An International Multidisciplinary Journal
अनन्यशास्त्रम्™
(A Unique Treatise of Knowledge)
ISSN:3049-3927 (Online)
Volume: 01 | Issue: 03 | December: 2025
Research Article

ANANYAŚĀSTRAM:
An International Multidisciplinary Journal
(A Unique Treatise of Knowledge)
Peer-Reviewed | Refereed | Open Access Journal
DOI: https://doi.org/10.64328/aimjv01i03007

Principles of International Trade Law: Tracing Deep Roots from the Forgotten Principles of Ancient Indian Law

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Abstract

The ongoing impact of ancient India as a critical node of world trade, especially emphasized through the Indus Valley Civilization (around 2500 BCE) and its central location along historical patterns of trade networks, underscores the significance of analyzing its elaborate regulative systems. This paper contends that the Ancient Indian Knowledge System (hereafter referred to as IKS) presents an elaborate, systemically integrated, and ethically rooted basis upon which current principles of International Trade Law are grounded. It extends beyond purely scholastic expositions to set forth the IKS as a viable, cohesive system of governance, economic control, and juridical administration seeking to foster stability and societal good in diverse field areas of trade.

Central to this rule's regime is a confluence of legal scholarship and moral philosophy as exemplified by Kautilya's Arthaśastra. This foundational treatise comprehensively outlines governmental economic policy from minute rules of tariffs and customs to market regulation and safeguarding of national assets in foreign trade. Characteristically, the broader IKS positions business activity in a higher order ethical context that fosters such virtues as balanced trade, mutual advantage, and long-term environmental stewardship. This normative context broadly calls into question narrow, exclusively profit-based objectives of current corporate globalism through an adoption of balanced thinking in wealth creation. Additionally enhancing this framework is the fundamental socio-legal concept of Vasudhaiva Kuṭumbakam ("the world is one family"), which establishes an ethical foundation for interconnectedness and interdependence within international relations. This paradigm reframes global exchange not as a zero-sum transaction focused solely on profit, but rather as a means to promote collective prosperity and facilitate cultural exchange. Moreover, the Indian Knowledge System (IKS) established operational frameworks for the administration of commercial contracts and the

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resolution of cross-border disputes among merchant guilds, thereby contributing to the foundational aspects of what is presently recognized as private international law in trade, thus ensuring stability and fostering trust throughout extensive Eurasian networks.

In short, the principles from Indian Knowledge Systems (IKS) provide important normative direction towards structural reform of international trade institutions. An emphasis on community-based development and ethical business practice provides a strong counter-narrative to challenges from ongoing globalization. Furthermore, inherent obligations of IKS to protect Traditional Knowledge (TK) provide a relevant and timely reference to ongoing intellectual property debate that suggests that intellectual property law mechanisms such as trade secret law can be harmonized with age-old ethical responsibility to protect intellectual heritage of a community. This work believes that the IKS provides an all-inclusive, ethically rigorous, and systematic regime of regulation of international trade. By placing an emphasis on holistic sustainability and ethical responsibility rather than just an emphasis on metrics of growth, it provides an alternate architecture that has important application to setting up a more balanced and more sustainable international economic order in this context.

Keywords: Ancient Indian Knowledge System, International Trade Law, Kautilya's Arthaśastra, Ethical Governance, Dharma, Vasudhaiva Kuṭumbakam, Sustainable Trade, Traditional Knowledge Protection, Global Economic Policy.

INTRODUCTION

Trade involves obtaining, distributing, and exchanging goods. It has existed since humans first sought or needed something possessed by others but unavailable to themselves. The figure of the merchant in the literature of ancient India flits about in a somewhat twilight zone. The merchant in the literature of ancient India occupied a pivotal and dynamic position, representing a powerful economic class. While they formed a distinct power center, separate from the ritual authority of the Brahmana and the political strength of the Kshatriya, this independence allowed them to innovate and drive wealth. The Brahmanical legal tradition, including the works of Manu, recognized the merchant's fundamental role, viewing them as essential contributors to the social order. This class was known for fostering great families and initiating economic growth through their practice of trade. But he is realistic enough to concede that the merchant and his operations are essential to the society at large and exhorts the king to compel him to work in trade and moneylending adding, however, that the merchant be watched very carefully. The prices charged by him must be regulated by the state rigorously and fixed by the king "once in five nights" or every two weeks.

Kautilya displays the same attitude of suspiciousness toward the merchant class. He generally dreads the possibility of accumulation of wealth in private hands and lays down elaborate and ingenious rules and regulations for squeezing numerous taxes from the merchant class and ordains that many commodities, in their production and exchange, be reserved for the state. He obviously favours growth of the monopolistic powers

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of the state and often betrays the feeling that a wealthy merchant class and the power of its guilds may contribute to the erosion of the majesty of the state.

Barter systems and trade in kind gradually evolved into more sophisticated forms of exchange that utilized commodity currencies such as bronze or copper ingots, and even cowry shells. During the Vedic period, items like cattle, shells, beads, and various metals served as mediums of exchange. However, these were primarily suited for large-scale trade, while smaller transactions required a more practical solution, coins or money. Many ancient civilizations introduced coins as an efficient way to compensate warriors, a concept that soon spread to civilian use. Evidence of early Indian trade, dating back roughly three and a half millennia, indicates that the Indian subcontinent was a major commercial hub in ancient times. Signs of economic activity are also evident in the public life of Indians as far back as the Stone Age. .

From its earliest days, Indian trade flourished in every form, whether confined to domestic markets or extending to long-distance international exchange, conducted over land or sea. In ancient times, trade primarily revolved around luxury goods such as precious metals, spices, and fine textiles. However, with advancements in maritime technology that made shipping faster, more reliable, and less costly, even everyday commodities like olives and fish paste began to be traded across great distances.

Commerce also facilitated the exchange of ideas and cultural practices, significantly influencing language, religion, and art through growing contact between civilizations. The rise of international trade led to the establishment of trading emporiums, many of which evolved into colonies. As competition for resources and lucrative trade routes intensified, rulers often sought to seize the wealth of other nations, leading at times to wars.

Substantial evidence shows that maritime trade thrived during the Vedic (1500–800 BCE), Mauryan (c. 324–187 BCE), Kushana (c. 30–375 CE), and Gupta periods, as well as under later southern dynasties like the Pallavas, Chalukyas, and Cholas. The Rig Vedic sailors' aspiration, *"May our ship embark to all regions of the globe,"* reflects this maritime spirit. Similarly, Buddhist literature, especially the Jataka tales, contains numerous accounts of sea voyages, shipwrecks, and missionaries traveling overseas. Feeder land routes connected production centers to ports and vice versa, serving as vital collection and distribution networks in the broader trading system.

TRADE IN ANCIENT INDIA

The main challenge for the first two-legged man was to protect himself from predators and find foods. Man used rock caves and rock shelters as his habitat in the early days. As for food, they used to hunt and eat animals daily. Their lives were simple, and they did not have massive needs. Humans had finished hunting animals and began cultivating and domesticating animals for their needs by the next moment. As a result, they began to create permanent habitats instead of living by traveling based on the seasons. Over time, it became clear to them that living on these farms was relatively difficult compared to hunting down the previously trained

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animals. With that, they began to focus on sharing their products. This is the beginning of an exchange economy. Man, first exchanged the surplus of his plantations with one another and later made costumes and weapons. This was initially limited to where they lived. But then they took their products out of their settlements along various new routes. But human beings realized the dangerous nature of traveling alone and then began to travel in groups. This can be identified as caravan trade. The beginning of the caravan trade can be dated back to the proto historical period. When it comes to India in Indus Valley cities, they began the exchange sales first in the Asian region..

Piggott believes that perhaps the merchants from Harappa came to south Baluchistan, but their stay was not more important than the temporary sojourn of caravans. This view, put forward by Piggott, is made easier by the city organization found in the two major cities of the Indus Valley. Most of the features are typical of modern developed cities. Archaeological excavations at Lothal also unearthed a small replica of Mohenjo-Daro by Rao. K. N. Rao reveals that there were shops on both sides of its main streets. Also, late excavations at the Lothal uncovered a dock. This dock is clear evidence of the Indus Valley shipping trade. Then Rao and Kosambi found some boat figures inscribed in Harappan age potteries. Later, George F. Dales also found a terracotta object representing a boat.

The river valley civilizations of world history reveal a great deal of the connection with those civilizations. The Mesopotamian and Indus Valley Civilizations are two major river valley civilizations that provide evidence in this regard. Analysts point out similarities between the pictorial characters found in these two civilizations. They also point out that these two groups of civilizations may have maintained a barter system. Despite these connections, the remains of a large building found in Mohenjo-Daro have now been identified as a granary. It confirms that these people used some form of banking or savings system. The Indus Valley Civilization was active in India from around 2500 BC - 1700 BCE. Evidence for an advanced banking system associated with Mesopotamia can be seen in the findings of grain stores, animal farm findings, and other valuable commodity storage sites. When the exchange was predominant, animal exchange was mainly used, and castles were used as a medium. As Figueira points out, man has come to need money as a definite factor. They were eager to find alternatives. On the other hand, they believe that such a medium of exchange can make the affairs of society more just and fair with greater transparency. Moreover, they have identified the need for a small medium of exchange for assistance in times of war. Athens, Aegina, Currant, and Persia followed suit and created their coins.

After the Indus valley age, the Vedic age began in India. In this period, Vedic literature mentioned “pani” or “Panin” as the name of merchants. But they collected their Excess and began to visit village to a village. In long-distance trade, they understand that they need the support of others to protect them from wild animals and robbers. Then they started to move as a group. Also, these traders began to worship certain gods and goddesses for their protection. In north India, there are many temples for yaksha “Manibhadra,” and Yaksha

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"Parkham". The literature source says about a person called "Sārthavāha." Sārthavāha is self-explanatory and the leader of traveling merchants who invested in their capital.

In the 6th century BCE, these merchants got the third position in society called "Vaiśya." However, most religions are never ready to accept these commercial activities positively, However, society is realistic enough to acknowledge that the merchant and his activities are essential to society. But Buddhism did not view commercial activity negatively. This is clear from the Buddha's portrayal of himself as a merchant in his previous life. For example, stories (jātakas) like Vannupatha, Kutavanija, Seravanija, Samudra Vaiśya, and Mahā Janakajātakas say about the history of traders and caravans. Because of the place that Buddhism gave to them, many Indian merchants became Buddhists. As a result, from the 2nd century BCE to the 1st century CE, trading ships and caravans from India transported Buddhist monks and their primary cargos of goods such as textiles, ivory, sandalwood, and spices. In the form of manuscripts, images, and other portable icons, material Buddhist culture also traveled along the trade routes, carried abroad by those who needed religious objects for protection, veneration, or proselytizing purposes.

The Philosophical and Regulatory Foundations of Ancient Indian Trade Governance

This systematic analysis transitions from the empirical evidence of ancient Indian commerce to the complex philosophical and legal structures that governed it, establishing the ethical state and its unique approach to market regulation. The goal is to articulate the historical context that necessitated sophisticated legal principles long before the emergence of modern Western doctrines.

A. Dharma, Artha, and the Ethical State: Guiding the Market Economy

The framework for commerce in ancient India was profoundly influenced by the nation's traditional knowledge systems (IKS), which are rich, diverse, and rooted in the Vedas, Upanishads, and Puranas. This traditional knowledge system is holistic, acknowledging the interconnectedness of all aspects of existence—from the individual to society, and from the human to nature.

This integration meant that the pursuit of prosperity or wealth (Artha)—which Kautilya deemed necessary for a state to remain sovereign and protect its people—was not an end in itself. Instead, the pursuit of wealth was deemed essential for upholding Dharma (righteousness, duty, and moral code). This foundational relationship established a moral teleology for all economic activity, asserting that the world rests on dharma, and the root of dharma is wealth (artha). This concept moves beyond purely spiritual realms, providing a basis for ethical business practices and sustainable economic conduct. Arthashastra, albeit concerned with statecraft, adheres to the prime principle that the ruler should place the welfare of the subjects first so that the people are "happy and prosperous". Such an overall, value-oriented model, equating the subject matter to the art of inducing people to a common end, is a marked departure from sheer profit-oriented models, building a powerful moral foundation for interventionist markets.

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B. The Kautilyan Model: Resource Management, Sovereignty, and Vyavahara

Ancient Indian political economy is essentially that of a regulated economy, epitomized in Kautilya's Arthashastra, with an accentuation of the twin goals of maximization of resources and optimal management. Kautilya's insights reflect an acquaintance with fundamental principles of economics, the behaviour of demand and supply, and the resulting aggregate price-determination.

Kautilya specifically counseled the ruler not to arbitrarily fix prices but rather to look to the realities of the market—such as the cost of production, the proportion of supply to demand, and an equitable profit margin—to bring about an "equilibrium price" to the benefit both of the consumer and the producers. Beyond mere levying of tariffs, the state took an active, correcting role to stabilize the market. Specifically, where the situation is that of glut (surplus production), the state needed to step in and concentrate sales so that the price did not fall below a "certain minimum level", tantamount to a contemporary price floor. Kautilya also explicitly refers to the matter concerning the monopoly and the natural conflict-interest situation between state enterprises and private enterprises. He called for establishing clear profit margins, giving private businessmen an average 5 percent to 10 percent profit margin in their business, and requiring intervention in the markets to achieve price parity, thus securing the incentives that the private sector needs to thrive and keeping state initiatives from crowding out private competition. Such planned, subtle interventionist strategy placed economic stability and equitable competition above strict *laissez-faire* ideology.

C. The Dual Nature of International Relations: From Mātsya-Nyāya to Sarva-Bhauma

Ancient Indian state philosophy necessarily understood the notion of "external" sovereignty—the state's freedom from coercion—as central to state theory. Such an idea formed the international relations framework.

On the one hand, political realism (Realpolitik) held sway over transient strategy through the Doctrine of Mandala (sphere of influence). The Vijigeesoo (hopeful for conquest)–centered doctrine stressed the enlargement and continuous "upward striving", hypothesizing the perennial existence of *Mātsya-Nyāya (the fish law, or anarchy)* abroad. Such theory, evidenced through the lines of the Mahabharata, decreed that *"victory is the root of right"* and necessitated continuous "*preparedness" (danda or the* "*mailed fist")* due to the fact that "all rulers are unfriendly" and "covetous of territory". Such a framework directly mandated the state's stringent control and regulation of overseas trade due to the vast inherent perils of journey through hostile territories.

In opposition to this pragmatic, war-oriented doctrine stood the idealistic centripetal dream of *Sarva-Bhauma (world sovereign)*. Such an entity, associated with the great ethical ideal of *Vasudhaiva Kuṭumbakam (*"*the world is one family")*, depicted a world state or universal empire under the jurisdiction of peace and central direction. Such an ideal, with roots found in the Maha Upanishad, extols international principles of universal values, common responsibility, economic parity, and international respect among nations, calling for the working collaboration rather than competition and exclusivity. Such a paradigm redrew international exchange

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not as a game with a dead end, but rather through the facilitation for the furtherment of common prosperity and cultural intercourse, adhering to the latest tenets of Corporate Social Responsibility (CSR) and sustainable business practices.

Tracing Roots of Non-Discrimination: The Ancient Counterparts of Most Favored Nation and National Treatment

The core legal principles governing trade in ancient India reveal sophisticated approaches to non-discrimination, establishing compelling functional parallels with the cornerstones of modern International Trade Law (ITL): the Most-Favoured Nation (MFN) and National Treatment (NT) principles.

A. The Most-Favoured Nation Principle (MFN): Functional Equity vs. Formal Equality

The modern MFN principle, a foundational clause of the GATT and WTO system, requires that any concession or privilege granted to one trading partner must be extended immediately and unconditionally to all other WTO members, thereby prohibiting discrimination based on the country of origin among trading partners (inter-se). The MFN rule applies primarily during trade negotiations and affects tariffs and trade benefits.

Kautilya's system, however, utilized a mechanism that outwardly contravened this modern ideal of formal equality. The Arthashastra prescribed higher allowable profits on imports (10 percent) compared to profits on domestic goods (5 percent). This differential pricing mechanism would constitute discrimination under the strict interpretation of the modern MFN principle.

The rationale was, however, one of functional equity. Kautilya explicitly compensated the higher risk inherent in international trade, citing the "great danger of being robbed and looted at the time of shipment," as justification for the increased 10 percent profit margin on imported goods. This profit differential acted as a formalized, state-recognized risk premium, aligning Kautilya's concept of profit with modern theories that view profit as a reward for uncertainty. This reveals a systematic integration of risk-adjusted compensation into pricing policy, ensuring continued market participation in essential but dangerous long-distance trade routes, a measure aimed at functional equity rather than formal equality.

B. The National Treatment Principle (NT): The Regulation of Internal Commerce

The contemporary National Treatment principle requires that imported foreign products, now that customs duties are paid and it is in the domestic market, be accorded not less favorable treatment than "like" domestic goods. The post-entry principle, aimed at prohibiting "hidden protectionism" through the prevention of the use of internal taxes or domestic regulations to grant protection to domestic production, aims at promoting a competitive business environment.

Kautilya's domestic regulatory system exhibits an overwhelming functional equivalence with this principle. Faced with the natural conflict of interest that results from the co-existence of state establishments and the

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private sector, Kautilya advocated an active state policy aimed at ensuring "some parity in prices". The overt intention being to prevent the state activity from "stifling the incentive for the private sector". The administrative directive of ensuring price parity accomplished the identical functional result that the contemporary NT achieves that of shielding internal competition from the unequal advantage of the sovereign regulatory or economic power.

Due Process and Predictability in Commerce: Shulka Administration To Modern Transparency

For trade to thrive over extensive networks, legal predictability and administrative procedural fairness are indispensable. Ancient Indian government fostered institutional mechanisms to render this commercial certainty, directly looking to the functional objectives of contemporary transparency and arbitration systems.

A. Codified Tariff and Levy Administration: The Sulkadhyaksa and the Samaharta

Kautilyan state built a formalistic bureaucratic system to handle the state finances, with the result that taxation and administration exhibited predictable patterns and due process. The term Shulka was used to mean tax in a general sense, payable by traders.

The state employed a dedicated Chief of the Tariff Department *(Sulkadhyaksa)* and a Chief of Tax Collection *(Samaharta)*. The Samaharta was responsible for monitoring gross income, including tariff revenues, and managing state storehouses. This rigorous, documented system required the prompt and systematic administration of tax laws, thereby creating a stable and predictable framework for commercial operations. This administrative structure directly addresses the fundamental concern encapsulated in the modern Transparency principle (GATT Article X), which requires prompt communication and impartial administration of all laws and regulations affecting trade, granting private persons a "reasonable opportunity to acquire the information" necessary to adjust their activities. The bureaucratic machinery under the Sulkadhyaksa thus provided the essential elements of functional transparency and predictability in a sprawling ancient empire.

B. Quasi-Judicial Mechanisms: The Role of Merchant Guilds (Shreni) in Dispute Resolution

Beyond the formal state structure, the private commercial sector established its own highly sophisticated, self-governing mechanisms for commercial predictability. Ancient Indian merchant guilds (Shreni) were complex, multifaceted organizations that operated as a combination of a trade union, a technological institution, and a specialized court of justice.

The Shreni system performed critical regulatory and judicial functions. They were also tasked with establishing wages, working rules, standards, and prices for members. Crucially, the Shreni also held judicial or quasi-judicial jurisdiction to resolve disputes between members, hear rule breaches, and settle disputes involving commercial agreements. They were able to enforce agreements and exact fine or penalty, with fast-tracking often outside the state courts. In addition, these guilds formally handed over the internal rules, to be known as the Shreni Dharma, to the state for later use to resolve disputes. Such institutionalized system of

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commercial justice, utilizing at times the method of mediation and arbitration found here and there through the Vedic period and among the Dharmasutras, is a direct functional precursor to the contemporary commercial Alternative Dispute Resolution (ADR) and arbitration, securing commercial certainty, speed, and industry expertise needed to support successful international trade.

Beyond Self-Interest: The Moral Economy and Principles of Sustainable Trade Law

The philosophical underpinning of the ancient Indian law goes beyond mere regulation of bare transactions to expound a comprehensive moral framework that speaks to global citizenship, sustainability, and intellectual property—issues that characterize contemporary International Trade Law agendas.

A. The Universal Ideal: Vasudhaiva Kuṭumbakam and Global Equity

The moral principle of *Vasudhaiva Kuṭumbakam (“the world is one family”)*, with roots in the Maha Upanishad, is an attractive philosophical alternative to the hard geopolitical realism *(Realpolitik)* that is the Mandala doctrine. Its central concept is to highlight the universal values, common duty, economic equity, and reciprocal respect for nations.

This universalist ideal is a powerful template for ethical, sustainable, and responsible social global commerce. It overtly champions co-operation rather than competition and inclusion rather than exclusivity, being an ancient rejection of the maximization of pure, self-interested national competition for business. In calling for economic advancement to the benefit of all stakeholders equally, this principle is directly aligned with the present principles of Corporate Social Responsibility (CSR) and the required aims of sustainable business practice.

B. Traditional Knowledge (TK) and Sustainable Bioprospecting: Antecedents to Modern Protection Regimes

Ancient Indian knowledge systems, derived particularly through the practice of Ayurveda and the development of the concept of the Sacred Groves, embraced deep ecology and an intimate knowledge of the interdependence between the health of humans and the natural environment. This ancient deference to communal intellectual heritage is the foundation for the contemporary problem of how to protect Traditional Knowledge (TK).

TK is useful, collectively constructed agricultural, medicinal, and environmental knowledge frequently taken for commercial purposes without remuneration, a process termed “biopiracy”. As contemporary Intellectual Property (IP) law is unable to secure this knowledge due to the age and lack of novelty, India successfully established the Traditional Knowledge Digital Library (TKDL) as an effective defensive tool. This public database supplies prior art evidence to block the grant of mistaken Western patent applications.

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For constructive protection, for sensitive, largely clandestine TK, the legal tool of trade secret law is an attractive model. Trade secret law is defended on the normative grounds of promoting trust and stimulating the disclosure and sharing of information on fair terms through the legal guarantee that knowledge disclosed under confidence will not be pilfered. This system of protection reduces the suspicion among indigenous and local peoples toward outsiders, fostering collaboration—for example, with drug developers—to deliver safer, better products to broader markets. This strategy is appropriate since the requirements of novelty, non-obviousness, or recognizable inventorship under patent law are not present with trade secret law, and the latter can protect incrementally and collectively constructed knowledge.

C. Ethical Sovereignty in Trade: Kautilya's Progressive Excises on Societal Damage (Antecedent to Sin Tax)

Kautilya's regulatory system afforded an exact system for the integration of public morals and social protection within the field of trade and taxing policy. Kautilya recommended moderate, fair, and reasonable rates of taxation, with a suggestion not to cross 16 percent to 20 percent for the majority of economic activities.

Important to note, Kautilya suggested the imposition of very hefty taxes up to 50 percent or higher for goods or services that are injurious to society, e.g., liquor, or for some non-essential occupations. Such use of fiscal instruments to knowingly discourage adverse social activity and nullify adverse externalities is directly the forerunner to contemporary "sin taxes" and, more generally, conceptually consonant with the General Exceptions provision in contemporary ITL (GATT Article XX), whereby WTO members are allowed to adopt trade actions that are necessary to protect public morals or human, animal, or plant life or health. This demonstrates the ancient state's right to promote social and moral health over mere revenue-raising.

Conclusion: Reaffirming India's Role in The Lex Mercatoria Antiqua

The international principles of trade and commerce, generally uniquely traced to the post-medieval Western state-building, have deep, refined origins within the Ancient Indian jurisprudence and statecraft. Analysis of classical Indian literature, especially Kautilya's Arthashastra and the commercial guild codes, reveals that an integrated, legally rationalized system—a lex mercatoria antiqua—existed for millennia. This system required a regulated, functional equity-based economy, illustrated by Kautilya's risk-differential profit margins for imports, a model that stabilized the markets by paying compensation for transnational risk. The stringent, documented, bureaucratic system, personified through the Sulkadhyaksa, introduced functional transparency and foreseeability to trade regulation, an indispensable component that precedes and runs parallel to contemporary international legal requirements for administrative due process. In addition, the Merchant Guilds *(Shreni)* were sophisticated, quasi-judicial, self-government mechanisms, encompassing the upkeeping of the Shreni Dharma, that efficaciously settled commercial contract disputes and enforced standards, functionality forerunning the requirements for contemporary specialist commercial arbitration and ADR.

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In addition to these technical legal comparatives, the moral framework derived from the ideal of *Vasudhaiva Kuṭumbakam* presents an essential model for the contemporary International Trade Law through challenging geopolitical competition and giving prominence to sustainable development and economic equity. Finally, through proactivity initiatives such as the TKDL, India illustrates an institutional route for securing its Traditional Knowledge and its collective intellectual heritage, utilizing the principles of trade secrecy to promote ethical disclosure and collaboration rather than appropriation. These integrated principles affirm India's ancient and perennial contribution to the global economic governance and provide essential, ethically informed architectural models to shape a more balanced and sustainable international trading regime.

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