



TRADE AND ENVIRONMENT

Ongoing negotiations to incorporate environmental concerns in trade World Trade Organization (WTO)

Committee on Trade and Environment set up in 1995

No. of members in WTO 142 (as of July 26, 2001)

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Problem

Economic globalisation has led to increased trade conflicts between countries. As developing countries liberalise trade policies to compete globally, the North invents new barriers to protect its industries from cheaper imports from the South. For developing countries, eager to participate in the markets of rich industrialised countries, free trade under the North-driven World Trade Organisation (WTO) has meant more costs and little advantage. They see trade restrictions as a form of 'protectionism' used by the North to protect its own companies from cheaper competition. Northern countries have also resorted to exporting domestic legislation (and morality) to other countries to 'protect' the environment. But how far can one government intervene in another country's affairs on environmental grounds? This problem continues to dog the WTO.

History of conflict

The world initiated a multilateral trading system with the establishment of General Agreement on Tariffs and Trade (GATT) in 1946 to promote trade liberalisation. The Uruguay Round, held between 1986 and 1994, led to the creation of the WTO in 1994 to administer the global framework of international trade rules and agreements.

In the global arena, trade and environment issues are governed by two, sometimes conflicting, frameworks — WTO and multilateral environmental agreements. The General Agreement on Tariffs and Trade (GATT) article XX on general exceptions allows for trade restrictions when they are necessary to protect human, animal or plant life or health. This provision has made WTO an unintended environmental authority, since it allows the possibility of trade protectionism, using environmental concerns as an excuse. Some 180 different MEAs have come up over the years. Of these, only roughly 20 incorporate trade measures. The trade and environment linkage, thus, is either strengthened or weakened depending on whether WTO or the MEA is given precedence.

Several judgements of the WTO's dispute settlement board and appellate body have been equally non-committal in addressing the controversial issue of whether one country can take unilateral action against others, and in addressing the conflict between the WTO and MEAs. For instance, four Asian countries objected to a US ban on shrimp imports on grounds that turtle excluder devices were not used while catching the shrimp, leading to the deaths of endangered turtles. The WTO ruled against the US, but only for the manner in which the country had enforced its certification programme — not because it amounted to 'extra-jurisdictionality', meaning enforcement of domestic US laws on the other four countries.

Globally acceptable standards for 'process and production methods' (PPMs) will open a Pandora's box of trade conflicts. How shrimps are caught, is tuna dolphin-safe, are animals grown in open stalls or factories — all these will become matters of international concern.



ozone depletion

hazardous waste

prior informed consent

right to information

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climate

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desertification

persistent organic pollutants

forests

trade and environment

multilateral agreement

on investment

global environment facility

institutions for environment



Globalisation may mean loss of sovereignty, but this has to be across the board, among rich and poor. Global democracy must become accountable to every person on equal terms, instead of being used to further the interests of a few strong countries

In some cases the WTO allows for trade sanctions — serving the rich and not reciprocally applicable. Northern countries successfully threat poorer countries with trade sanctions. In response, developing countries might lose more than they gain if they imposed trade sanctions on powerful Northern players. But trade wars do not only take place between the North and the South. The US has attempted to use WTO to force European countries to buy its genetically modified products and hormone-treated beef. The EU has resisted this attempt on the grounds of the threat this poses to public health.

Challenges ahead

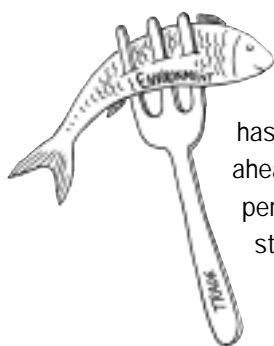
As was evident at the 1999 WTO ministerial meeting held in Seattle, USA, civil society in the North, particularly the US, supports the use of trade as a lever to control the environmental behaviour of poorer countries. This goes to prove that Northern groups cannot be trusted to represent Southern issues. Developing country governments will have to support and encourage their own groups. Their message to Northern groups should be: leave us to use whatever little resources and expertise we have in trying to deal with our own development concerns, rather than in fighting off your governments in expensive lawsuits. Globalisation may mean loss of sovereignty, but this has to be across the board, among rich and poor countries. The challenge ahead is to ensure that global democracy becomes accountable to every person on equal terms, instead of being used to further the interests of a few strong countries.

The focus of WTO now needs to turn to Southern concerns, if the world is serious about tackling poverty, or even to trade injustices perpetuated by WTO itself, such as the Agreement on Agriculture (AoA) that allows for subsidies in food production and turned out to be a biased agreement. The AoA contains major loopholes only beneficial for the North's share of world agriculture. Currently, the US and the European Union get away with their protectionist agricultural policies, including subsidies to farmers, which go against the grain of the WTO. Developing countries, on the other hand, are expected to conform to WTO rules, meaning no state protection for the agriculture sector.

In the run up to the Doha Ministerial Conference in November 2001, many issues remain controversial between the North and the South. Pakistan, India and other members of the Like-Minded Group, are stressing the lack of progress on implementation issues, including on textiles and anti-dumping questions. The WTO, however, questions such a rationale and sees this as an attempt to re-negotiate the Uruguay Round. Meanwhile, industrialised countries and China expect negotiations of a new round of trade talks in Doha.

Recently, the WTO appellate body has started accepting briefs from groups which are not members of WTO, such as non-governmental organisations (NGOs) and industry groups. This has raised fears among developing country governments that WTO is pushing the agenda of the rich and powerful by accepting briefs from Northern greens who support the use of trade sanctions to force their concerns on developing countries.

Efforts to set globally acceptable Process and Production Methods (PPMs) will be an enormous trade disadvantage to developing countries. Instead, existing disparities between the trade regime and MEAs, such as those between the WTO's Trade Related Intellectual Property Rights (TRIPS) regime and the Convention on Biological Diversity, should be thoroughly addressed. If there is a conflict, it must be resolved, but only on the grounds of environmental concerns as agreed to in multilateral fora, not on the basis of unilateralist action.



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