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# Conglomeration of Environment with WTO

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## ABSTRACT

Today the environment has been mainstreamed into the multilateral trading system, and has significant implications for future rules under the WTO regime. India had long maintained a position that the existing WTO rules provide are more than adequate to deal with trade measures taken for achieving genuine environmental goals and it is neither necessary nor desirable to exceed that scope. India has traditionally supported multilateral efforts to protect the environment as well as the principle of free and fair trade, and will continue to do so. For instance, India's environmental interests would be to ensure concessional import of environment friendly technology and prevention of hazardous products that are domestically prohibited in industrialized countries.

**Key words:** Environment, WTO, Trade

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## INTRODUCTION

A growing number of developing countries look to trade and investment as a central part of their strategies for development, and trade considerations are increasingly important in shaping economic policy in all countries, developed as well as developing. At the same time, most of the world's environmental indicators have been steadily deteriorating. Much environmental damage is due to the increased scale of global economic activity. International trade constitutes a growing portion of that growing scale, making it increasingly important as a driver of environmental change. As economic globalization proceeds and the global nature of many environmental problems becomes more evident, there is bound to be friction between the multilateral systems of law governing both. As the integration of trade and environment is inevitable in practice, a proper framework within the WTO mechanism itself is essential to strike a balance between the two. The WTO gives great latitude to members to restrict trade to protect the environment. There are several provisions in the WTO agreements dealing with environment. However existence of uncertainties, ambiguities and conflict situation between WTO and environment is not denied. Such a conflict creates legal insecurity and is injurious to the world trading system.

## WTO AND ENVIRONMENTAL PROTECTION

Environmental requirements need to be addressed with a sense of urgency by the Indian Government and industry. Environmental policies are evolving rapidly, particularly in the developed world. Trade liberalization is of itself neither necessarily good nor bad for the environment. There are several provisions in the WTO agreements dealing with environment. There is a reference to sustainable development as one of the general objectives to be served by the WTO in the Marrakech Agreement which established the WTO. There are provisions in the Agreement on Agriculture and the General Agreement on Trade in Services (GATS).

## OBJECTIVES

- India is one of the founding members of the World Trade Organisation (WTO) and participation in the WTO rule based system implies greater stability, transparency and predictability in the governance of international trade and environment.
- Need has been felt for integration of trade policies with development strategies, increasing support to areas of finance and debt relief, recognising the importance of technology for development, improvement in market access for developing countries in sectors like textiles, clothing and agriculture, and providing better access to the dispute settlement mechanisms for these countries.

## ISSUES RELATED TO ENVIRONMENT AND WTO

India is proud to have been a founder Member both of GATT and of WTO. Over the years, the negotiators have played a prominent role in shaping the contours of the multilateral trading system as it exists today.

- **India launches Duty Free Tariff Preference Scheme for Least Developed Countries:**

In December 2005, WTO Ministerial Conference in Hong Kong took a decision to provide Duty Free Quota Free (DFQF) access to the Least Developed Countries (LDCs). India has implemented a Duty Free Tariff Preference (DFTP) Scheme in August 2008. India's DFTP Scheme is open to all the LDCs and it has followed a FTA approach for granting tariff preference. On majority of these items, duties would be eliminated gradually in 5 years. This Scheme provides preferential market access on 94% of total tariff lines and only 6% of the total tariff lines remain in the Exclusion List on which no preferential duty access would be granted. The items which are kept out of the concession list include items like poultry, milk & cream, vegetables like potatoes, tomatoes, onions etc., coconut, coffee, tea, beverages, spirits, some products of iron and steel etc.

The scheme provides preferential market access on products that comprise 92.5% of global exports of all LDCs. Products of immediate interest to Africa which are covered include cotton, cocoa, aluminium ores, copper ores, cashew nuts, cane-sugar, ready-made garments, fish fillets and non-industrial diamonds. This scheme provides for technical assistance to be given by India to the LDCs on a need-based basis for effective implementation of the scheme. As of now, seven LDC members have opted to avail this benefit. These are Cambodia, Tanzania, Ethiopia, Mozambique, Samoa, Malawi and Lao PDR. It is understood that more LDCs are in the process of opting for this Scheme.

- **Some issues on which India has expressed certain reservations. These are:**

- a) During the implementation of WTO agreements in the last six years, India has experienced certain imbalances and inequities in the WTO agreements. It is found that some developed countries have not fulfilled their obligations in letter and spirit of the WTO agreements, and many of the Special and Differential Treatment clauses, in favour of developing countries, added in various WTO agreements have remained in operational.
- b) Taking advantage of the exception clauses provided in the WTO, most industrialised countries are still enforcing various regulations on foreign producers and suppliers.
- c) WTO has not been able to ensure abolition of non-trade barriers being imposed on labour and environmental considerations, including the linkage in certain Generalised System of Preferences (GSP) schemes to these issues.

## WTO AND ISSUES RELATED TO ENVIRONMENTAL NORMS

Conventional environmental wisdom holds that environmental degradation continues largely unchecked even though environmental agreements and organizations have proliferated in the last thirty years. The new international environmental organizations are criticized for having failed to develop coherent environmental norms and having failed to devise effective mechanisms to induce their observance. Nearly a decade and a half of the WTO's operation have produced ample evidence that the WTO has undermined health, safety and environmental standards, human rights advocacy efforts, and democratic accountability in policy-making in the U.S. and worldwide. Historically, the Venezuela Gas, Tuna-Dolphin and Shrimp-Turtle cases revealed a systemic bias in the WTO rules and the WTO dispute resolution process against the rights of sovereign states to enact and effectively enforce environmental laws.

- **U.S. weakens the Clean Air Act to comply with Venezuela Gas WTO ruling:** The U.S. implemented the WTO ruling by replacing U.S. gasoline cleanliness regulations with a policy that the U.S. government previously had estimated would produce a five per cent to seven per cent increase in annual emissions of nitrous oxide from imported gasoline.
- **Cooling the Planet without Chilling Trade (Nov 13, 2009) *Washington Post Op-Ed by Lori Wallach and C. Fred Bergsten:*** There is a real danger that a collision between climate policy and trade agreements could derail two critical goals: controlling climate change and expanding trade. But this danger is avoidable. The op-ed demonstrates that the WTO must change, for the climate's sake.

Meanwhile, many poor countries have signalled that they want more financial support for the "green technology" transfers that would enable them to participate in a global climate accord, as well as greater access to these technologies. Implementing a treaty on global warming could require new trade rules in intellectual property, services, government procurement and product standards. Earlier this year, the Peterson Institute recommended a new code of "best practices" on greenhouse gas emission controls, including establishment of "policy space" for countries to limit emissions without sacrificing the competitive position of their industries.

- **Standards at the WTO as an Indian View Point:** Product requirements, environmental and otherwise are used to address a variety of concerns, ranging from food safety to ensuring plant and animal health. Environmental product requirements such as eco-labelling schemes, environmental product charges, packaging and recycling requirements are used to educate consumers and promote sustainable forms of production and consumption. The last decade has also witnessed proliferation in the number of voluntary environmental standards formulated and implemented by NGOs, either independently or with varying degrees of governmental participation. Among the factors accounting for heightened standardization activity are demand by consumers for safer and higher quality products, technological innovations, the expansion of global commerce and increased concern over social issues and the environment.

## MAJOR FINDINGS

- The "globalization" of the world economy has moved inexorably forward. The economies of Asian countries such as China, India, Malaysia, and Thailand are booming. In the process, they are significantly increasing global demand for energy thus adding to the ever present global environmental concerns.
- With respect to trade issues, many of the less-developed countries have created the greatest recent resistance to the global pressure to reduce trade barriers through World

Trade Organization (WTO) agreements. The main problem relates to agricultural products. Many of these countries have experienced a severe downturn in their domestic agricultural acreage because local producers cannot compete with agricultural exports and tariffs from major countries such as the United States. Mid-level developing countries such as Brazil, South Africa, India and China objected to any progress on reducing tariff barriers in general until the agricultural problem was resolved.

- Many environmental organizations have participated in the anti-global movement because they believe that the World Trade Organization has promoted policies which enable corporations to escape national restrictions on business practices by calling such restrictions "trade barriers". They also accuse global companies of dominating the politics of third world governments.

## CONCLUSIONS

The WTO regulates the rules of trade between nations at a global level. The issue of environmental protection cannot continue to be ignored. In the absence of proper environmental regulation and resource management, increased trade might cause so much adverse damage that the gains from trade would be less than the environmental costs. The WTO has only recently started to look at the effects of trade and the environment. The first step in creating a national environmental law needs to begin with the WTO's recognition of the problem. They have been going through the motions for years without taking affirmative action. By dealing forthrightly with these issues, the WTO can improve public support for freer trade and enhance its own status as a coherent and trustworthy instrument for global economic governance. Because the WTO holds the power to enforce change, the continuous pressure from activists will eventually force them into enacting environmental protection laws, regardless of the impact it has on trade.

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