

# 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

# Social Conflict And Environmental Law

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**When Environmental Protection and Human Rights Collide** Marie-Catherine Petersmann, 2022-10-27 Conflicts between environmental protection laws and human rights present delicate trade offs when concerns for social and ecological justice are increasingly intertwined This book retraces how the legal ordering of environmental protection evolved over time and progressively merged with human rights concerns thereby leading to a synergistic framing of their relation It explores the world making effects this framing performed by establishing how humans ought to relate to nature and examines the role played by legislators experts and adjudicators in re producing it While it questions contextualises and problematises how and why this dominant framing was construed it also reveals how the conflicts that underpin this relationship and the victims they affect mainly remained unseen The analysis critically evaluates the argumentative tropes and adjudicative strategies used in the environmental case law of regional courts to understand how these conflicts are judicially mediated thereby opening space for new modes of politics legal imagination and representation

**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

*Environment and Human Well-being* Don Melnick, 2005

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Iverson, Jennifer S. Easterday, 2017-10-13 This is an open access title available under the terms of a CC BY NC ND 4.0 International licence. It is free to read at Oxford Scholarship Online and offered as a free PDF download from OUP and selected open access locations. Environmental protection is fundamental for the establishment of sustainable peace. Applying traditional legal approaches to protection raises particular challenges during the transition from conflict to peace. In the post bellum context, protection of the environment and natural resources needs to be considered in tandem with a broad range of simultaneously applicable normative frameworks such as human rights, transitional justice, arms control, disarmament, UN law and practice, development and domestic law. While certain multilateral environment agreements such as the Convention Concerning the Protection of the World Cultural and Natural Heritage protect the environment, international humanitarian law and international criminal law continue to treat environmental protection largely from an anthropocentric perspective. This book is the first targeted work in the legal literature that investigates environmental challenges in the aftermath of conflict. Addressing these challenges, it brings together academics, policy makers and practitioners from different disciplines to clarify policies and practices of environmental protection and key normative frameworks. It draws on experiences and practices in post conflict settings to specify substantive principles and techniques to remedy and prevent harm.

**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.

**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

**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

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