

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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Table of Contents Social Conflict And Environmental Law

1. Understanding the eBook Social Conflict And Environmental Law
 - The Rise of Digital Reading Social Conflict And Environmental Law
 - Advantages of eBooks Over Traditional Books
2. Identifying Social Conflict And Environmental Law
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Social Conflict And Environmental Law
 - User-Friendly Interface
4. Exploring eBook Recommendations from Social Conflict And Environmental Law
 - Personalized Recommendations
 - Social Conflict And Environmental Law User Reviews and Ratings
 - Social Conflict And Environmental Law and Bestseller Lists
5. Accessing Social Conflict And Environmental Law Free and Paid eBooks
 - Social Conflict And Environmental Law Public Domain eBooks
 - Social Conflict And Environmental Law eBook Subscription Services
 - Social Conflict And Environmental Law Budget-Friendly Options
6. Navigating Social Conflict And Environmental Law eBook Formats

- ePub, PDF, MOBI, and More
 - Social Conflict And Environmental Law Compatibility with Devices
 - Social Conflict And Environmental Law Enhanced eBook Features
7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Social Conflict And Environmental Law
 - Highlighting and Note-Taking Social Conflict And Environmental Law
 - Interactive Elements Social Conflict And Environmental Law
 8. Staying Engaged with Social Conflict And Environmental Law
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Social Conflict And Environmental Law
 9. Balancing eBooks and Physical Books Social Conflict And Environmental Law
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Social Conflict And Environmental Law
 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
 11. Cultivating a Reading Routine Social Conflict And Environmental Law
 - Setting Reading Goals Social Conflict And Environmental Law
 - Carving Out Dedicated Reading Time
 12. Sourcing Reliable Information of Social Conflict And Environmental Law
 - Fact-Checking eBook Content of Social Conflict And Environmental Law
 - Distinguishing Credible Sources
 13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development
 - Exploring Educational eBooks
 14. Embracing eBook Trends
 - Integration of Multimedia Elements
 - Interactive and Gamified eBooks

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