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World Trade Organization

Book section

Original citation:

Originally published in Robbins, Paul, *Encyclopedia of environment and society*. London, UK : SAGE, 2007, pp. 1990-1991

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Available in LSE Research Online: March 2008

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World Trade Organization

The World Trade Organization (WTO) is an international body responsible for the negotiation, implementation and enforcement of trade rules. Established in 1995, it presides over a multilateral trading system of which the core international treaty is the General Agreement on Tariffs and Trade (GATT), as legally consolidated in 1994. GATT obligations are informed by a political and ideological commitment to free trade: at the heart of the GATT treaty are the so-called non-discrimination principles of most-favoured-nation status (Article 1) and national treatment (Article 3). Their combined effect is legally to prescribe equality of treatment for imports and exports, such that WTO contracting states subscribe to open, predictable rules of trade.

There are 149 members in the WTO, accounting for over 97% of world trade. Meeting at least once every two years, the Ministerial Conference is the governing body of the WTO: conferences have taken place in Singapore (1996), Geneva (1998), Seattle (1999), Doha (2001), Cancun (2003) and Hong Kong (2005). Between ministerial sessions, the WTO General Council – located in Geneva, Switzerland – undertakes key executive functions, including meeting as the organization's Trade Policy Review Body and Dispute Settlement Body. Reporting to the General Council is a council triumvirate addressing goods, services and intellectual property. There are also numerous specialist committees and working groups dealing individual agreements and thematic areas. One of these is the Committee on Trade and Environment (CTE), which serves as a forum for member states to examine the relationship between trade and environmental protection, with a view to determining whether changes are required in trade rules to enhance their positive interaction. As with all WTO bodies, decision-making within the CTE is consensus-based.

The protection and preservation of the environment is embraced as an objective in the Marrakesh Agreement Establishing the World Trade Organization. However, its most important manifestation in international trade rules is still the 'general exceptions' clause of GATT first articulated in 1947: under Article 20, trade-restrictive measures may be undertaken for reasons including the protection of human, animal or plant health and the conservation of exhaustible natural resources. Similar environmental exceptions are also found in specialist WTO agreements, such as those on food safety and product standards. Not until a 2000 ruling on asbestos products did the WTO Dispute Settlement Body uphold a trade restriction under Article 20 on environment-related grounds. A more significant precedent was set in 2001 when, in its ruling on a US ban of Asian shrimp imports, the Dispute Settlement Body stated that there were circumstances in which WTO members could employ trade restrictive measures under Article 20 in order to prevent serious environmental harm outside their national jurisdiction.

Under the Doha Development Agenda of trade negotiations, launched at the 2001 WTO Ministerial Conference, the CTE was charged with clarifying the relationship between WTO rules and international environmental agreements containing trade measures. There remain legal uncertainties over the rule compatibilities between WTO law and specific trade obligations in international environmental agreements, including those within the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer, the 1989 Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, the 2000 Cartagena Protocol on Biosafety, and the 2001 Stockholm Convention of Persistent Organic Pollutants. While there has not yet been a conflict, the CTE has struggled to improve coordination in this area. It has been suggested by some academic commentators that the robustness of international environmental agreements with specific trade obligations would be strengthened by an amendment to GATT exempting them from WTO rules.

Many environmentalists have campaigned against the WTO, claiming that it is not addressing the harmful ecological effects of its rule-making and enforcement. Along with other sections of the global justice movement, they have also levelled the charge that the WTO is undemocratic, with closed negotiations and judicial deliberations dominated by the most powerful states. This is a criticism strongly resisted by the organization, which argues that all its decisions are reached by consensus and ratified in the parliaments of member states. In recent years there have been moves to increase transparency within the WTO, such as improved access to information and meetings with transnational non-governmental organizations (NGOs). However, member states have resisted proposals to grant transnational NGOs access – as observers – to negotiating forums and dispute settlement hearings. The WTO maintains that the national political processes of member states are the appropriate arenas for NGOs to communicate trade-related environmental concerns, not its own intergovernmental decision-making.

There are deep divisions within the WTO over the incorporation of environmental concerns into its negotiations and rulings. Developing countries now comprise two-thirds of the membership of the organization and are generally unsympathetic to the concerns of environmental NGOs, who are perceived as advancing global Northern interests. Indeed, the existence of an environmental protection agenda in the WTO rests on the lobbying of European member states, and developing countries remain fearful of a discriminatory 'green protectionism' excluding their exports from European and North American markets. The slow progress of CTE negotiations reflects these divergent positions, as well as the increasing political clout of member states from the global South. Only systemic revisions in trade rule-making and interpretation will ensure a more effective consideration of environmental protection issues. Yet unless environmental protection is linked more directly to the development priorities of developing countries, the scope for advancing these reforms in the WTO will be narrow.

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