

# International Trade and Environmental Protection: Under The WTO Regime

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## **ABSTRACT:**

Since the establishment of the WTO, trade and environmental protection have become more closely aligned; however, significant imbalances persist. This study contends that, despite notable progress, trade and environmental interests remain inadequately balanced under the WTO framework. The analysis examines how numerous developing countries continue to prioritize trade and investment within their economic strategies and critically assesses whether these priorities effectively support sustainable environmental protection.

At the same time, global environmental indicators have worsened, making it harder to reach goals like the Millennium Development Goals. This study argues that increased global economic activity, partly driven by international trade, is a major cause of environmental change. As both economic globalization and environmental challenges grow, conflicts between trade and environmental laws become more common. Creating a better WTO framework to balance trade and environmental protection is necessary for real sustainable progress worldwide.

**Keywords:** Trade, Environment, WTO, Globalisation, Environmental Indicators, economy and Multilateral System, etc.

## **1. Introduction:**

From birth, humans require unpolluted air, uncontaminated water, nutritious food, and hygienic living conditions for comprehensive development. The absence of these essential elements inhibits the full realization of human potential. While humans adapt to their environment for survival, there is often insufficient attention given to environmental improvement, either due to indifference or limited capacity for change. Governmental organizations have similarly placed limited emphasis on environmental enhancement. Conversely, industrial and agricultural development has continually impacted the environment. Notably, global attention to environmental issues emerged in the 1970s, culminating in the

1972 United Nations Conference in Stockholm, which produced the Stockholm Declaration on Environment and Development, 1972<sup>1</sup>.

Nowadays, we should learn about one of the contemporary and contentious issues in the world, which is in the form of environmental factors increasingly influencing the course and direction of International Trade. Many developing nations that have placed such a high degree of emphasis on the export effort need to gear up their strategies. A great deal of effort is needed to deal with the fast-changing international trading system and its scenario, where “the environment agenda” should be followed by the nations all over the world at the time of multilateral trade negotiation<sup>2</sup>.

### **Definition Of Trade<sup>3</sup>:**

Trade is an exchange of goods and services between the parties, and the selling or buying of goods and services takes place between two parties, i.e. buyers and sellers, for kind and cash. A transaction is qualified as a trade; it must be done with the free consent of the parties and not without any force or coercion.

### **Definition Of Environment<sup>4</sup>:**

The term “ENVIRONMENT” is derived from the French word “ENVIRONNER”, which means “to encircle” or “to surround”.

According to Encyclopaedia Britannica, “The Environment means the entire range of external influence acting on an organism, both the physical and biological, and other organisms, i.e. forces of nature surrounding an individual.”

### **Trade And Environment: Policy And Practice<sup>5</sup>:**

In many developing countries, agricultural crops are cultivated for both local consumption and export. With the rise in trade — a key aspect of the structural adjustment policies advocated by international organizations like the International Monetary Fund (IMF) and the World Bank — the land allocated for export crops is increasing. What are the environmental consequences of this expansion in export crops? In certain instances, they can be considerable or detrimental.

A study of Mali, for example, finds that the development of cotton as a cash export crop:

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<sup>1</sup> Dr.H.N.Tiwari, “Environmental Law”, ed 2007(Reprint), pg.no 1-2

<sup>2</sup> <https://egyankosh.ac.in/bitstream/123456789/84746/1/Unit-12.pdf>

<sup>3</sup> <https://www.tickertape.in/glossary/trade-meaning-types-and-working/>

<sup>4</sup> Dr.S.R.Myneni, “Environmental Law”, ed 2014(Reprint), pg.no.1

<sup>5</sup> [https://www.bu.edu/eci/files/2019/06/Trade\\_and\\_the\\_Environment.pdf](https://www.bu.edu/eci/files/2019/06/Trade_and_the_Environment.pdf)

“Has substantially increased the cultivated area and markedly reduced the fallow period, and the profitability of cotton led farmers to greatly increase the area cultivated, extending onto marginal land. There is evidence of farmers occupying and working land in excess of their real needs in order to forestall its use by others. Almost no farming is practised in the region. The environmental effects are evident in land degradation and soil erosion owing to over-cultivation, insufficient fallow, and the use of marginal land against a backdrop of increasing aridity.”

However, there are instances where export crops are more ecologically benign than the indigenous crops they replace. Tree crops like cocoa and coffee can help stop soil erosion in countries in Africa and Latin America. Horticulture, the contentious industry in Kenya that involves cultivating flowers for the European market, is a high-value export that is said to have no adverse environmental effects, despite increasing worries regarding the environmental and health effects of pesticide use in horticulture. Proponents contend that the energy used in jet fuel is less than that required to cultivate comparable flowers in heated greenhouses in Europe, despite the fact that the Kenyan flowers are transported to Europe by jet, raising concerns about transportation energy usage.

To sum up, much does not depend only on trade; it also depends a great deal on what happens domestically politically because dualistic patterns of land ownership that feature large landlords who have lots of political clout and who throw off a lot of peasants to grow exclusively for export - is a recipe for environmental disaster, double so. For instance, when central American countries built better roads and other infrastructure to support more commerce and industry, they underwent "a technical shift to higher-profit, input-dependent farming, " as one analyst put it. Maize and beans were replaced by cotton, tomatoes, strawberries and bananas. The price of such land soared; this was obviously good for rich landed interests (who stood to benefit handsomely), bad news for poor ones (many of whom were soon forced out): those unfortunates had little choice but to head to drier scrubland, forests, hillside regions or soil poor in nutrients and depth. Meanwhile the large-scale farm operators used their pull to lobby governments for environmentally ruinous forms of financial support for agro-inputs - leading inevitably, it follows, to massive and unnecessary machine work, water use and pesticide application.

In some instances, trading partners may not be located in the same physical area. Consequently, issues related to health and safety can arise that are not always resolvable at either the domestic or international level. For instance, a toxic pesticide that is banned for sale within one country may not have a similar prohibition at the international level. Products that are restricted in domestic markets due to concerns for human, animal, or plant health, or for environmental safety, may still be legally exported. This situation can create challenges for the importing country, which may lack access to information regarding the reasons for the product's ban. Additionally, exporters may provide false declarations, and authorities in developing countries may not have sufficient product testing facilities.

The nations all over the world can use this reason for the control on the trade that means "conserving limited natural resources" and protecting the human life, animal life, plant life and public health as stated in Article XX of GATT. Yet, it is exactly this exception clause for the free trade condition that leads to lots of horrible disputes happened between different counties in the world.

**Impact Of Trade On Environment<sup>6</sup>:**

The core of trade is exchanging goods and services among regions and nations. It is a basic needed principle that drives the global economy's growth and helps connect markets. On the other hand, there is a important shadow of trade on environmental degradation. Trade typically results in an increase in production and consumption. The surge in economic activity places greater demands on natural resources and these economic activities generate more pollution that impacts our planet in many ways.

**Direct Impacts of Trade On the Environment:**

**Resource consumption is increased:** Trading of fuels results in higher level of consumption of it. If markets expands the demand for goods increase leading to greater extraction of natural resource like fuels, minerals, timber etc. Leads to habitat destruction, deforestation and resource depletion.

**Production creates pollution:** Production of goods related with trading is process inters and often it releases pollutants into nature, most of the industries does not follow the environmental regulations in some regions due to it striving to meet the global demand leads to higher pollution level

**Emissions from transportation:** Most of the movement of goods around the world depend heavily on ships, trucks and aeroplanes; all are the important sources of greenhouse gas emissions, more transportation due to increased trade volume in the world contributing to climate change and air pollution.

**Examples of Trade and Environmental-Related Impacts:**

TRADE ACTIVITIES	IMPACT OF ENVIRONMENT	EXAMPLES
Agricultural trade	Greenhouse gas emission, deforestation and habitat loss	Soy production and amazon rainforest clearing for cattle ranching
Manufacturing trade	Waste generation, resource depletion and pollution from factories.	Electronic waste disposal, textile industry waste water discharge.
Resource extraction trade	Water contamination, habitat destruction and soil erosion	Illegal logging and mining causes river pollution

<sup>6</sup> <https://pollution.sustainability-directory.com/question/how-does-trade-affect-environmental-degradation/>

Transportation of goods	Air pollution and greenhouse gas emissions	Truck exhaust and shipping emission from cargo vessels.
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**Approaches of WTO Towards Environmental Protection:**

**1. GATT<sup>7</sup>:**

The General Agreement on Tariffs and Trade was concluded in the year 1947 with the aim of reducing tariff barriers to trade. The agreement was revised so many times. In 1994, it was re-negotiated, and the World Trade Organisation was created. There was no explicit provision in the GATT, 1947, which dealt with environmental protection.

Article XX of the GATT may be interpreted as indirectly dealing with environmental protection. Article XX said that, “Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where same condition’s prevails or a disguised restriction on international trade, nothing in the agreement shall be construed to prevent the adoption or enforcement by the any party of measures (b) Necessary to protect, human, animal or plant life or health (g) Relating to the conservation of exhaustible natural resources, If such measures are made effective in connection with restriction on domestic production or consumption. ”

GATT’s competence is limited to trade policies and those trade-related aspects of environmental policies that may result in significant trade effects for contracting parties. GATT is not equipped to become involved in the tasks of reviving national environmental priorities, setting environmental standards or developing global policies on the environment, and there is no intention for it to do so.

**2. NORTH AMERICAN FREE TRADE AGREEMENT APPROACH (NAFTA)<sup>8</sup>**

In 1993, the United States of America, Canada and Mexico signed the NAFTA agreement to lower the trade barriers across the continent. During the agreement, the environmental group argued strongly that free trade could lead to a negative impact on the environmental consequences, pointing to the serious environmental problems already affecting the Maquiladoras tariff-free industrial Zone along the Mexican border.

As a result of this, certain side agreements created by the nations, like the North American Agreement on Environmental Cooperation (NAAEC), set up the tripartite Commission for Environmental Cooperation (CEC), another side agreement that the North American Agreement on Labour Cooperation (NAALC) dealt with labour issues.

<sup>7</sup> Dr.S.R.Myneni, ”Environmental Law”, edt 2014(Reprint), pg.no.858

<sup>8</sup>[https://www.bu.edu/eci/files/2019/06/Trade\\_and\\_the\\_Environment.pdf](https://www.bu.edu/eci/files/2019/06/Trade_and_the_Environment.pdf)

### **3. EUROPEAN UNION APPROACH:**

The European Union is unusual in being a free trade area that has its own legislative and administrative institutions. The European Union has the power to set environmental standards that are binding on its member nations. This is known as the Harmonisation of environmental standards. However, this policy involves more than free trade, and it entails the creation of a supranational authority with the power to set environmental standards.

Regional trade area policies also raise the issue of “harmonising up” and “harmonising down”. Some countries may be forced to tighten their environmental policies to meet EU standards. But other countries may find their environmental standards are much weakened. A law requiring returnable bottles in Denmark was overturned by the EU as a barrier to trade, and Norway chose not to join the EU in part out of fear that it would be compelled to modify its strict domestic environmental regulations.

### **4. URUGUAY ROUND OF APPROACH<sup>9</sup>:**

The Uruguay Round was launched before environmental concerns became as prominent as they are today. At the same time, expectations of the contributions the GATT can make to improve environmental protection must be realistic. However, GATT is not equipped, or intended to become involved in reviewing national environmental priorities, setting environmental standards or developing global policies on the environment. During the negotiation, the GATT contracting parties have been pursuing an agenda on environmental measures and international trade. These things were not explicitly raised in the agreed upon the mandate for the negotiations. This is not to say that environmental concerns have been entirely ignored in the round, and it is a very far cry from the criticisms sometimes made that the round is fundamentally not good for the environment.

### **5. COMMITTEE ON TRADE AND ENVIRONMENT(CTE):**

A Ministerial decision at the end of the Uruguay Round established the Committee on Trade and Environment in the year 1995. It has a two-fold mandate. A) It has to identify the relationship between trade measures and environmental measures. B) It has to make recommendations on whether any modification to WTO provisions is required with respect to goods, services and intellectual property rules.

### **6. MINISTERIAL CONFERENCES OF WTO<sup>10</sup>:**

The first Ministerial Conference of WTO at Singapore in the year 1996 reviewed the work of the relevant committee and noted in para 16 of its declaration, thus: “The committee on Trade and

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<sup>9</sup> Dr.S.R.Myneni, “Environmental Law”, ed 2014(Reprint), pg.no.859

<sup>10</sup> *ibid*

Environment has made an important contribution towards fulfilling its work programme. The committee has been examining and will continue to examine, inter alia, the scope of the complementarities between trade liberalisation, economic development and environmental protection. The full implementation of the WTO agreements will make an important contribution to achieving the objectives of sustainable development. The work of the committee has underlined the importance of policy coordination at the national level in the area of trade and environment.”

The second Ministerial Conference of the WTO at Geneva in the year 1998 indirectly included the subject of the link between trade and environment in its declaration in the form of other issues.

The third Ministerial Conference of the WTO at Seattle in the year 1999 differed on the issues of trade and environment, along with many other issues.

The fourth Ministerial Conference of WTO at Doha in the year 2001 it declares that with a view to enhancing the mutual supportiveness of trade and environment. 1) The relationship between existing WTO rules and specific trade obligations set in multilateral environmental agreements. 2) The reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services.

The fifth Ministerial Conference of WTO at Cancun, Mexico, in the year 2003, the declaration states about “environment negotiation “that “They take note of the progress made by the special session of the committee on trade and environment in developing a common understanding of the concepts contained in its mandates in paragraph 31 of the Doha Ministerial Declaration.”

The fifth Ministerial Conference of WTO at Hong Kong in the year 2005 they reaffirm the mandates in Para 31 of the Doha Ministerial declaration aimed at enhancing the mutual supportiveness of trade and environment, and welcomed the significant work undertaken by the Committee on Trade and Environment in a special session. They instruct members to intensify the negotiations without prejudging their outcome, on all parts of paragraph 31, to fulfil the mandate.

## **7. MULTILATERAL ENVIRONMENTAL AGREEMENTS (MEA)**

It has been recognised that many environmental issues require international solutions. The first international treaty dealing with trade and the environment was the Phylloxera agreement of 1878, which restricted trade in grapevines to prevent the spread of pests that damage the vineyards. In 1906, an international convention was adopted banning the use of phosphorus in matches. Phosphorus causes serious occupational disease among the workers, but it was the cheapest material for matches. An international convention was required to prevent any exporting country from gaining a competitive advantage by using phosphorus in match production.

The numerous international treaties have been adapted to respond to the intention to solve specific environmental problems. These conventions protect migratory birds, polar bears, whales, and endangered species. Tran’s boundary and global environmental issues have been addressed in many international conferences, like the Montreal Protocol on Substances that Deplete the Ozone Layer (1987), the Antarctica Treaty (1991) and in 1997, the Kyoto Protocol on Climate Change established guidelines for reducing greenhouse gas emissions, including important trade-related measures.

## Methods to Sustainable Trade:

In the twenty-first century global economy will be characterised by resource and environmental limits, and it will play an important role for the presently developing nations. Expanded global trade will bring benefits in terms of increased efficiency, technology transfer, and the import and export of sustainably produced products and the development of the nation. But we are all evaluating the effects of trade in terms of social, ecological and environmental impacts. A World Bank review of trade and environment issues finds that “many participants agree that (a) more open trade improves growth and economic welfare, (b) increased trade and growth without appropriate environmental policies in place may have unwanted effects on the environment.” This implies that future trade agreements must take environmental sustainability more seriously into account.

## CONCLUSION<sup>11</sup>:

In the world, the expansion of trade can often have environmental implications. Trade may increase environmental externalities at the national, regional, or global level. While it usually helps countries economically to pursue their comparative advantage through trade, environmental impacts such as increased pollution and natural resource degradation may also occur because of trade. Where effective environmental protection policies are lacking at the local and global level, national policies are given importance to trade-related environmental issues.

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<sup>11</sup> [https://www.bu.edu/eci/files/2019/06/Trade\\_and\\_the\\_Environment.pdf](https://www.bu.edu/eci/files/2019/06/Trade_and_the_Environment.pdf)