



## EDITORIAL: THE HINDU

**GENERAL STUDIES 2: INTERNATIONAL RELATION**  
**TOPIC: BILATERAL TIES**

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### An India-U.S. trade agreement and the test of WTO laws

#### India-U.S. Bilateral Trade Agreement (BTA)

- **Negotiation Agreement:** India and the U.S. have agreed to negotiate a Bilateral Trade Agreement (BTA) by fall 2025. This agreement aims to enhance trade relations between the two countries and expand their economic cooperation.
- **WTO Compliance:** The BTA must adhere to World Trade Organization (WTO) regulations, particularly focusing on the Most Favoured Nation (MFN) principle and exceptions outlined under the General Agreement on Tariffs and Trade (GATT).

#### Free Trade Agreements (FTAs) and WTO Regulations

- **WTO's Most Favoured Nation (MFN) Principle:**
  - The MFN principle mandates that WTO member countries must treat all trading partners equally, ensuring there is no discrimination between trading nations.
  - Under this rule, countries cannot offer better trade terms to one partner unless the same terms are extended to all WTO members.
- **FTAs and MFN Exceptions:**
  - Free Trade Agreements (FTAs) create exceptions to the MFN principle, allowing countries to offer preferential trade terms to certain partners.
  - However, these FTAs must cover "substantially all trade" between the parties involved, as per Article XXIV.8(b) of GATT, ensuring that the agreement is not limited to a few sectors or products.
  - In the case of the India-U.S. BTA, the agreement must address tariffs and trade barriers on a significant portion of trade to comply with WTO regulations.
- **Legal Requirements for the BTA:**
  - The BTA between India and the U.S. must be comprehensive, eliminating tariffs and trade barriers on a broad range of products. If the agreement only reduces tariffs on selected goods, it would not meet the WTO requirements.
  - A BTA that only benefits specific sectors without extending similar advantages to other WTO members could be seen as a violation of WTO principles.



## Interim Agreements as a Legal Pathway

- **WTO Provision for Interim Agreements:**

- WTO permits countries to sign an 'interim agreement' as a step towards finalizing a full Free Trade Agreement (FTA).
- According to Article XXIV.5 of GATT, interim agreements are valid if:
  - They are essential for forming a future FTA.
  - There is a clear timeline and a plan to finalize the FTA, typically within 10 years.
- India and the U.S. could notify their BTA as an interim agreement under these provisions, with the intention to eventually form a full FTA.

- **Legality of Interim Agreements:**

- Using an interim agreement simply to bypass WTO rules, without any real intention to finalize a full FTA, would be deemed legally unacceptable under WTO guidelines.
- Thus, India and the U.S. must ensure that any interim agreement genuinely leads to a comprehensive and final FTA.

## The 'Enabling Clause' Exception

- **WTO's Enabling Clause:**

- The 'enabling clause' under WTO rules allows for deviations from the MFN principle, granting developing countries preferential market access to benefit their economic development.
- However, this clause does not apply to the India-U.S. BTA, as it involves India reducing tariffs on U.S. products, which does not fit the context of providing better market access to developing countries.

- **India-U.S. BTA and the Enabling Clause:**

- The BTA's purpose is to benefit U.S. interests by lowering tariffs on U.S. products, rather than supporting developing countries, which disqualifies it from falling under the 'enabling clause' exception.
- This makes it even more important for India to ensure the BTA complies with other WTO rules and does not undermine multilateral trade principles.

## WTO Compliance and Challenges

- **Reciprocal Tariffs and WTO Rules:**





- The U.S. has previously pursued 'reciprocal tariffs', which are trade barriers imposed by one country that match the tariffs imposed by other nations. This approach violates WTO principles, as reciprocal tariffs tend to disregard the non-discriminatory MFN rule.
- **Special and Differential Treatment (S&DT):**
  - WTO principles, including Special and Differential Treatment (S&DT), allow developing countries like India more flexibility in their trade policies.
  - While this provides India with some leeway, the U.S. demand for reciprocal tariffs could breach India's WTO commitments, particularly regarding bound tariff rates.
- **Bound Tariff Rates and WTO Commitments:**
  - India is bound by specific tariff rates under WTO agreements, and imposing reciprocal tariffs that exceed these rates would be a violation of India's commitments.
  - India must therefore resist any trade policies, such as reciprocal tariffs, that go against the rules and principles of the WTO.

## Conclusion: Legal and Strategic Implications for India-U.S. BTA

- **Opportunity for Economic Cooperation:** The India-U.S. BTA presents a significant opportunity for economic cooperation between the two countries. It could help foster stronger trade ties and support India's long-term economic growth objectives.
- **Importance of WTO Compliance:** However, the BTA must comply with WTO regulations to avoid legal challenges and ensure that it does not violate the foundational principles of the global trade system.
- **Potential Legal Challenges:** If the BTA is not structured properly and does not align with WTO rules, it could face challenges at the WTO, potentially damaging India's global trade standing.
- **Maintaining Multilateral Trade Principles:** India must ensure that the BTA does not undermine the multilateral trade system and remains consistent with the rules-based trading order that governs global trade. By doing so, India can protect its long-term economic interests while enhancing its relationship with the U.S.

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