

The Conflict and Integration of Environmental Law and Commercial Law: Exploring Environmental Responsibility in International Trade

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Abstract. The nexus between international trade and environmental protection is complex and of great significance. Policymakers, including the World Trade Organization (WTO), aim to combine the two targets within the sustainable development framework. However, deficiencies such as the vague environmental exception clauses persist in the environmental legal framework. This paper seeks to solve the contradictions in the current legal framework and enhance the uniformity of international trade and environmental agreements. It will first demonstrate the current dilemma of environmental responsibility in international trade, particularly examining the strengths and limitation of the WTO law in resolving these conflicts. The discussion will then compare the landmark Shrimp-Turtle case with the recent European Union's Carbon Border Adjustment Mechanism (CBAM) and analyze the historical challenges these cases highlight. Ultimately, this paper aims to offer suggestions to improve the legislative framework for international environmental responsibility in trade, and to achieve its enforcement more effectively.

Keywords: International trade; environment; WTO; Carbon Border Adjustment Mechanism.

1. Introduction

Trade liberalization and environmental protection are in conflict for decades, constituting one of the most important aspects of the relationships between economic development and the environment [1]. The contradiction between trade law and environmental law stems from their different goals. International trade law aims to foster the free trade between countries, and the trade agreements are contracted with the advancement of economy as policy fulcrum [2]. For instance, the Preamble of the General Agreement on Tariffs and Trade 1994 (GATT) recognizes that the purpose of WTO is to expand the production and exchange of goods among the Members. This purpose implies a favour for the overuse of resources instead of conservation [3]. However, the objective of environmental law is to protect the environment from being over-exploited or destroyed. The free trade of goods and services between countries requires the full use of resources, which leads to destruction of the environment. Likewise, the environmental protection measures limit the production and consumption of goods and service, causing impediment to the free trade. To solve the conflict, the WTO incorporates environmental protection rules in its agreements. However, the judgement of the Shrimp-Turtle case demonstrates that the contradiction still exists, and that the boundary of legitimate unilateral measure is obscure.

The purpose of this paper is to solve the conflict between trade liberalization and environmental protection. It will reveal the ambiguity of environmental exception clauses in the international trade agreements and the contradictions caused. Moreover, it will try to provide possible solutions to the existing ambiguity and contradictions. In particular, this paper will discuss the extent of unilateral conservation measures under WTO law and the multilateral trade system, and find out how the legal system of international trade and environmental protection can be improved. The significance of this paper lies in its potential to contribute to the development of more integrated and coherent legal strategies that simultaneously promote economic development and environmental sustainability.

This paper will first discuss the root of contradiction between trade liberalization and environmental protection, and explore the 'WTO' s efforts to balance the unilateral conservation measures and the multilateral trade system. The discussion will then proceed to a detailed examination

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