedding ethics at the drafting stage helps ensure that sustainability concerns are not left to discretionary interpretation or post hoc exceptions.

For developing countries, ethical drafting is particularly important. Clear and enforceable sustainability provisions can help protect workers, communities, and ecosystems from the negative externalities of trade-driven growth. At the same time, ethical drafting can provide legal justification for regulatory measures aimed at achieving public policy objectives, reducing the risk of trade disputes and strengthening policy space. When ethical standards are explicitly recognized within trade agreements, governments are better positioned to pursue development strategies that balance economic growth with social and environmental protection.

Ethical legal drafting also contributes to the legitimacy of the global trading system. By aligning trade rules with widely accepted values such as human dignity, fairness, and sustainability, trade agreements can better reflect contemporary global priorities. This

shift is essential for transforming trade law from a narrowly economic instrument into a framework that supports inclusive and sustainable development.

## **10.2 Innovative Compliance and Monitoring Mechanisms**

Embedding ethics and sustainability into trade agreements requires not only careful legal drafting but also effective compliance and monitoring mechanisms. Without credible systems to ensure implementation, ethical and sustainability commitments risk remaining symbolic rather than transformative. Innovative compliance frameworks are therefore essential for translating legal obligations into practical outcomes.

One approach involves strengthening transparency and reporting requirements within trade agreements. Regular disclosure of labour, environmental, and human rights impacts can enhance accountability and allow both states and stakeholders to assess compliance. Independent monitoring bodies, joint committees, or review panels can be mandated to oversee the implementation of ethical provisions and to identify areas requiring corrective action. Such mechanisms promote dialogue while maintaining pressure for compliance.

Another important innovation lies in linking compliance with capacity-building and technical assistance. Developing countries often face resource and institutional constraints that limit their ability to meet sustainability standards. Rather than relying solely on punitive measures, trade agreements can incorporate cooperative mechanisms that provide financial support, technology transfer, and expertise. This approach aligns enforcement with development objectives and reduces the risk that ethical standards function as disguised trade barriers.

Innovative compliance mechanisms may also include graduated responses to non-compliance, combining consultation, remediation, and, where necessary, proportionate sanctions. This balanced approach recognizes the complexity of sustainability challenges while reinforcing the seriousness of ethical commitments. By integrating monitoring, cooperation, and accountability, trade law can move beyond formal obligations toward a system that actively supports ethical conduct and sustainable development.

### **10.3 Ethical Negotiation Strategies for Developing Countries**

Ethical negotiation strategies are essential for ensuring that developing countries are able to protect their social, environmental, and developmental interests within international trade negotiations. Given existing power asymmetries in global trade governance, developing countries often face pressure to accept agreements that prioritize market access while offering limited safeguards for labour rights, environmental protection, and policy autonomy. Ethical negotiation seeks to rebalance this dynamic by placing equity, sustainability, and long-term development at the center of trade discussions.

One key strategy involves framing ethical and sustainability concerns as integral to development rather than as obstacles to trade. By linking labour standards, environmental protection, and human rights to economic resilience and social stability, developing countries can strengthen the legitimacy of their negotiating positions. This approach allows ethical demands to be presented not as exceptions, but as necessary conditions for sustainable trade relationships.

Coalition-building is another important ethical negotiation strategy. Developing countries can enhance their bargaining power by negotiating collectively through regional groupings or issue-based alliances. Coordinated positions on sustainability, climate responsibility, and development needs reduce vulnerability to pressure from more powerful trading partners and help ensure that ethical concerns receive meaningful consideration.

Ethical negotiation also requires greater transparency and domestic engagement. Involving civil society, labour representatives, and environmental stakeholders in the negotiation process can strengthen accountability and ensure that trade agreements reflect broader public interests. For countries like Bangladesh, inclusive negotiation practices can help align international trade commitments with national development priorities and social realities.

By adopting ethical negotiation strategies, developing countries can move from a reactive to a proactive role in global trade governance. Such strategies support the integration of ethics and sustainability into trade law and contribute to a more balanced and

inclusive trading system, consistent with the broader goals of justice, human dignity, and sustainable development.

## **11. Recommendations**

Based on these findings, the study recommends embedding ethics and sustainability more firmly into the structure of international trade law, with particular attention to the needs of developing countries. First, trade agreements should incorporate binding ethical and sustainability clauses, including enforceable labour standards, environmental protections, and human rights obligations. Such provisions should be placed alongside core trade commitments rather than treated as peripheral exceptions. Clear legal obligations would strengthen the capacity of developing countries to regulate in the public interest while remaining compliant with trade rules.

Second, trade governance should promote policy coherence by aligning trade agreements with international sustainability and human rights frameworks. Integrating commitments derived from the Sustainable Development Goals, the UN Guiding Principles on Business and Human Rights, and relevant environmental agreements would help ensure that trade liberalization supports broader development objectives. The World Trade Organization (2022) acknowledges that trade policy can contribute to climate and sustainability goals, but stronger legal mechanisms are required to operationalize this potential.

Third, the study recommends strengthening compliance and monitoring mechanisms within trade agreements. Ethical commitments should be supported by transparency requirements, regular reporting, and independent review processes. For developing countries such as Bangladesh, compliance frameworks should prioritize cooperation and capacity-building rather than punitive enforcement. Technical assistance, technology transfer, and financial support can help ensure that sustainability standards do not function as disguised trade barriers.

Finally, developing countries should adopt ethical negotiation strategies to address power asymmetries in global trade governance. Collective bargaining through regional or issue-based coalitions can enhance negotiating strength and ensure that sustainability

concerns receive meaningful attention. Inclusive negotiation processes that involve labour organizations, environmental groups, and civil society actors can further align trade commitments with domestic development priorities. By pursuing ethical legal drafting, cooperative compliance mechanisms, and strategic negotiation, trade law can be reshaped to support inclusive growth, environmental stewardship, and human dignity in line with the Sustainable Development Goals.

## **12. Conclusion**

This paper set out to examine how international trade law can be restructured to integrate ethical principles and sustainability in order to advance a more just and inclusive system of global economic governance. By tracing the historical foundations of trade regulation and analyzing contemporary legal frameworks, the study has shown that ethical and sustainability considerations have long remained marginal within trade law, despite their growing importance in global development discourse.

The analysis demonstrates that early trade instruments, such as the Navigation Act of 1651, prioritized economic advantage and state power while excluding concerns of equity and justice. Although modern trade regimes employ more inclusive language, contemporary frameworks such as the UK Trade Act 2021 and the EU Carbon Border Adjustment Mechanism reveal that ethical and sustainability commitments remain weakly embedded and unevenly applied. These structural limitations continue to place disproportionate environmental and social burdens on developing countries, including Bangladesh, where export-led growth often comes at the cost of labour rights and ecological protection.

The study further highlights that soft law instruments, including the United Nations Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises, have contributed to shaping ethical norms but lack enforceability within trade governance. As a result, ethical obligations are frequently treated as voluntary or aspirational, limiting their capacity to address systemic challenges in global supply chains.

The paper argues that embedding ethics and sustainability into the core of trade law is essential for aligning trade liberalization with the Sustainable Development Goals.

Ethical legal drafting, innovative compliance mechanisms, and proactive negotiation strategies can help ensure that trade agreements support human dignity, environmental stewardship, and equitable development. For developing countries such as Bangladesh, such reforms are critical to preserving policy space and achieving sustainable growth without exacerbating inequality. Ultimately, a legitimate and effective global trading system must recognize ethics and sustainability not as external constraints, but as foundational elements of trade governance.

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The author used Grammarly for language refinement and proofreading. No AI tools were used for generating substantive content, analysis, or conclusions. All intellectual contributions and interpretations are solely those of the author.

## **Competing Interests**

The author declares that there are no competing interests.

## **Ethics Approval**

Not applicable. This study is based on doctrinal and documentary analysis of publicly available materials and did not involve human participants or primary data collection.

## **Declaration**

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