

WTO: HOW GREEN

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ABSTRACT

The increased emphasis on environmental policies is relatively recent years in the history of the multilateral trading system although shrimp-turtle and Venenzula-U.S. gasoline case is quite old. Still the WTO Committee on Trade and environment do not interfere to a great extent if environment agreement is not signed by the countries doing trade. Then the WTO would provide the only possible forum for settling the dispute. The preference for handling disputes under the environmental agreements does not mean environmental issues would be ignored in WTO disputes. The WTO agreements allow panels examining a dispute to seek expert advice on environmental issues. The objectives of sustainable development and environmental protection are important enough but there is no specific agreement dealing with the environment in WTO. The present paper delves in to same.

Keywords: Green, WTO

1. 1 INTRODUCTION

The WTO has no specific agreement dealing with the environment. However, the WTO agreements confirm governments' right to protect the environment, provided certain conditions are met, and a number of them include provisions dealing with environmental concerns. The objectives of sustainable development and environmental protection are important enough. The whole world is witnessing a paradigm shift in the way the businesses have been carried over the years and the way in which they are being designed in the present scenario. After the Second World War, the whole world was divided into two regional blocks, one that was led by the USA and the other which was headed by the then USSR. During the cold war scenario, the trade and business related to the international trade was done with the political interest being given more weight age than the business development plans. At the end of the Uruguay Round in 1994, trade ministers from participating countries decided to begin a comprehensive work programme on trade and environment in the WTO.

They created the Trade and Environment Committee. This has brought environmental and sustainable development issues into the mainstream of WTO work. The 2001 Doha Ministerial Conference kicked off negotiations in some aspects of the subject. Today 160 countries are WTO members and they have to follow these norms. Environment refers primarily to the things which are around us and infact the liberalization, globalization cannot achieved by neglecting the environment which is the prime reason for the development of mankind and a healthy environment is a must for the growth and survival of the mankind and for the coming generation. The developed countries of the world have always raised the environmental issues. Developed countries, particularly EU, were very keen on negotiations on environment related issues to accommodate concerns of their civil society. They wanted environmental considerations integrated throughout the negotiations in the new Round ('mainstreaming') which will also dilute the focused mandate of the Committee on Trade and Environment (CTE) to that extent. USA was further keen that Members right to set high environmental standards was not undermined by trade rules. US and CAIRNS Group countries also called for the removal of environmentally damaging subsidies such as agricultural subsidies and fishery subsidies that contributed to over capacity. Developing countries sought adjustments in the TRIPS Agreement for preservation of biological diversity and reward for traditional knowledge. The proposal to

mainstream environment dilute the role of CTE and the US proposal regarding environmental standards were opposed by some developing countries including India while there was considerable support for removal of environment-related subsidies. The TRIPS related proposals were supported by some, but there was no consensus.

1.2 Objectives of the Study

- To understand the limitation of WTO regarding environment.

1.3 RESEARCH METHODOLOGY

The study focuses on extensive study of secondary data collected from various books, national and International journals, government reports, publications from various websites which focused on various aspects of WTO and Environment.

Examples of Provisions in the WTO Agreements Dealing with Environmental Issues are **Intellectual Property:** Governments can refuse to issue patents that threaten human, animal or plant life or health, or risk serious damage to the environment (TRIPS Article 27).

Subsidies and Countervail: Those firms which adapt new environmental laws, will get subsidies, up to 20% of firms' costs.

Sanitary and Phytosanitary Measures: Explicit recognition of environmental objectives through Animal and Plant health and hygiene.

GATT Article 20: Policies affecting trade in goods for protecting human, animal or plant life or health are exempted from normal GATT disciplines under certain conditions.

GATS Article 14: policies affecting trade in services for protecting human, animal or plant life or health are exempted from normal GATS disciplines under certain conditions.

WTO Suggests

- First, Cooperate: The countries concerned should try to cooperate to prevent environmental damage.
- If the other country has also signed an environment agreement, then what ever action the complaining country takes is probably not the WTO's concern.
- When the issue is not covered by an environmental agreement, WTO rules apply. The WTO agreements are interpreted to say two important things. First, trade restrictions cannot be imposed on a product purely because of the way it has been produced. Second, one country cannot reach out beyond its own territory to impose its standards on another country.

Nature of Environmental Barriers These barriers focus on areas, which have been the subject of environmental campaigns to: (Aserkar and Vyas, 2007) • Eliminate use of toxic, substances - chemicals and heavy metals in particular

- Recycling of waste product and packaging;
- Protect wildlife;
- Raise food safety standards;
- Promote organic food and oppose genetically modified organisms(GMOs). Critical Environmental Issues
- Eco-labeling
- Effluent Emission Norms
- Standards regulating (maximum residue) levels of toxic substances in products • Standards for product harvesting

- Packaging and labeling requirements
- Standards mandating energy efficiency/emissions reductions
- Regulations pursuant to MEAs and other international treaties

The Basic Objective of Environment is Harmonization of Environmental Standards

The above said objective gives a required platform for the developing and the developed countries of the world to provide a level playing field which would ensure that no one who is a part of the WTO agreement would suffer either economically and environmentally. Harmonization refers to the process through which environmental standards in different countries are brought to similar levels. This process can become an issue in trade, because higher environmental standards may impose costs on manufacturers or other goods producers. Trade disadvantages could result for countries where more stringent standards increase the price of goods compared to that in countries with less restrictive environmental standards. The Organization for Economic Cooperation and Development (OECD) and the European Union (EU) have both actively promoted harmonized environmental standards (Joshi and Srinivas, 2007). During 1950-60s the value of world exports became more than doubled. During the 1970s the value of the world exports increased by about five and half times. During the 1980-90, the value of world exports increased by 80 per cent. In the first half of the 1990s, it increased by about 47 per cent. By the end of the 1990s, the combined value of the world trade in goods and services reached \$ 7 trillion and in achieving this growth the WTO has a leading role to play. But at the same time this growth of international trade in the recent past has come under attack for ignoring environmental and social issues in promoting global trade. There are ample evidence that it has undermined health, safety, environmental standards, and human rights in making trade policy worldwide. The Tuna-Dolphin and Shrimp Turtle case reveal the same. There thus exists an undesirable effect of rapid increase in trade on deforestation, depletion of Ozone layer, climate change, hazardous waste and exploitation of natural resources.

Why is the Environmental Topic Important for the WTO?

First of all, the WTO itself calls it a "new high profile". The trade and environment debate is complex and varied, and it involves some of the most fundamental WTO principles and rules, such as the concept of non-discrimination and the definition of "like products". It is a horizontal issue that cuts across many disciplines in WTO. For example, Multilateral Environmental Agreements have consequences for trade which may come into conflict with the general aim of the WTO to reduce trade barriers. In addition, the recent WTO round is marked by great cleavages and drifts and has more than once been at the brink of failure. Although they are not the main focal point of the internal cleavages, environmental issues bear the potential of worsening the North-South drift in the WTO, which could possibly escalate and eventually undermine the global trading system. Nordström and Vaughan (1999) regret that, "One of the unfortunate features of the trade and environment debate is that at times it has generated more heat than light": too many generalizations have been made both from the trade and the environmental communities. Trade and environment, as an issue, is by no means new. The link between trade and environmental protection both the impact of environmental policies on trade, and the impact of trade on the environment was recognized as early as 1970. Growing international concern about the impact of economic growth on social development and the environment led to a call for an international conference on how to manage the human environment. The 1972 Stockholm Conference was the response. Even technical assistance is also provided by WTO as detailed below.

2. REVIEW OF LITERATURE

Environmental Issues as Non-Tariff Barriers

With the progress of liberalization process, that is, gradual reduction of tariff levels and removal of quantitative restriction, mainly from agricultural and textile products, the developed countries are resorting to the alternate trade restricting measures. These new era barriers include the non-tariff barriers such as environment standards, food safety regulation, labeling requirement and quality standards. The trade and environment have are closely related to each other in free trade regime. This focus on trade and environment in the international trade framework helps promoting environmental protection and ensures an open, equitable, multilateral trade system. Environmental and health-related standards and regulations in developed-country markets are creating hurdles for the exports of products from developing countries like India. The environment-related non-tariff barriers (ETBs) generally cover all barriers that have been introduced by the importing country to protect the environment, as well as the health and

safety of wildlife, plants, animals and humans. Developing countries have to adjust their production processes in response to changing environmental regulations in developed countries. Measures such as pesticide maximum residue levels (MRL) permitted in foodstuffs, emission standards for machines, and packaging eco-labeling.

The Trade Liberalization and Environment

In theory, the objectives of trade liberalization and environmental protection are compatible: they both aim for the reduction of distortion and thus optimization of efficiency in the use of resources. From a normative, welfare-theoretical point of view, free traders and environmentalists have a common goal: the increase of social welfare. There are possible win-win situations in which trade liberalization and environmental protection interact positively, for example in the case of elimination of trade subsidies that increase environmental degradation such as agricultural over-use of resources, deforestation or the depletion of fisheries. Trade encourages the economy to develop - from primary resource extraction to manufacturing and eventually to (less polluting) services. If poverty is the core of the problem of environmental degradation, economic growth will be part of the solution of a shift from more immediate concerns to long-run investment into the future resources. Furthermore, an improvement in production techniques through international dissemination of technological knowledge helps reduce pollution.

Limited Role of the WTO Regarding the Environment

There is no international consensus on which role the WTO is supposed to play in environmental issues. Many free-traders would argue that the WTO should have nothing to do with environmental concerns, as its sole purpose is to promote free trade and that environmental protection should be left to another body, possibly the MEAs' secretariats or a new body. It is claimed that the WTO is not the appropriate institution for environmental concerns, as it is arguably overloaded. This trade round is arguably overburdened, and by advancing another contentious issue such as environment and trade, this might contribute to the failure of the already-fragile round.

Developing Countries and Environment

The issue of environmental protection based on PPM-discrimination has great consequences for the developing countries. These countries often find themselves on the receiving end of environmental regulation: due to structural weaknesses they are standard-takers, and not standards makers. Thus, many developing countries are very suspicious about high-income countries' motives and condemn this form of disguised protectionism vigorously. Krueger (2000) criticizes: "Those seeking protection have no hesitation in cloaking their aspiration with the legitimacy of other issues." It is thus vital that environmental concern do not become an alibi for reintroducing unilateral trade barriers, which have been reduced elsewhere. Recently, rather than tackling these difficult issues, discussions have concentrated on the win-win situations on agriculture and fishery, where trade liberalization could play a positive role for the environment. The width of existing decisions on the WTO has favored free trade but there is no closure on these issues, as can be seen from the second shrimp ruling. Thus, Brack and Branczik(2004) claim that, "The story of the trade and environmental debate in the world trade organization is one continued failure to make any substantial progress in rewriting WTO rules - but significant changes in the way in which existing rules have been interpreted."(Gnath 2008).

3. CONCLUSION

While the net effect of trade on the environment is not clear-cut, the implications from the recent literature are that trade expansion through liberalization is likely to affect the environment negatively. Thus, it is necessary to offset the effects, especially by adjusting global environmental policies upwardly through international coordination. The stance of the WTO on this is not entirely clear: WTO is not an environmental organization but it is getting greener. In particular, WTO case law has developed in favor of environmental protection. Yet, in spite of the political recognition of the importance of environmental aspects and the link with trade and the WTO and the recent rulings, environment issues are still sidelined or treated as a residual issue. Although WTO is not the right forum to raise environmental issues, developed countries are using this forum for protecting their economies. Still tough actions are needed to be taken for overcoming environmental barriers successfully. WTO is looking after the implementation of the ETBs in international trade, still the members are skeptical about the issue that whether it is the right forum to discuss these issues or not. Though WTO advocates the clause of free trade, the developed nations are using the ETBs as trade restrictive measures against the developing nations. Thus, WTO needs a more focused approach towards the implementation of the environmental issues so as to ensure more liberal and competitive trade

environment. Presently the Trade and Environment Committee is more concerned about what happens when one country invokes an environmental agreement to take action against another country that has not signed the environmental agreement. "The WTO is clearly unqualified to deal with complex scientific and environmental issues, and yet, when there is a conflict between trade and environmental considerations, it is the WTO that gets to decide which rules rule; it's like putting the fox in charge of the chickens," said Daniel Mittler, Trade Policy Advisor at Greenpeace International. WTO needs to address environmental concerns in a way that does not increase the inter-organizational drifts and that strengthens the WTO as part of the global governance architecture. There should be consideration of all for developing standards. The standards should to be framed for the better trade and development relations among the member countries should be based after taking into consideration all the practical limitations of the member countries. This would ensure that there is no conflict among the member countries and that they could understand the importance of safer environmental standards. And thus WTO will become more green without conflicts

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