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Navigating Tensions: Sanctions and Trade Law in Global Diplomacy

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Abstract

In recent years, the increasing invocation of national security exceptions in trade disputes has strained the coherence of the multilateral trading system. This paper explores the legal and geopolitical implications of Article XXI of the GATT, focusing on how its growing use—particularly by powerful states—challenges the legitimacy of WTO dispute settlement mechanisms. Addressing a significant gap in legal scholarship, the research examines the tension between sovereign discretion and multilateral accountability, an area complicated by vague treaty language and political misuse. The study's main objective is to assess whether existing WTO frameworks can effectively constrain the abuse of the national security exception while preserving state autonomy. Using a qualitative doctrinal methodology enriched by comparative legal analysis and a focused case study on Malaysia, the paper evaluates WTO rulings (notably DS512 and DS526), regional trade practices, and Malaysia's middle-power diplomacy. The findings reveal a shift in WTO jurisprudence toward legal scrutiny of national security claims, emphasizing proportionality, necessity, and good faith. Malaysia's cautious, multilateral approach offers a model for smaller states navigating coercive trade environments. The study concludes that reforming Article XXI is vital to maintaining the legitimacy of the rules-based trading order amid evolving geopolitical and economic challenges.

Keywords: Economic Sanctions, International Trade Law, WTO Dispute Settlement, Unilateral Trade Restrictions, Middle-Power Diplomacy.

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1. Introduction

Contemporary global order has witnessed a growing intersection between international trade law and geopolitical strategy. In recent times, such sanctions serve as an economic and political instrument to control behavior. While these practices become more common, the foundational principles of the WTO are questioned more intensely.

The focus of concern rests upon the use of Article XXI of the GATT (GATT) which allows countries to breach their obligations for trade reasons for national security purposes. While this was intended to be a reserved grace a state could utilize in extreme cases, it has been abused to shelter unilateral actions taken by powerful countries. Such an approach severely undermines the reliability and consistency of global trade policies. The main issues that are answered in this text are:

(1) How does the national security exception impact the WTO dispute settlement mechanism, and to what extent?

(2) In what way does international trade law shape the delicate equilibrium between unilateral state sovereignty and multilateral responsibility?

The assertion of self-judging sovereignty under Article XXI has been disputed recently by WTO panels in case DS512 (DS512) and DS567 (DS526). These rulings indicate a greater judicial critique of the use of national security justification. Legal benchmarks such as 'emergency in international relations' have been introduced, and arbitrary constructions of justification for policies have been curbed. Ironically, this has caused backlash from many states, especially the superpower United States, who believe that losing the right to unchallenged national security justification is an infringement on sovereign entitlement. Thus the balance of tension between legal accountability and national security jurisdiction is constantly contested and influencing contemporary debate on trade regulation.

Malaysia is an important case study because of its position in the global economy as well as its dependence on a multilateral trading system. Malaysia, stationed between two economic powers, which are the United States and China, has historically maintained legal neutrality and supported multilateralism. This approach diversifies economic vulnerabilities and strengthens Malaysia’s commitment to international legal norms. In addition, Malaysia engages actively with ASEAN and the Regional Comprehensive Economic Partnership (RCEP), which serves its dual

purpose of advocating for regional unity while maintaining WTO-centered legalistic balance. These orientations of policy make Malaysia a middle power illustrative of the actual complexities and legal crosswinds that shape the trade landscape defined by fragmentation.

Unbridled national national security exceptions produce consequences far removed from legal frameworks. They disrupt global supply chains, reverse the flow of investment, and stall convergence in regulation. As more countries invoke security as a reason for tighter controls on trade, especially relating to digital frameworks, critical technologies, and data flow, the risk of fragmentation and erosion of legal structure and institutions intensifies.

It is suggested in this paper that international trade law is required to adapt to these emerging issues while upholding the fundamental principles of certainty and equity. If the criteria for security claims are excessively vague and capriciously used, they become potential vehicles for disguised protectionism, which would severely undermine the credibility of WTO jurisprudence.

This paper is divided into seven sections. Following this Introduction, Section 2 synthesizes the literature regarding sanctions, trade law, and national security. In Section 3, the theoretical aspects of Article XXI are analyzed along with its interpretation in recent WTO case law. Section 4 describes the methodological approach which combines doctrinal legal analysis with comparative and case study techniques. The research outcomes are presented in Section 5 together with major WTO decisions and Malaysia's stance on these issues. Section 6 provides the explanatory analysis and discussion on legal accountability, legitimacy, governance, and reform of the matters presented in the previous sections. Concluding insights and practical suggestions are put forward in Section 7.

2. Methodology

This study employs a qualitative legal methodology integrating doctrinal, comparative, and case-study approaches to analyze how sanctions and trade law intersect under Article XXI of the GATT 1994. The doctrinal method forms the foundation, focusing on systematic interpretation of primary instruments such as the GATT, Dispute Settlement Understanding (DSU), and Vienna Convention on the Law of Treaties (VCLT)—particularly Articles 31–32 on ordinary meaning, context, and purpose. Landmark WTO disputes—Russia – Transit (DS512) and Saudi Arabia – IP Rights (DS526)—are examined to assess judicial reasoning on good faith,

proportionality, and "emergency in international relations."
The comparative analysis contrasts the WTO's treatment of national-security exceptions with parallel regimes, including EU law, ICSID arbitration, and ASEAN jurisprudence, revealing differing balances between sovereignty and accountability. A Malaysia case study contextualizes these dynamics in a middle-power economy committed to multilateralism.
Following the qualitative model advanced by Althabhawi & Zainol (2014), the research emphasizes interpretive reasoning and institutional critique rather than quantitative evidence. A normative evaluation concludes the methodology, assessing whether the WTO's legal architecture adequately deters misuse of Article XXI while maintaining rule-based coherence amid evolving geopolitical pressures.

3. Literature Review

The decline in mutual trust of trading partners, in addition to increasing unilateral actions, marks a systemic crisis for multilateral trade law. In this regard, the timely analysis of Article XXI is crucial in protecting global legal frameworks.
Furthermore, as we move further into the digital era, the scope of what can be called as 'essential security interests' is broadening. New realms of trade conflict include data sovereignty, cybersecurity, climate policy, and technological decoupling. This complexity not only adds to the interpretation of Article XXI, but also heightens the need for its defined legal boundaries, institutional safeguards, and stricter bilateral relations. If left unattended, the risk of strategically undermining trade law will continue to grow, thus diminishing the credibility of international trade governance.
This paper uses a normative and legal realist framework considering that legal rules are not apolitical, but rather enshrined in politically contingent and asymmetrically powerful dynamics. It attempts to advance scholarship and policy by providing concrete legal and institutional frameworks. The objective is not to eliminate the national security exception but to refine its contours, improve accountability mechanisms, and safeguard the primacy of international trade law.
The bibliography pertaining to the nexus of trade law, sanctions, and the national security exception has grown substantially in the past few years parallel to the increasing concern regarding the stability and coherency of the rules-based framework of the international trading system. Central to

this debate is Article XXI of the GATT (GATT) which was meant to provide optionality for the sheer reason of sovereign security interest, but is increasingly perceived as subject to unfettered abuse. The initial interpretations of Article XXI tended to favor a broad and self-judging approach to national security provisions rationalizing trade sovereignty.

There is always an adjudication or decision-making hierarchy regarding the delicacies of national security matters within multilateral frameworks (Matsushita and et al, 2020; Jackson, 1997). They underline the political sensitivities and limits of adjudicating national security disputes within multilateral institutions.

The more recent trend appears to concentrate more on functionalism and on the rule of law, with some scholars arguing that the landmark WTO rulings in DS512 (DS512) and DS567 (DS526) shifted the interpretative approach. These decisions are regarded as fundamentally changing the legal interpretation of Article XXI, suggesting that even security-related exceptions must be legally examined within the framework of WTO law (Van den Bossche and Zdouc, 2021). These rulings introduced thresholds such as emergency in international relations and reviewable assertions, which had been previously deemed unreviewable.

Critical legal studies explore the geopolitical and ethical implications of sanctions policy, raising issues of legal plausibility and asymmetrical dominance. It is argued that sanctions are politically motivated instead of serving the aim of protecting peace, rendering their legal application of Article XXI contentious and idiosyncratically enforced (Gladyz, 2022; Charnovitz, 2001). This reasoning is also found in the IGQ articles which claim that lesser states are particularly afflicted by the pretext of refuge in legalistic frameworks where sanctions are justified on vaguely defined notions of national security (Mukhdzamir and et al, 2024: 93). Their analyses show the copious-class space creation legal indeterminacy within Article XXI invites static structural vulnerabilities disadvantageous to economies of the Global South which undermines the legitimacy of international trade law.

It is proposed that policy formulation and implementation in adjudication should be open to developing countries (Arif and et al, 2024: 190). Their findings support legal pluralism arguing that, if based on inclusion, open communication, and good-faith negotiation, it may strengthen, instead of weaken, the integration of international trade law. This is particularly

beneficial for countries like Malaysia that cross many geopolitical boundaries and often encounter decisive pressure to align with one of the major competing powers.

It is also shown in the IGQ that the interpretation of trade law must advance beyond doctrinal precision to ethical responsibility and institutional representation (Althabhawi and et al,2024). Their emphasis on the experience of smaller economies helps resolve the gap between theoretical debates and policy realities.

The literature also identifies a regional approach to trade security, as ASEAN and the RCEP are increasingly employing soft-law mechanisms to manage disputes with strategic importance. This is observed by international law scholars as a rational compromise between extreme legal formalism and sheer political arbitrariness. The literature on Malaysia's legal standing in international trade is still considered underdeveloped, although newer works are starting to address this problem.

Research conducted by Malaysian scholars and institutions demonstrates that Malaysia is usually very cautious and adheres strictly to rules when approaching trade diplomacy, focusing on neutrality and multilateralism. This aligns with the overarching direction of international trade theory, which aims to safeguard and legally protect underdeveloped economies with mechanisms for legal enforcement and structured dispute resolution systems. However, there is a stark lack of evaluating how Malaysia approaches Article XXI in a more holistic manner, merging legal approaches and diplomacy. The lack of thorough doctrinal analysis on Malaysia's strategy within the WTO framework highlights the necessity of focused interdisciplinary case studies which combine legal documents with narratives from diplomacy. The literature also explains the overarching, structural deficiencies of the dispute settlement system during the WTO crisis in 2019 which was caused by the Appellate Body's dysfunction.

As numerous scholars have noted, the inability to appeal Articles relating to dispute Article XXI has stunted the growth of consistent jurisprudence, leading to inconsistent interpretation and implementation of the provisions. This institutional gap further underscores the necessity of defining more concretely the legal boundaries of the national security exceptions to prevent their overuse.

The scholarly works underscore the role of ethics in the development of

legal frameworks. The IGQ articles consistently characterize sanctions not only as legal tools, but as instruments of humanitarian and ethical concern. In paying attention to fairness, proportionality, and transparency, these authors contend that international trade law, and not just obligation, should include ethical responsibility.

4. Theoretical Debate and Framework

Article XXI of the GATT has established a national security exception that is one of the most debatable provisions in the realm of international trade law. It allows WTO member countries to adopt actions necessary for the protection of their critical security interests. However, the term 'critical security interests' remains vague, which causes different scholars to consider it subject to personal interpretation, primarily due to its subjectivity. The core question still stands: Is the provision self-judging, or is it possible to invoke review of a WTO decision using some legal criteria based on responsibility and consistency?

The academic debate on the interpretation of Article XXI is divided into two principal schools of thought: absolutist and contextualist. The argument within the absolutist school is that Article XXI is inherently self-judging. States are granted unrestricted discretion to define and act upon their security interests. This position is grounded fundamentally on the tenets of sovereignty and the politics surrounding security. Proponents of this position reference GATT's drafting history, where backbone powers requested the preservation of state discretion during emergencies. This reasoning was bolstered by the position taken by the United States in Saudi Arabia – Measures Concerning the Protection of Intellectual Property Rights (DS567) dispute where the US claimed that national security decisions are outside the purview of WTO jurisdiction. Likewise, after the ruling on DS512 (DS512), the US raised concerns about the WTO's ability to adjudicate on those issues arguing it would undermine US sovereignty. The absolutist approach, while some developed countries favor it, undermines the predictability and impartiality of the trading system.

In contrast, the contextualist school supports a more nuanced interpretation, contending that Article XXI is to be interpreted in light of the overall GATT system and its object and purpose. This school draws attention to the potential danger of exploitation if states are allowed to invoke the national security exceptions without any form of scrutiny. In the landmark DS512 ruling, the WTO panel ruled that although members have the right to

determine their own security interests, such determinations must be justified by an objective situation of international emergency. The panel in DS512 decided that there must be 'a war or other emergency in international relations' in order to justify the use of the exception, and so some limit is placed on the arbitrary use of the national security exception. Many scholars view this decision as an important step toward restraining self-judging tendencies, and have praised it as an attempt to ensure legal stability, anti-systemic abuse of GATT rules. It also shows us that WTO panels have begun to move away from politically sensitive provisions that are presumed off-limits. While this verdict has been criticized for undermining state sovereignty, it also strengthens the rule-based multilateral order.

The decision reaffirms the principle that all treaty exceptions are to be considered in good faith as per Article 26 of the Vienna Convention on the Law of Treaties (VCLT).

Underlying these doctrinal discussions are more overarching theoretical frames like legal realism and legal positivism. Legal realists maintain that legal documents are situated within a particular political and economic climate. Seen through this lens, Article XXI is not merely a legal provision but a politically motivated weapon wielded by countries to safeguard their interests. It is observed, "economic coercion and strategic statecraft… are inseparable" and WTO jurisprudence should embrace that understanding (Bhala,2021:45). From the realist perspective, there is a need for judicial oversight, but the scrutiny cannot take the form of rigid reasoning that is out of touch with the interplay of global politics. Instead, it focuses on the need for flexibility and action in order to diminish the loss of trust among the states in the WTO.

Legal positivism, as a theory, focuses on legal obligations derived from states as expressed through treaties. Scholars of positivism insist that Article XXI must be interpreted to comply with its text and the intentions of its authors. From this viewpoint, provided the treaty allows unilateral assessment of security needs by a member state, the WTO has limited jurisdiction over such assessments. Still, critics of positivism counter that too much emphasis on verbal strictness poses a risk of enabling state opportunism. Absent judicial review, the text becomes an escape clause for disguised protectionist policies, which erodes the predictability and non-discrimination central to WTO law.

Global constitutionalism also makes an important contribution by trying to integrate normative ideas such as transparency, accountability, and the rule of law into the architecture of international governance. This approach argues that even national security measures must adhere to procedural and substantive legal frameworks. The DS512 panel focus on the need for an emergency to justify a breach of normal relations supports a good faith constitutionalist theory which prevents the abuse of countervailing rationale. Such reasoning upholds that global legal obligations must be aligned with the architecture of world governance even in delicate domains like national security.

The warning institutional dangers of an unregulated national security exception are emphasized (Charnovitz,2001; Pauwelyn,2019). They caution that a broad interpretation of Article XXI could incite unilateralism, fragmentation of trade norm enforcement, and the eventual collapse of the dispute settlement system. Legal ambiguity concerning the exception might simultaneously undermine several states' trust regarding the WTO's capacity to adjudicate disputes impartially and rule consistently across cases. To mitigate these risks, both scholars propose strategies that combine diplomacy with judicial review termed "as gentle as possible." One element that can be incorporated into this strategy is proportionality, which is often invoked in wider international relations and can assess whether the securities a State invokes are suitable, necessary, and proportionate to the invoked danger. This framework considers avowedly national interests aligned with multilateral principles and could be used as a yardstick in future adjudication by the WTO.

The critical digital supply chains and technological decoupling call for a sharper definition of the emerging broader concept of 'Economic security' as used by the US and China. Both of these countries have increasingly justified restrictive trade practices such as export control, investment screening, and data localization in the name of economic security. This is a new form of redefined national security, which requires changes in policy, and as it stands, trade law is not equipped to deal with this shift. In order for the WTO to retain its relevance, it needs to be able to formulate legal frameworks that respond to these shifting concerns while still upholding its primary objectives. It is argued that Article XXI requires adjustment to permit explicitly stated actions, while some suggest soft law approaches to steer states (Gao and Wu,2022:112).

Malaysia's standing in this illustrative framework situates it in both a strategic and showcasing role. Being a small nation heavily dependent on trade, Malaysia has always embraced multilateralism and rule-based trading systems. Malaysia has never exercised Article XXI in any dispute and carefully steers clear from security rhetoric that may harm its economic partnerships. Malaysia's membership in ASEAN and RCEP shows its dedication to regional legal integration and non-violent conflict resolution. By aligning itself with predictability, Malaysia also supports the contextualist and the constitutionalist approaches. These positions serve Malaysia's interests of economic stability and reinforce international legal standards. The Malaysian case demonstrates the possibility of middle-power diplomacy while resisting the pull of unilateralism.

The theoretical discussion regarding Article XXI shows, in a conclusive treatment, the tension between state sovereignty, legal responsibility, and international governance. The questioning coming from either side reveals a paradox: On the one hand, the wording of the article is defended by an absolutist and positivist interpretation, who would describe the focus of the argument as excessive state arbitrariness framed as hypocrisy within the natural order of things. Contextualist and constitutionalist perspectives, on the other hand, argue for a lack of coherence within a system where mutually dependent parts lose the integrity of synergetic relations. WT regulatory practice leans toward an integrative solution granting discretion to states but preserving the regulated character of the multilateral trading system. National defenses of this order must neither lead to abuse nor violate the principle of predictability, fairness, and legal coherence of international trade. The interplay of those factors by framing Malaysia's legal stance has been the focus of this paper, thus illustrating the need to straddle the divide between diplomacy and legal arguments essential for diplomacy in international relations.

5. Research Results

In DS526, Qatar brought a case against Saudi Arabia for not providing protection for intellectual property rights under the TRIPS Agreement, accusing Saudi Arabia of politically motivated non-compliance due to the Gulf diplomatic crisis. Just like Russia, Saudi Arabia also invoked GATT Article XXI. The panel accepted that there had been a disruption of international relations, but did not accept Saudi Arabia's complete refusal to

cooperate with dispute settlement mechanisms under TRIPS as justifiable under Article XXI. This case reaffirmed the precedent established in DS512, reinforcing the observation that WTO national security exceptions must be interpreted narrowly and cannot justify total derogation from all legal obligations. Most importantly, the panel stressed that the exception must be applied consistently and proportionately, not arbitrarily as a politically motivated decision. In unison, DS512 and DS526 mark a transformance in WTO jurisprudence that strengthens legal responsibility in politically sensitive frameworks.

Even though there were no security issues raised in the DS26 dispute (EC – Hormones) it provides some comparative perspectives. The USA and Canada were accused of using health risks as a justification to export beef containing hormones to the European Union. The appellate body ruled in favor of the EU stating that their measures breached obligatory SPS agreements due to lack of scientific rationale. Even though the case focused on public health, it was devoid of WTO exceptionalism. This case signifies that any allegations regarding exceptions, regardless if it is for health or security, need to be backed by evidence and must be proportional. Together these disputes show that WTO panels are more and more ready to examine the use of exceptions, including those relating to security. They also demonstrate that such exceptions cannot escape legal scrutiny, which may limit the ability to invoke GATT Article XXI unilateral sanctions in the future.

Malaysia's case demonstrates the reaction of a middle-power country to trade restructuring and the burden of external or extraterritorial sanctions. Although Malaysia did not take part in the WTO disputes related to Article XXI, she had to strategically deal with the tensions arising from U.S. sanctions against Chinese technology companies and infrastructure contractors participating in BRI projects. It is explained that Malaysia '…has enshrined within its foreign policy a decision of legal neutrality in conflicts between other states, so as not to be involved or affected by their conflict, or entangled in trade wars with super powers' (Arif and et al,2024: 190). It is also illustrated that Malaysia's dependence on the intra-regional economic structures like RCEP and ASEAN is growing to counter the other risks created by great power politics (Wan Farahiyah and et al,2024). Malaysia's deepening participation in intraregional trade creates limit on diplomatic alignment with any one great power while reducing the

possibility of exposure to secondary sanctions.

Legal and economic considerations also shape Malaysia's approach. It has not sought to enact blocking statutes or retaliatory measures, instead employing diplomacy and evaluating trade relations on an individual basis. This reflects a more cunning approach in international relations where WTO obligations are observed alongside geopolitics. It is cited that this behavior as characteristic of the Global South's 'reactive legalism,' where states decide to follow international rules based on selective, strategically convenient criteria. Such legal strategies relate to foreign policy trends where emerging economies must navigate competing priorities of pursuing economic growth, legal obligations, and political autonomy (Althabhawi and et al, 2024). Malaysia's ability to maintain diversified trade relations and maneuver through heavily sanctioned contexts without becoming embroiled in enforcement litigation disputes showcases the potential of soft hedging strategies.

These findings suggest a growing concern that the use of sanctions beyond the scope of the WTO is undermining the integrity of the multilateral trading system. It is argued that, 'weaponized interdependence' allows dominant global players to restructure economic relationships by enforcing changes to trade patterns through coercive means, rendering mutual benefit obsolete (Pinchis-Paulsen and et al.,2024). For countries like Malaysia, this signifies the traditional legal shield offered by the WTO is growing increasingly fragile and forces them to pursue regional and bilateral reprieve.

Moreover, the legal ambiguity associated with Article XXI prompts strategic ambiguity. It encourages states to interpret national security interests and evade legal responsibility. This erodes the credibility of WTO standards and fosters a situation where the exceptions may become the norm.

To conclude, the research reinforces that WTO dispute settlement processes have been able to address the national security exception to some degree, especially in cases 512 and 526. However, gaps in enforcement, coupled with geopolitical tensions, compromise legal certainty. Malaysia’s nuanced stance reflects a global south trend of trying to balance access to trade, compliance with international obligations, and avoiding positioning themselves into great power competition. These findings point to the need for reform within the system to eliminate the possibility of economic

maneuvers disguised as legal exceptions. It also highlights the need to incorporate ethics and politics into trade law to address the disproportionate challenges faced by middle and low-income countries.

Amid growing geopolitical conflict and worsening economic manipulation of global competitors, the use of Article XXI of the GATT has become more pronounced. It was meant to be an exception used in periods of real national security crises, but it is now at the center of arguments regarding the backbone of international trade law in its validity, consistency, and implementation. The clause is characterized by criticism due to its ambiguous phrasing, which allows countries to ignore their trade commitments under the pretext of self-defined security needs. The legal reasoning for Article XXI changed dramatically after the WTO decision in the case of DS512.

6. Analysis and Discussion

The critique of WTO legitimacy and reform traverses the issues of jurisprudence discussed earlier. The national security exception of the WTO has developed considerable jurisprudence due to cases like DS512 and DS526. The interpretation of Article XXI along with the overarching scope of security justifications in international trade has undergone transformative developments due to these decisions.

In DS512, Ukraine argued against Russia's transit bans that were imposed during their political conflict. The panel recognized that a member may make certain determinations regarding essential security interests, but such determinations are not entirely beyond challenge. It ruled that the invocation of Article XXI is lawful under WTO law only if there exists an 'emergency in international relations.' This was an important legal development since it was the first time the idea that Article XXI could be invoked without justification was challenged. The panel ruled that there must be a demonstrable 'emergency in international relations' for a state to invoke Article XXI legitimately. The consequences of this reasoning are significant: it reduces the situational scope for which claims of national security may be asserted, thereby preventing misuse and better aligning the provision with the overarching treaty-based framework in Article 26 of the VCLT. In the same vein, with respect to Saudi Arabia DS526 (DS526), the panel pondered whether Saudi Arabia's withdrawal of intellectual property protections and enforcement access for Qatari nationals could be defended under Article 73 of the TRIPS Agreement which is comparable to GATT's

Article XXI. The panel argued at this stage that the use of national security does not provide open authority to overlook obligations, especially those that undermine legal costs and out-of-court settlement frameworks in the WTO system. What emerges here is a culmination of all these shifts is an increasing move from the assumption existing Article XXI as a 'political' clause towards a more legalised interpretation. This trend legalizing the WTO strengthens the institutional credibility of the organization precisely when the dispute settlement system has come under fire due to the Appellate Body crisis.

Imposing rules such as the existence of a genuine emergency and applying it in the scope of international relations is the way WTO panels are shifting the dividing line between political freedom and legal responsibility. This approach is in judicial terms equates to the principle of bonafide under Article 26 of VCLT, which states that "good faith" requires treaty provisions to be interpreted and performed within the bounds of their objectives and purposes. It also overlaps with other international legal principles like proportionality and necessity which are applied in international human rights law and humanitarian law. These principles assist in determining whether the steps taken are reasonably necessary to achieve the goal, minimally damage trade obligations, and do not surpass the necessity of what is required considering the security justification put forth.

A step further analyzing DS512 and DS526 demonstrates how WTO panels are very gradually exercising their power to assume jurisdiction over national security claim disputes without entirely pushing states out of their sovereign discretion zone. As the text shows, this neutral view does reinforce the legitimacy of the multilateral trading system as it reinforces that departures from the system do not become opportunities for disguised protectionism. In the words of Bhala (2021:45), "Such judicial self-restraint coupled with legal supervisory power helps to curb the chaos in the WTO legal order."

Furthermore, the interpretations in these instances indicate somewhat of a movement towards global constitutionalism, which is a theory that seeks to incorporate principles such as accountability, transparency, and rule of law into the structure of international bodies. With their insistence that justification of actions must be based on intersubjectively verifiable and reviewable standards, WTO panels are asserting that even politically

popular clauses must be subjected to legal discipline. This supports the contextualist account discussed earlier, whereby legal frameworks fit the context of state behaviour instead of succumbing to legal nihilism.

The legal aspects developed in DS512 and DS526 are also closely linked to the more global discussions on economic coercion and strategic autonomy. In the current environment of heightened trade conflicts, decoupling of technologies, and financial sanctions, the use of national security rationale is increasingly common. This shift raises alarm bells regarding the potential damage to the multilayered trading system in the absence of legal safeguards. It is argued that unless WTO panels impose some form of judicially manageable benchmarks, Article XXI will turn into a 'Pandora's Box' where states fueled by extremist nationalism would use security pretexts to justified protective measures (Pauwelyn,2019). The step taken by the panel in DS512 to require objective evidence of emergency declare is a small first step to mitigate this problem. Still, there is a need to impose a coherent framework that can be uniformly applied in enforcement as emerging powers redefine their security and economy nexus.

It is further argued that too much respect for sovereign decisions fosters institutional decline (Charnovitz,2001). If panels adopted a fully self-judging stance, they would surrender the primary obligation of maintaining order as primary custodians of law. This line of reasoning supports the calls for policy change aimed toward increasing dual accountability mechanisms for national security invoked by states, including the provision of amicus curiae briefs and transparent protocols.

Such legal scrutiny is necessary not only for the coherence of WTO law, but also for its adaptability. The evolution of electronic commerce and the governance of data create additional arenas where national security arguments can easily be misused. The debate around data transmission across borders, 5G networks, and even standards for AI technologies are increasingly and artificially treated as security issues, blurring the line between genuine restriction and surreptitious protectionism. In that regard, it is proposed that a more balanced approach that integrates capture proposals, state interests and institutional frameworks to be upheld (Gao and Wu, 2022:112). They suggest a blended approach in which WTO members can self-assess but according to terms that are reviewable by panels. Borrowing tests such as proportionality and necessity from international human rights law would strengthen WTO’s normative coherence under this model.

Malaysia's actions continue to exemplify a guiding conduct that illustrates principles in practice. Malaysia continues to refrain from using national security justifications even throughout geopolitical shifts and opts instead for diplomacy and institutional engagement. Malaysia's commitment to multilateral trade active participation within CPTPP, RCEP, and ASEAN demonstrates the use of legal politics in policies which support predictability and rules-based dispute settlement. This stance is critical to developing and middle powers that are constantly countered by larger geopolitical players. By avoiding unilateral legalistic rhetoric and bolstering collective legal norms, Malaysia strengthens the argument for a system that protects state sovereignty, transparency, and legality. This approach highlights Malaysia's support for global constitutionalism in which Malaysia's aligned security policies are still steeped in legal frameworks instead of unilateral decisions based on self-interest. In this case Malaysia demonstrates the coexistence of strategy and legal fidelity sustains Malaysia's diplomatic efforts. Malaysia's legal stance reinforces national interests while simultaneously upholding the legitimacy of the World Trade Organization (WTO) framework in times when multilateralism is questioned. It illustrates how a state can retain control while being subject to global governance obligations.

Considering the future, the WTO has to deal with the legal and political aspects of reforming Article XXI. The concern is not whether review of contested national security issues is possible, but how it can be conducted without inciting political bias into the adjudicatory process. Suggested solutions range from forming a specialized trade security panel to clarifying through interpretative communiques the scope of Article XXI's applicability. This would enable the restoration of the confidence of the parties to the dispute regarding the WTO's impartiality in balancing the national interests and the international rule of law. As the world system becomes increasingly multipolar and infused with security concerns, there needs to be a revitalized legal remedy to stop trade law from collateral damage in wider geopolitical struggles.

Another critical issue is the organizational gridlock concerning the WTO's Appellate Body, which has been inactive since 2019 due to vetoes on appointments. This stagnation damages the credibility of the dispute settlement system and endangers the enforcement of decisions such as DS512 and DS526. In the absence of an appellate division, the legal

determinations made in the recent panels will be incomplete which makes the deterrent effect of precedent on national security exemptions feeble. To fill this void, WTO members are urged to recommit to constitutional change, including revising the Appellate Body's composition, increasing the transparency of debates on Article XXI, and making the deliberations on Article XXI more transparent. One such change could be requiring explanatory memoranda justifying the invocation of national security exemptions which need to describe the exceptional circumstances and demonstrate the requisite proportionality. While still preserving sovereign freedom, this change would discourage proactive abuse.

In addition, the WTO Secretariat could aid this process by developing an informal document or checklist that explains the process and criteria to be applied in disputes involving national security to assist members with procedural and substantive standards. The resulting instruments would not carry legal obligations, but could serve to establish a non-binding legal normative system that enhances uniformity among the dispute resolution panels and provides legal certainty to smaller states facing legal uncertainty.

Furthermore, legal cooperation with other regions of the world could add new aspects to the jurisdiction of International Trade Law. For example, the obligation of justification from international human rights law and tests of necessity from international investment arbitration could form baseline requirements. Integration of various domains would reinforce the role of WTO in a precarious geopolitical climate where trade intersects with human rights, cyber security, and climate change.

Citing the Malaysian case justifies such reform. As a member with no history of weaponising Article XXI, Malaysia's support for institutional transparency and rule-based principles positions itself badly to advocate reform through ASEAN and RCEP. Malaysia could also show leadership by using dispute avoidance and clarification channels which could benefit many other middle-income countries trapped in strategic competition crossfire. In conclusion, the WTO suffers from a legitimacy crisis somewhere between law and geopolitics. Enhancing the precision and the procedures surrounding Article XXI are critical not just to curb abuse, but also to maintain the integrity of the multilateral trading order. All questions of jurisprudence, theoretical scholarship, state practice, even that of Malaysia, suggest there is an urgent imbalance to legal accountability and prerogatives of sovereign security that needs reform.

7. Conclusion

This study analyzes the relationship between sanctions, the exceptions of national security, and international trade law, focusing on Article XXI of GATT and the case law of WTO. The study illustrates a developing pattern of' legalization in the interpretation of the national security exception, particularly in key decisions like DS512 and DS526. These decisions represent a turning point from unrestricted government prerogatives to a considerable reliance on evidence, justification, and law-bound reasoning. Such shifts modify and strengthen the assumption of sovereign immunity on the governance of trade, affirming the existence and authority of the WTO as an enforcer of multilateral principles even in areas presumed to be unreviewable. The discussion commenced with an outlining of the trade law and economic coercion‘s theoretical framework. It was demonstrated that the legal positivist school dominated by state sovereignty is now being reversed by contextualist and constitutionalist schools that emphasize good faith, proportionality, and legal accountability. Article XXI, albeit formulated in the geopolitical contour of the post WWII era, has metamorphosed into a legal theater of unilateralism excess at the reciprocal relations between the countries. The increasing frequency of its invocation by both advanced and emerging economies shows the clause’s critical relevance for contemporary trade conflicts.

The research also applied the WTO legal texts, dispute settlement practice, and regional trade governance with a doctrinal and comparative approach. The case law review proved that WTO panels have now become more flexible and willing to subject national security measures to procedural and substantive scrutiny. This represents a paradigmatic shift with significant consequences for the multilateral trading system. Panels require evidence of a genuine international relations emergency must be proven beyond the reasonable doubt, and the measures taken must be justified based on the principles of necessity and proportionality.

Using Malaysia as a focal point, the paper demonstrated how middle powers can avoid overt legal exceptionalism in bending the law’s geography. Malaysia underscores the support for institutional engagement, regional cooperation, and predictability in legal relations, which reflects the transparency multilateralism. This stance opens a plausible alternative for developing economies that wish to project their agency while avoiding

undermining the legitimacy of global normative trade practices.

Furthermore, the continued domination of economic export control, investment bans, and data restriction by larger powers illustrates that Article XXI remains a contested and fluid legal battleground. The absence of a functional Appellate Body exacerbating the risk of interpretative fragmentation makes the case for reform far more urgent. In the absence of such mechanisms to settle disputes, states would increasingly resort to unilateralism, which would undermine the coherence of trade law and its peaceable dispute resolution framework.

To reduce these risks, the WTO needs to contemplate reforms that improve transparency as well as the legal predictability surrounding the use of Article XXI. These could involve transparency obligations, justification floors, and criteria based on international legal principles of necessity and proportionality. In addition, the creation of a specific body to deal with security disputes might enable the WTO to remain neutral without offending state sensitivities. The lack of normative changes impacts how trade regulations are designed. As the scope of sanctions and security policies include digital assets, supply chain integrity, and even public health, there is a need for agile WTO law that cannot be static. While the balancing act between the competing principles of trade liberalisation and sovereign security powers cannot fully be eliminated, it can be achieved through legal frameworks and enforcement.

This paper concludes that a rebalanced interpretation of Article XXI is possible and essential for preserving the relevance of the WTO in a multipolar, securitized global economy. In the international trading system, legal spaces must go beyond mere fantasy, and the invocation of security must adhere to standards that are credible, auditable, scrutinizable, and grounded in rational benchmarks. International trade law will ultimately lose its legitimacy, fairness, and ability to foster peaceful economic collaboration if such abuses become commonplace.

The findings of this research reinforce the importance of dispute settlement for the welfare of the multilateral trading system. The failure to reach agreement on the Appellate Body's appointment has had far-reaching impacts across the institution, breaching confidence in its ability to resolve even simple trade disputes. This dysfunction becomes particularly problematic in the context of Article XXI, where unchecked state freedom has the potential to enable systematic exploitation. The restoration of this

institutional underpinning should therefore be immediately emphasized by all members of the WTO so that rulings on sensitive issues such as national security can be issued with authoritative uniformity.

The changing scope of measures pertaining to international trade continues to underscore the need to revise authoritative conceptions of 'emergency' in international relations. Theologized and state-centered definitions that focus purely on warfare and hostilities between states require further expansion to include threats to cybersecurity, climate emergencies, and pandemics, all of which test the resilience of a nation and its trade rules. Such an approach supports the need for WTO's member-centered, dynamic jurisprudence that adapts to new challenges without falling prey to politically driven changes from powerful members. The incorporation of soft law frameworks, interpretive declarations, and state practice into WTO Framework may achieve the necessary adaptability without sacrificing legal certainty.

From this vantage point, the Malaysian perspective not only reflects a tempered approach to diplomacy but also enhances its image as an effective contributor to regional legal integration. A Malaysia that actively embraces international standards while advancing reforms for greater inclusiveness and clarity could emerge as a principal figure amongst mid-tier economies grappling with geopolitical headwinds.

Furthermore, Malaysia's case confirms the significance of legal foresight and institutional flexibility in protecting sovereign interests without sliding into unilateral actions. Enhancing subdued states' abilities in international economic law, conflict negotiation, and treaty formulation will allow them to be resilient and proactive in defending their economic sovereignty.

In conclusion, the result of this document leads one to envision a prospect in which trade law will be intertwined with geopolitical relations. In an era shaped by strategic rivalry, the robustness of the multilateral trading system will rely not only on legal documents but on the members' commitment to uphold the common instruments and their provisions.

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