

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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take advantage of the strengths of current scientific economic and legal capabilities Audience Environmental professionals whether academic governmental or industrial or in the private consultancy sector Also suitable as an upper level text or reference

Armed Conflict and Environmental Damage Dr. U C Jha, 2014-08-01 Armed conflict and military activities have serious adverse impacts on the environment Modern weaponry troop movements landmines hazardous military waste and the destruction of forests for military use are a few sources of harm to the environment both during armed conflict and peacetime military activities Ecological assaults in combat areas are often kept a secret by the government resulting in even greater humanitarian and environmental harm Environmental degradation is increasingly being recognized as one of the most significant challenges of the 21st century and its effects are being felt worldwide Both domestic and international legislations have been inadequate in mitigating the impact of military activities This book provides details of the environmental destruction wreaked during international and non international armed conflicts and argues that the existing legal regime for the protection of the environment during armed conflict requires substantial modification It puts forward the view that though it is inconceivable to impose an absolute ban on environmental damage during military operations strengthening and clarifying the existing laws protecting the environment in times of conflict and enforcing environment friendly practices among military forces could go a long way in protecting natural assets of our earth

Environmental Crime in Transnational Context Toine Spapens, Rob White, Wim Huisman, 2016-06-10 Environmental crime is one of the most profitable and fastest growing areas of international criminal activity The increasing cross border scope of environmental crimes and harms is one of the reasons why governments and the enforcement community have trouble in finding the proper responses Law enforcement cooperation between western industrialized states is often time consuming and problematic and the problems increase exponentially when environmental criminals take advantage of situations where government and law enforcement are weak This book provides an overview of the developments and problems in the field of transnational environmental crimes and harms addressing these issues from perspectives such as enforcement deterrence compliance and emission trading schemes Divided into four parts the authors consider global issues in green criminology responses to transnational environmental crimes and harms alternative methods to combat environmental crime and specific types of crimes and criminological research Discussing these topics from the view of green criminology sociology and governance this book will be of great interest to all those concerned about the transnational dimensions of crime and the environment

Braving the Currents Tamra Pearson d'Estree, Bonnie B.G. Colby, 2006-05-02 Braving the Currents systematically identifies applies and evaluates criteria to define success in complex multi party natural resource disputes The authors elucidate the full range of criteria for defining success that researchers stakeholders and practitioners have relied on as they have participated in and reflected upon environmental conflict resolution CR efforts They examine 28 success criteria from many angles present a method for systematically considering all the elements necessary for successful environmental CR and

then apply this analytic framework to eight specific western U S water conflicts The criteria are assessed in terms of their accessibility reliability validity and overall usefulness in evaluating specific conflict cases and different resolution methods The book concludes with observations about successfully resolved disputes a summary of what the authors have learned through their extensive evaluations and a discussion of how public policies can contribute to dispute prevention and management While the cases focus on water conflicts their processes and assessments are applicable to a wide body of cases At the suggestion of academic reviewers the authors have included Appendix A A Guidebook which enhances the book s text applicability by providing detailed instructions for case documentation and analysis This book will be of particular interest to students and instructors of conflict resolution environmental studies public policy negotiation and resource management public and private sector managers researchers practitioners and attorneys and conflict resolution professionals

Tigers without Teeth Scott Wilson,2015-03-19 This compelling book analyzes the rise of civil society and legal contentiousness in contemporary China Scott Wilson examines how Chinese AIDS carriers and pollution victims relying on weak laws and judicial institutions pursue justice and protection of their rights in Chinese courts and civil society In exploring the politics of justice in China the author contends that civil society and legal rights advance when their organizers have support from pockets of the Chinese Communist Party resources from international groups and the backing of protesters Even lawsuits that fail in the courts can raise societal consciousness of social issues and can lead to revised state policies to address the substantive claims of disadvantaged citizens Underlying the politics of justice is the regime s attempt to balance commitments to legal development and its interest in regime stability Wilson argues that the Chinese state has looked more favorably upon pollution victims civil society organizations and lawsuits than those of AIDS carriers Going beyond the standard overviews of China s legal system **Tigers without Teeth** is unique in its close comparison of legal activism on two sensitive and politically relevant social issues It provides important insights into the development of civil society as well as highlighting limitations to the pursuit of justice as the system balances between the development of rule of law and regime stability

Environmental Protection and Transitions from Conflict to Peace Carsten Stahn,Jennifer S. Easterday,Jens Iverson,2017 This book examines the protection of the environment in post conflict societies with regard both to the maintenance of natural ecosystems and to the function of environmental protection in the peace building process addressing the strengths and weaknesses of different bodies of law

Environmental Protection in Transition John Clark,Daniel H. Cole,2017-07-05 This book takes an interdisciplinary look at environmental protection during Poland s transition to market democracy The contributors are recognised experts in their fields making this an authoritative volume combining the perspectives of economists legal scholars political scientists and sociologists

Contentious Agency and Natural Resource Politics Markus Kröger,2013-11-26 The looming depletion of non renewable resources has increased the global land grab in the past decade So far however the question of how and when people can influence economic outcomes

has received little attention in the study of social movements Based on in depth ethnographic field research since 2003 in the industrial forestry expansion frontiers in Brazil and elsewhere in the global South this book presents a novel theory to explain how the interaction between resistance companies and the state determines investment outcomes The promotion of contentious agency by organizing and politicizing campaigning protesting networking and engaging in state and corporate remediated politics whilst maintaining autonomy is central to explaining how impacted people influence resource flows and block or slow projects they deem harmful to their livelihoods and the environment The conflicts between globalizing paper and pulp corporations and the landless peasants indigenous communities and other parties with alternative projects for the planet s future are studied to illustrate how a great transformation can be built upon progressive counter movements This systematic comparison of several cases illustrates the broader principles and problems endemic to the global political economy Contentious Agency and Natural Resource Politics will be of strong interest to students and scholars of international relations international political economy environmental studies environmental politics sociology and social movement studies

Innovations in Environmental Legislation and Justice: Environmental and Water-Energy-Food Nexus Laws Norouzi, Nima, Movahedian, Hussein, 2023-04-12 Human health has been protected from environmental contamination by national laws throughout history but there are still many areas of international environmental law that are underdeveloped Even though numerous international environmental treaties have been established effective agreements remain difficult to achieve for a variety of reasons Because environmental problems disregard political boundaries they can only be adequately addressed by a wide range of governments some of which may have serious disagreements on important points of policy The knowledge gap between legal developments designed to achieve environmental objectives and the practical scientific and technical applications must be bridged Environmental and energy law should be explored from a wide range of perspectives and approaches to gain insight into how the law is designed to tackle particular environmental problems Innovations in Environmental Legislation and Justice Environmental and Water Energy Food Nexus Laws examines the development and application of international environmental laws and regulations dealing with global air water and land pollution By adopting a multi disciplinary approach to environmental and energy law the book embraces all readerships and goes a step further to address the often thorny problem of improving communication between scientists and engineers and law and policymakers Covering topics such as environmental justice green constitutions and climate change this book is ideal for policymakers government officials legal professionals environmentalists students academicians researchers and more

Environment and Human Well-being Don Melnick, 2005 UN Millennium Development Library: Environment and Human Well-being UN Millennium Project, 2012-05-16 The Millennium Development Goals adopted at the UN Millennium Summit in 2000 are the world s targets for dramatically reducing extreme poverty in its many dimensions by 2015 income poverty hunger disease exclusion lack of infrastructure and shelter while promoting gender equality education health and

environmental sustainability These bold goals can be met in all parts of the world if nations follow through on their commitments to work together to meet them Achieving the Millennium Development Goals offers the prospect of a more secure just and prosperous world for all The UN Millennium Project was commissioned by United Nations Secretary General Kofi Annan to develop a practical plan of action to meet the Millennium Development Goals As an independent advisory body directed by Professor Jeffrey D Sachs the UN Millennium Project submitted its recommendations to the UN Secretary General in January 2005 The core of the UN Millennium Project s work has been carried out by 10 thematic Task Forces comprising more than 250 experts from around the world including scientists development practitioners parliamentarians policymakers and representatives from civil society UN agencies the World Bank the IMF and the private sector This report lays out the recommendations of the UN Millennium Project Task Force on Environmental Sustainability It identifies key environmental challenges such as degradation of land watersheds and marine fisheries deforestation pollution and climate change The Task Force proposes specific interventions and policy changes required to improve environmental management at the country regional and international level These bold yet practical approaches will help countries make progress towards environmental sustainability by 2015

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