

Law as Strategy: The Weaponization of Trade Dispute Mechanisms in Sino-Western Relations

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Abstract

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In the wake of the intensification of Sino-Western rivalry after 2018, international trade law has undergone a substantial transformation, shifting from a neutral mechanism for dispute settlement to a strategic instrument embedded inside geopolitical conflict. This study aims to examine the weaponization of international trade dispute mechanisms specifically the World Trade Organization (WTO) dispute settlement system and investor-state dispute settlement (ISDS) as instruments of lawfare in contemporary Sino-Western trade relations. This study employs a qualitative research framework grounded in Lawfare Theory, integrating doctrinal legal analysis with empirical examination of trade disputes, legal narratives, and institutional operations in international economic law. The findings demonstrate that both China and Western countries deliberately employ legal mechanisms, selectively comply with rulings, and exploit institutional norms to advance geopolitical aims, impose normative dominance, and recalibrate power disparities within the international legal system. Consequently, international trade law has ceased to function as an impartial arbiter of economic disputes; it has evolved into a mechanism for statecraft and geopolitical rivalry. This study concludes that employing trade law for political objectives has undermined the neutrality, coherence, and legitimacy of multilateral legal institutions, exacerbated structural inequalities between developed and developing nations, and intensified divisions within the global trade system amid multipolar competition.

Keywords: Lawfare, Dispute Settlement Mechanisms, Sino-Western Trade Relations, Legal Realism, Strategic Litigation

1. INTRODUCTION

Since 2018, the landscape of international relations has undergone fundamental changes due to the escalation of rivalry between China and Western countries, particularly the United States. This transformation has not only taken place in the political and military spheres, but has also spread to the field of international law, particularly trade law. The trade war launched by the Trump administration against China has been marked by aggressive tariff policies, technology export bans, and strategic investment controls. However, behind these actions lies a legal dimension that often escapes public attention: international law has now

become an instrument of strategic conflict in relations between countries. International legal mechanisms, particularly within the framework of the World Trade Organization (WTO), are no longer used solely as a means of neutral and fair dispute resolution, but have been utilized as a stage for ideological and foreign policy competition. Thus, law has become an integral part of global power strategies in dealing with contemporary geopolitical dynamics (Hamilton & Renouard, 2024).

This phenomenon shows that international trade law has undergone a fundamental shift from its original function as a guarantor of global trade stability and fairness to a geopolitical strategy tool for major countries. The 2018 trade war between the US and China was not merely a clash of tariff interests, but a manifestation of a highly planned and structured legal strategy. The United States, as the dominant legal power, began to weaken the legitimacy and effectiveness of the WTO institutionally, including by refusing to appoint members to the Appellate Body. This move directly impacted the paralysis of the appeal function in the WTO dispute settlement system. On the other hand, China responded by increasing its participation as a plaintiff in international legal forums. This change marked the rise of strategic legalism in global diplomacy, where litigation was used as a non-military power balancing tactic capable of changing the structure of international relations normatively and symbolically (Hao & de la Rasilla, 2021).

Is international law still a neutral tool in regulating relations between countries, or has it been engineered into a mechanism for reproducing power by major countries such as China and the United States? In actual practice, both countries no longer treat the WTO forum solely as a fair and neutral dispute resolution institution, but as a means of legal performance to showcase their respective normative claims. Every lawsuit, objection, and rejection of the implementation of legal decisions at the WTO is now part of a much larger political and symbolic communication strategy. The US uses litigation as a way to challenge China's economic positions and practices that it considers unfair, while China responds with legal arguments aimed at showing that it is a legitimate multilateral actor. Thus, the law has been reduced to a tool for projecting norms, building global positions, and systematically garnering international support (Campion, 2020).

The concept of lawfare has become increasingly relevant in understanding the dynamics of conflict between China and the West in the last two decades, especially after 2018. In the context of this rivalry, law is no longer understood purely as a normative framework for maintaining stability and predictability, but rather as a weapon in geopolitical strategy. China and the United States actively use international legal forums, especially the WTO, as arenas for forum shopping, procedural manipulation, and legal narrative engineering to benefit their respective positions. It is not uncommon for a party that loses a WTO ruling to refuse to implement the outcome; however, if they win, the ruling is claimed as proof that their norms are more legitimate. With this approach, law is no longer a neutral space but has become an extension of foreign policy strategies based on power and narrative dominance (Ormsbee, 2021).

The WTO, as an international legal institution designed to maintain the stability and fairness of global trade, is now facing serious dysfunction, especially since the crisis in the Appellate Body caused by the United States' systematic blocking of the appointment of new members. As a result of the paralysis of this appellate body, the WTO dispute settlement system has become completely inoperable. China considers the US's actions to be an attack on the basic principles of multilateralism and the rule-based order, while the US believes that the WTO system is no longer relevant to the development of the global economic structure. This debate indicates that international law is no longer above the political interests of states, but has instead become the product of highly ideological geopolitical bargaining. When global institutions such as the WTO become arenas for ideological and power struggles, the effectiveness and neutrality of international law become increasingly difficult to maintain (Hayes, 2024).

China was previously passive in international litigation; however, since 2018, it has adopted a markedly more proactive and strategic approach. Beijing appears to be endeavoring to establish itself as a new global legal participant by increasing its engagement in WTO forums. Simultaneously, it seeks to contest the United States' dominance in the international trade law framework. This approach exemplifies strategic legalism, signifying the calculated and intentional application of legislation to augment power and enhance the legitimacy of politics. China frequently endeavors to present itself as a proponent of rule-based multilateralism, in contrast to the United States, which is generally perceived as unilateralist. This action indicates a significant shift in China's diplomatic strategy: transitioning from discreet diplomacy to overt litigation as a means to enhance its legal influence (Yuan, 2024).

On the other hand, the United States has consistently chosen a unilateral path, relying on its domestic legal system to protect its national interests, rather than using multilateral forums such as the WTO. This approach is clearly evident in the imposition of economic sanctions, restrictions on foreign investment, and technology export controls on Chinese companies, which are often based on national legal frameworks such as the International Emergency Economic Powers Act (IEEPA) or the Export Control Reform Act (ECRA). This strategy not only demonstrates a decline in trust in global institutions such as the WTO, but also reflects efforts to reshape the international legal order to better suit the US geopolitical vision. Thus, the difference in legal approaches between the US and China highlights a shift in the dynamics of global legal legitimacy (Bu, 2024).

Countries in the Global South, particularly in Asia, Africa, and Latin America, are not immune to the impact of legal rivalry between these two major powers. They are often caught between two conflicting legal systems one in the form of multilateralism, which is now weakening, and the other in the form of bilateral agreements that tend to be coercive and favor powerful countries. In this situation, many countries choose not to actively participate in WTO forums because they feel that the system no longer provides balanced protection or justice. Fatigue with the multilateral dispute settlement system is evident in the declining number of complaints from developing countries and the increasing reliance on ad hoc solutions or closed negotiations. This situation is leading to increasingly exclusive fragmentation of global law (Leoni, 2022).

From the perspective of international relations theory, this dynamic reflects the return of the dominance of the realist approach over liberal institutionalism. While the liberal approach views international law as a neutral instrument for creating cooperation and global stability, the realist approach places law as a tool of national interest alone. Countries such as China and the United States will comply with international law only if it is in line with their strategic agenda. If not, they will look for loopholes to reject it or even undermine the legitimacy of the system itself. In this context, compliance with the law becomes selective, not universal. Thus, the power of law no longer lies in mutually agreed norms, but in the power of actors who are able to impose their interpretation globally (Renouard, 2020).

However, this legal strategy not only reflects the realist dimension of power, but also a narrative diplomacy or soft power strategy. China consistently positions itself as a protector of the rules-based international order and supports multilateralism. In many cases, China's victories in WTO forums are used as a tool of legal diplomacy to show that it is a law-abiding global actor. This narrative is used to challenge negative perceptions from Western countries and to attract the sympathy of developing countries. Conversely, the United States, which often rejects WTO rulings, faces a crisis of normative legitimacy in the eyes of the international community. Thus, the weaponization of law is not only a matter of hard power, but also a war of claims over global moral and legal legitimacy (Bakota et al., 2024).

However, success in implementing international legal strategies depends heavily on the legal capacity and institutional resources of each country. The United States and China have a significant advantage in this regard they have trained international legal experts, international legal research centers, and substantial litigation funds. They are able to develop long-term strategies to design, manage, and even control the course of disputes in multilateral

forums such as the WTO. In contrast, developing countries, particularly those in Africa and South Asia, often struggle to even access adequate dispute settlement procedures. Limited resources prevent them from maximizing the legal protections available to them. As a result, the international legal system reflects structural inequalities that further strengthen the dominance of large countries and weaken the position of weaker actors in the global order (Cai, 2019).

This situation directly places international trade law at a crucial crossroads. Will this system remain an instrument for supporting global stability and justice, or will it instead become a tool for legitimizing the power of dominant countries? To answer this question, it is important to observe how major countries use the law, not only in the text of formal agreements, but also in their daily strategic practices. The selective use of international law, forums, and legal decisions by actors such as China and the United States reflects a systematic effort to make the law part of foreign policy instruments. In this context, legal norms are no longer sufficient to be understood as universal principles, but must also be analyzed as a means of realizing the strategic and planned political interests of the state (Hayes, 2024).

The article intends to examine this issue utilizing Lawfare Theory, complemented by doctrinal legal analysis and empirical research in international trade law. This methodology enables a comprehensive knowledge of the creation, enforcement, manipulation, and implementation of legal norms in the context of disputes between major nations. The neorealist perspective clarifies why hegemonic governments adhere to the law only when advantageous, but constructivism clarifies the significance of legal perception, legitimacy, and narrative structure in the evolution of legal diplomatic strategies. Consequently, the law transcends mere regulations; it serves as a forum for discourse, symbolism, and negotiation within the dynamic landscape of global authority (Avgouleas & Trigkas, 2020).

Without structural reform and a collective commitment to the rule of law in international trade law, this global system risks losing its long-term relevance, effectiveness, and legitimacy. Large countries will continue to use the law according to their respective strategic needs, while small countries will remain in a vulnerable position and inadequately protected. As a result, the legitimacy of global law is no longer determined by principles of justice or equality, but rather by power consensus and geopolitical calculations. This situation not only widens the gap between countries but also creates systemic uncertainty that threatens the sustainability of the law-based international order. Therefore, rethinking the design, mandate, and mechanisms of international law is an urgent necessity in facing the current era of multipolarity and normative conflict (Liu, 2024).

Therefore, understanding the concept of weaponization of law cannot be viewed merely as a legalistic issue limited to trade relations or the interpretation of international agreements. Rather, it is a key lens for rethinking the direction of change in the current world order. The legal rivalry between China and Western countries reflects the deep dynamics between power, norms, and strategy in the global context. This research aims to open up interdisciplinary academic discussion on how law is systematically mobilized to shape narratives, protect interests, and respond to threats in international relations. By examining the legal aspect as part of geopolitical strategy, we can understand how the shift from law as a protector of stability to law as a tool of competition has become a key feature of a new era in the global legal order (Leoni, 2024).

2. ANALITICAL FRAMEWORK

Lawfare Theory

In the contemporary era, the boundaries between diplomacy, conflict, and law are becoming increasingly blurred. One concept that sharply explains this phenomenon is Lawfare Theory, an approach that views law not only as a mechanism for dispute resolution, but also as a strategic weapon in the contest for power. This term was first introduced by Major General Charles J. Dunlap, Jr., who defined lawfare as "the use of law as a weapon of war," namely the use of law to achieve political or military objectives without physical violence. In this

perspective, the law loses its neutrality and becomes part of a country's strategy to win conflicts legally in the eyes of the international community (Dunlap Jr, 2009).

This understanding marks a paradigm shift in international relations, where conflicts between countries no longer depend solely on military power, but also on legalistic power played out in various international forums. Lawfare is divided into three main forms: offensive, defensive, and instrumental. Offensive lawfare is used to attack or pressure opponents through legal channels, for example by suing another country for dumping in the WTO. Conversely, defensive lawfare aims to protect oneself from legal aggression, while instrumental lawfare is used to build narratives of political legitimacy in international forums (Kittrie, 2015).

The sophistication of this strategy is evident in the trade war between China and Western countries, where the WTO's Dispute Settlement Mechanism (DSM) has become the main arena for lawfare. Countries such as the United States and the European Union use legal challenges to China's industrial subsidy policies as a systematic tactic to hinder the economic growth of their competitors. China itself has responded by adopting a similar legal strategy, demonstrating that major countries are now utilizing the international legal framework to compete legally but with strong political overtones (G. C. Shaffer, 2003).

Furthermore, the lawfare strategy reflects the dynamics of power through legality, where power is exercised through legal mechanisms to appear legitimate internationally. Major countries often engage in forum shopping, which is choosing the legal institution that is most beneficial to their interests, as well as legal overload, which is flooding their opponents with lawsuits and complex legal procedures. This practice often places developing countries in a weak position due to their limited resources and legal capacity. Thus, the law is no longer an equal protector, but rather an arena for legal domination by powerful countries (Bartman, 2010).

However, the use of law as a weapon also poses a serious risk to the integrity of international law. When the law is manipulated for political purposes, the legitimacy of legal institutions such as the WTO, ICJ, or UNCLOS can be threatened. This has sparked criticism of the practice of lawfare as a form of legal imperialism, in which Western countries are suspected of imposing their legal standards on other countries through legalistic pressure rather than equal dialogue. This criticism shows that the strategy of lawfare not only creates legal tensions, but also exacerbates global power imbalances (Johns, 2013).

From this, we can see that lawfare is not merely a product of legal deviation, but rather part of the evolution of modern conflict, in which geopolitical competition is brought into the realm of international courts and regulations. In the context of China-West relations, this strategy has become increasingly apparent: the law is used to regulate, hinder, and even suppress each other's growth and influence, especially in the sectors of trade, technology, and investment. This is where the relevance of Lawfare Theory becomes very important as a theoretical framework for understanding how legal norms are used as strategic weapons by global powers (Kittrie, 2015).

In the dynamics of contemporary international relations, lawfare the use of law as a strategic conflict tool has evolved into an increasingly complex instrument of power. This theory emphasizes that law is no longer neutral, but rather a tool for achieving political, economic, or military objectives that are legitimate in the eyes of the public and international institutions. One of the most fundamental indicators of lawfare is the presence of strategic intent in the use of law, meaning that law is used not to achieve substantive justice, but to control or suppress the opposing party through legal channels. This is often found in the practice of international sanctions or trade litigation aimed at systematically reducing the capacity of the target country (Hassani et al., 2024).

This practice is often supported by the selection of the most favorable legal forum, known as forum shopping. Powerful countries or actors will choose dispute resolution mechanisms that provide procedural and political advantages, such as the WTO, UNCLOS, or private arbitration. This strategy shows that the use of law is no longer about seeking objective justice, but rather about increasing the chances of strategic victory in international disputes. This phenomenon is reinforced in a study that shows how plural constitutionalism is used to

reshape the global legal structure by exploiting the weaknesses of global legal institutions (Petersmann, 2025).

In addition, excessive or overwhelming use of the law against an opponent is also an important indicator of lawfare. In practice, countries or organizations can flood their opponents with simultaneous lawsuits, investigations, or administrative claims, with the aim of draining their resources, time, and diplomatic legitimacy. This technique is often used by countries with highly organized legal systems and extensive legal resources. In this context, lawfare is not only a tool for negotiation, but also a non-military weapon of destruction (Kittrie, 2015).

As global tensions rise, the law is often used as a tool to establish moral and political legitimacy. Powerful countries often wrap their aggressive actions in formal legal narratives such as "rule of law" or "protection of human rights," creating the illusion of legal neutrality when their main goal is political domination. This strategy is particularly evident in economic sanctions, blockades, and technological restrictions imposed in the name of international law (Wei, 2025).

Another equally important indicator is the imbalance of legal power between powerful countries and developing countries. Developed countries with mature legal infrastructure and global diplomacy have an advantage in mobilizing lawfare strategies, while developing countries are often unprepared targets in terms of technology and resources. This imbalance indicates that the law can be used as a hegemonic tool, rather than as a safeguard for a fair global order (G. C. Shaffer, 2003).

Furthermore, the involvement of non-state actors such as NGOs, international law firms, and multinational corporations is also an important indicator in the practice of lawfare. They are often used as "proxies" by states to exert indirect legal pressure, including in the form of investment lawsuits, human rights campaigns, or arbitration. These actors enable states to pursue legal strategies with safe diplomatic distance, while still achieving the desired political results (Kittrie, 2015).

Another key indicator is when law is used as an alternative to armed conflict, especially in asymmetric conflicts that do not allow for the direct use of military force. In this context, legal strategies become a form of "soft war" that allows powerful actors to subdue their opponents through regulatory domination, litigation, and international isolation. In other words, law has become a preferred weapon because it has a systemic impact without causing direct physical damage (Hassani et al., 2024).

In the context of China-West trade relations, the indicator of strategic intent in the use of law is the main foundation that explains how international legal mechanisms, particularly the WTO Dispute Settlement Mechanism (DSM), are used not only to resolve disputes fairly, but also as part of a geopolitical strategy. Western countries such as the United States and the European Union have repeatedly used legal claims against China on issues such as industrial subsidies, dumping, and intellectual property protection. However, these claims are often made with a dual purpose: in addition to correcting trade rule violations, they also aim to suppress the growth of China's strategic sectors such as technology, energy, and heavy manufacturing. Conversely, China has also begun to employ similar tactics to counter Western legal dominance. Therefore, this indicator is crucial because it shows that law is no longer positioned as a neutral tool, but has become an integral part of a country's strategic arsenal in maintaining its global economic and political position (Hassani et al., 2024).

3. RESEARCH METHOD

This study uses a qualitative method with an Lawfare Theory approach. This approach was chosen because the issues raised in this study are not solely related to legal norms, but also reflect the complex and multidimensional dynamics of global power (Du, 2024). Referring to Lawfare Theory, as developed by Kittrie (2015) and Dunlap Jr. (2009), this study analyzes how international law particularly dispute resolution mechanisms such as the WTO and ISDS no longer functions as a neutral dispute resolution tool, but has been mobilized as an instrument of state strategy (Hao & de la Rasilla, 2021; G. Shaffer, 2021). Therefore, qualitative methods are considered appropriate for exploring the context, meaning, and strategies behind

the use of legal instruments in competition between global powers, particularly China and Western countries (Cai, 2019).

Data collection techniques were carried out through a literature review of international legal documents, WTO and ISDS case reports, and relevant academic literature in the fields of law and international relations (Campion, 2020; Tao, 2019). Furthermore, the data was critically analyzed through a legal discourse analysis and strategic narrative analysis approach to reveal the patterns of argumentation and strategic objectives of countries in using legal forums (Kennedy, 2005; Orford, 2021). Thus, the methods used in this study enable researchers to not only map the dynamics of international law normatively, but also to reveal the power structures and forms of legal manipulation that occur in contemporary global practice (Leoni, 2024).

4. RESULT AND DISCUSSION

The Legal Battlefield: Reframing WTO Disputes as Instruments of Statecraft

Since officially joining the World Trade Organization (WTO) in 2001, China has undergone a significant transformation from a passive participant to an active legal actor in the global trade regime. This accession was not only a symbol of economic openness, but also a long-term strategy to strengthen its geopolitical position through the international legal framework. Within two decades, China has demonstrated an increasing pattern of using the WTO Dispute Settlement Body (DSB) as an arena for both defense and confrontation against Western countries, particularly the United States and the European Union. This evolution shows that law has become a strategic instrument in global power relations (Tao, 2019).

Although formally based on the principles of multilateralism and the rule of law, China's approach to WTO dispute settlement forums is often characterized by political and economic calculations. This is reflected in a number of important cases such as US Steel Safeguards and EC Anti-Dumping Measures, in which China not only responded to the lawsuits, but also used the legal process as a means of exerting pressure on Western countries. Western countries are beginning to realize that China's involvement is not merely a fulfillment of legal obligations, but a new form of aggressive legal diplomacy. This is the beginning of indications of lawfare practices in the context of global trade (Wang, 2019).

Parallel to this, the investor-state dispute settlement (ISDS) mechanism has also become increasingly relevant, especially for China as a country with aggressive overseas investment expansion through the Belt and Road Initiative (BRI). Whereas ISDS was previously used to protect foreign investors in China, now the roles have reversed: Chinese state-owned enterprises have become active plaintiffs in various international arbitration forums. This transformation marks a shift in China's legal position from being reactive to proactive, even offensive, in facing global investment law challenges. This is a clear indication of the strategy of using law as an extension of foreign policy (Hao & de la Rasilla, 2021).

However, China's success in utilizing the WTO and ISDS forums cannot be separated from its long-term efforts to build domestic legal capacity. Over the past two decades, China has increased its massive investment in international legal education and legal diplomat training. Many universities in China now have WTO Law and International Economic Law study programs designed to train a generation of global litigation experts. The results are beginning to show: the legal arguments of the Chinese delegation are becoming more sophisticated, supported by in-depth research and valid international legal precedents. The asymmetry of legal power with Western countries is also beginning to narrow (Vos et al., 2021).

One important milestone in this dynamic was the China Rare Earths case, in which the US and EU challenged China's export policy on rare minerals. Although the outcome was not entirely in China's favor, the litigation process opened up space for the Chinese government to review domestic environmental regulations and strengthen its claim over the management of strategic resources. In other words, despite losing formally, China still reaped strategic

benefits. This is proof that litigation can be a means of engineering national policy and repositioning the international narrative (Cai, 2013).

In the context of ISDS, China's strategy shows selective and opportunistic tendencies. Chinese investment in the Global South, such as Africa and Central Asia, is often framed through bilateral investment treaties (BITs) that include ISDS clauses. Here, ISDS is not merely asset protection, but a political tool to expand influence and promote the Chinese model of development. This strategy not only mimics Western practices, but also demonstrates China's ambition to shape a new global investment legal order that is more in line with its values and interests (Cai, 2008).

On the other hand, the US and the EU have begun to adopt a more aggressive litigation approach towards China, targeting issues such as state-owned enterprise subsidies, TRIPS violations, and exports of strategic goods. China's response has been equally fierce, including lawsuits against unilateral tariffs, technology export controls, and restrictions on companies such as Huawei. The WTO arena has turned into a "geopolitical courtroom" that debates legal narratives as projections of political conflicts. Here, it is clear that the law is no longer neutral, but rather full of power (Gray & Gills, 2023).

The frequency of China's involvement in the WTO DSB is evidence of China's increasing legal strategy. To date, China has been involved in more than 60 cases, both as a plaintiff and a defendant. Uniquely, China's pattern of argumentation continues to evolve, from what was originally based on protectionist rhetoric to becoming more normative and precedent-based. China has begun to refer to the practices of Western countries and use generally applicable legal logic. This change shows that China's legal strategy is becoming more mature and flexible in adapting to the multilateral arena (Hao & de la Rasilla, 2021).

As a result, Western countries responded by overhauling the architecture of international law. The European Union, for example, proposed the establishment of a Multilateral Investment Court to replace ISDS, which was considered too biased towards investors. Meanwhile, the United States withheld the appointment of WTO Appellate Body judges, causing the appeals system to grind to a halt. These actions show that it is not only China that uses the law as a weapon, but also the West. Legal strategy has become part of the global power game (Vos et al., 2021).

Consequently, the WTO and ISDS are no longer purely normative forums, but rather arenas for narrative contestation between major countries. Each dispute is not only a matter of legal text, but a reflection of each country's economic and political agenda. In this context, the law changes its function: from a norm for conflict resolution to a tool of conflict itself. That is the essence of "strategic legalism," a pattern that shows that the law can be used to win, not just to be fair (Tao, 2019).

Thus, the evolution of the use of the WTO and ISDS by China and the West reflects a fundamental change in the way major countries interact. Conflicts are no longer dominated by military force, but rather by lawsuits, arbitration, and legal arguments. In today's multipolar reality, law has become a weapon, and international forums have become a battlefield of narratives. The perspectives of Lawfare Theory and Legal Realism are essential for reading this phenomenon in its entirety, as both are able to explain how law and power are now closely intertwined in the global architecture (Cai, 2019).

Weaponized Litigation in Practice: Strategic Case Studies in Sino-Western Legal Rivalry

In the last decade, especially since 2020, there has been a significant increase in the use of international legal forums as arenas for covert conflict between China and Western countries. Trade disputes no longer merely reflect technical disagreements, but are manifestations of geopolitical rivalries formalized in legal suits. Through forums such as the WTO and ISDS, major countries have shifted open confrontation to forms of strategic litigation. Lawfare has become the dominant method in which the law is used not only to resolve disputes, but to strengthen political and economic positions in an increasingly competitive multipolar global system (Du, 2024).

One of the most relevant case studies is China's lawsuit against the United States at the WTO, related to restrictions on semiconductor technology exports. The US argues that these restrictions are based on national security reasons, while China considers the move a violation of the WTO's principle of non-discrimination. This case not only reflects a trade dispute, but also shows how countries use legal frameworks to maintain or seize global technological dominance. This lawsuit sets an important precedent in the debate over the boundaries between state sovereignty and obligations under international trade law (Hao & de la Rasilla, 2021).

A similar conflict arose in the case between the European Union and China, particularly in relation to allegations of non-transparent subsidies provided by the Chinese government to the solar panel industry. The European Union considered that these subsidies distorted competition and threatened the survival of its domestic industry. Conversely, China defends itself by arguing that the subsidies are legitimate within the framework of national development and energy sustainability. This dispute illustrates how WTO law has become a battleground between two models of liberal capitalism versus state capitalism, each attempting to legally redefine the boundaries of "fair trade" (Shao, 2021).

Meanwhile, in the realm of ISDS, China has begun to take on the role of an active plaintiff, especially against developing countries in Central Asia. One of the most prominent examples is when a Chinese state-owned enterprise sued the Kazakh government over the cancellation of an infrastructure project under the Belt and Road Initiative (BRI) scheme. In this case, the lawsuit was not solely to obtain compensation, but rather an attempt to strengthen its negotiating position and warn partner countries that China has international legal instruments at its disposal (Zhang, 2022).

In some cases, the use of ISDS by Chinese companies has a strong symbolic dimension. Lawsuits filed against Western countries for discriminatory treatment of Chinese investments in the energy and technology sectors, despite their relatively small value, serve to create political and reputational pressure. The arbitration process itself becomes a negotiating tool, as it creates legal uncertainty for the defendant country and increases the bargaining power of Chinese companies. This strategy shows that the law has become a means of counterbalancing the dominance of Western law (Yang, 2025).

Not only does China use international forums, it also actively builds regional arbitration systems for BRI projects, such as the China International Commercial Court (CICC). This strategy shows China's ambition to create a parallel legal system that reduces dependence on Western institutions such as ICSID and UNCITRAL. In many cooperation agreements, companies from BRI partner countries are directed to submit to dispute resolution forums within Chinese jurisdiction. This is an expansion of lawfare into the institutional realm, where China is not only fighting within the old legal system, but also building a new legal architecture (Zhou, 2020).

China's response to tariffs on steel and aluminum exports from the US and Australia reveals a distinctive dimension of "legal retaliation." China responded by launching anti-dumping investigations into products such as wine and barley from both countries. Although technically framed as legal action within the WTO framework, the political motives behind it are very clear. The legal process in this case serves as a means to balance economic pressure while maintaining an image of legality in international disputes (Du, 2024).

In response to China's dominance in ISDS, the European Union has begun to rally international support to replace the ISDS system with a multilateral investment court. China views this reform with skepticism and prefers to strengthen more flexible bilateral and regional arbitration forums. This difference in strategy shows that the battle is not only over the substance of the claims, but also over the design and legitimacy of the legal forum itself. International law has now become a complex structural battlefield (Eliason, 2023).

Furthermore, the digital dimension is beginning to enter the realm of international law. China is considering filing a lawsuit against the European Union over cross-border data regulations that are considered to hinder Chinese companies' access to the digital market. In

this scenario, the concept of "data as investment" has become a new element of debate in ISDS forums. This shows that lawfare is no longer limited to physical goods and services, but has expanded to the digital and data sectors, marking a new chapter in global legal rivalry (Yang, 2025).

All of the above case studies show that law has now become a medium for ideological expansion. Through its defense of state-owned enterprise subsidies, technology protection, and independent arbitration agreements, China is attempting to shape a new legal narrative that normalizes its nationalist economic model. Law is no longer a matter of compliance with universal norms, but rather a matter of who has the power to shape those norms. It is in this context that lawfare has become an arena for the battle of national values and identities (Orford, 2021).

Thus, it can be concluded that international legal forums such as the WTO and ISDS have undergone a fundamental transformation in their functions. From what was originally designed as a neutral dispute resolution mechanism, they have now turned into a means of strategic confrontation. China and Western countries alike utilize legal instruments as part of their foreign policy tools. This proves the validity of Lawfare Theory, that law is not neutral, but rather politicized within the framework of global power realities (Du, 2024).

From Legal Norms to Strategic Narratives: The Geopolitical Implications of Trade Lawfare

In the contemporary geopolitical landscape, lawfare the use of law as a strategic weapon has developed into one of the main tactics in international trade relations, particularly between China and Western countries. When open conflict is considered too costly politically and economically, legal channels offer a more elegant, measured, and still deadly alternative. Trade disputes between China and the United States and the European Union are now often mediated through legal forums such as the WTO and ISDS, not because of trust in the law alone, but because both have become arenas for global influence competition (Du, 2024).

China's legal strategy demonstrates a deep understanding of global institutions, particularly the WTO. By challenging the US tariffs imposed unilaterally, China is not only seeking to protect its economic interests, but also asserting its position as a country that complies with international law. In this context, China is not merely a passive actor subject to Western rules, but rather a normative power that actively shapes the global legal narrative. This is an international image-building strategy wrapped in litigation (Sykes, 2021).

Meanwhile, the United States is pursuing a more offensive and unilateral lawfare strategy. Through domestic laws such as the IEEPA, the US is restricting technology exports to Chinese companies on the grounds of national security. Although this move violates WTO principles, its economic impact is very real. In this case, the law not only functions as a protective mechanism, but also as a tool to punish and isolate foreign actors who are considered a threat to national interests. Lawfare here is closer to a form of structured sanctions based on the law (Blockmans, 2021).

The consequence of this dynamic is the emergence of forum shopping, which is the selection of the most strategic legal forum for specific interests. Western corporations tend to choose ISDS as the main arena to challenge Chinese policies that are considered discriminatory. Conversely, China selectively uses ISDS only when it feels that the forum is advantageous to it, or even creates its own arbitration system in the context of the Belt and Road Initiative. This pattern shows how the selection of a forum is not just a matter of procedure, but a reflection of complex geopolitical calculations (Gu & Zhao, 2023).

Amid growing ISDS disputes, China has begun to adopt a defensive approach in drafting bilateral investment treaties. Several newly drafted BITs include clauses limiting arbitration jurisdiction or emphasizing mediation as a first step. The aim is to avoid international arbitration, which is considered to be overly influenced by Western legal systems. This reflects China's systematic efforts to protect its sovereignty and narrow the scope for foreign legal intervention in domestic policy. This strategy is part of the legal decoupling effort (Wellhausen & Peinhardt, 2024).

In addition to its defense strategy, China also proactively uses the law to shape new norms through repeated claims and lawsuits. For example, in the case of US tariffs that have been repeatedly challenged at the WTO, China is not only trying to win but also creating legal precedents that systematically benefit it. In the long term, this strategy creates soft law, or new norms that, while not formally binding, still shape expectations of state behavior. This is the transformational power of strategic legalism (Chang, 2022).

On the European side, the European Union utilizes lawfare through institutional reform. The proposal to establish a Multilateral Investment Court to replace ISDS reflects the EU's desire to reshape the international legal system to be more transparent and sustainable. However, implicitly, this is also a way for Europe to limit China's room for maneuver and reaffirm European legal dominance in the global framework. Legal reform here is part of international politics, not merely normative improvement (Vanhullebusch, 2020).

Another equally important implication is the emergence of repressive domestic policies that are channeled through the law. China issued the Unreliable Entity List as a response to US and EU sanctions. Although its legality is national in nature, its impact is international in scale because it threatens the existence of foreign companies in the Chinese market. This is a form of defensive lawfare developed to create a deterrent effect and strengthen bargaining positions in bilateral negotiations. Once again, the law becomes an instrument of pressure, not just regulation (Czerwiec, 2021).

Furthermore, lawfare has inspired developing countries to form legal coalitions against the dominance of developed countries. Through forums such as BRICS and ASEAN+, a legal pluralism approach has emerged that rejects the universality of Western legal norms. These countries, including China, are pushing for the formation of alternative norms that are more contextual to the interests of the Global South. In this context, law is changing from a tool for conflict resolution to a field of contestation of values and narratives (Hempelmann, 2022).

This tension has a direct impact on the structure of economic multilateralism. China and its allies are pushing for WTO reforms that are more inclusive of developing countries, while the US and the EU continue to emphasize reforms based on transparency and oversight of state subsidies. These two poles reflect an ideological battle through legal channels, where the debate is no longer about the law itself, but who has the authority to define it. This is a form of legal sovereignty competition within the global regime (Petersmann, 2024).

The strategic implications of lawfare also extend to the corporate world. Multinational companies are now developing cross-border legal strategies as part of their survival strategies. The most obvious example is ByteDance and TikTok, which face the threat of bans in the US and Europe. Here, companies are using the law as both a shield and a sword, using litigation to delay bans and build public narratives. Corporations are becoming active transnational legal actors in geopolitical contests (Huang'an & Xiaofu, 2021).

All these dynamics show that the law is no longer a neutral normative arena. It has transformed into a legitimate, effective, and long-term instrument of conflict. In the context of China-West relations, law has become the primary space for the projection of power, where legal arguments are as sharp as economic weapons or military diplomacy. Lawfare is not merely a method of litigation, but has morphed into an integrated geopolitical strategy, requiring an equally sophisticated foreign policy response (G. Shaffer, 2021).

5. CONCLUSION

The research demonstrates that international trade law has undergone a substantial paradigmatic transformation in the context of the Sino-Western rivalry post-2018. Employing the analytical framework of Lawfare Theory, the findings suggest that international trade dispute resolution mechanisms namely the WTO Dispute Settlement Mechanism and investor state dispute settlement (ISDS) have forfeited their function as neutral arbiters of economic conflicts. They have been systematically transformed into strategic instruments of statecraft, deliberately utilized to advance geopolitical objectives, create normative authority, and recalibrate power dynamics within an increasingly fragmented global order. In this context,

legal compliance is no longer primarily founded on a collective adherence to universal values. Rather, it is predicated on strategic calculation, wherein adherence to judicial rulings is contingent upon their alignment with national goals.

The utilization of trade law as a tool has significantly influenced the framework of the international legal system. Significant powers, particularly China and Western nations, have strategically influenced legal norms, procedures, and institutional frameworks. This has rendered global trade governance less coherent, predictable, and legitimate. This dynamic exacerbates the existing disparities in the international legal order, since nations possessing superior legal expertise, institutional resources, and litigation experience are more adept at exploiting procedural intricacies and normative ambiguities. Conversely, developing nations remain structurally disadvantaged and are increasingly excluded within dispute resolution frameworks that fail to provide substantive equality or adequate legal safeguards. Thus, international trade law may bolster power hierarchies rather than mitigate them, transforming law from an instrument of global justice into a mechanism for sustaining geopolitical dominance.

This research asserts that international trade law is at a critical juncture. In the absence of substantial institutional reform and a revitalized collective commitment to legal neutrality and multilateralism, the persistent manipulation of law for geopolitical ends threatens the enduring viability of the rule-based international economic system. In an era of multipolar competition and divergent standards, law must be regarded not merely as a collection of technical regulations, but as a crucial component of foreign policy, strategic communication, and power dynamics. This study frames trade law as a site of legal and geopolitical conflict, enhancing broader academic discourse on the evolving nature of international law and underscoring the necessity for interdisciplinary approaches to understand the transformation, contestation, and weaponization of legal norms in contemporary global politics.

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