

KYOTO, THE ENVIRONMENT AND THE WTO

Many analysts feel that Kyoto and other such supra-national environmental accords have the capacity to obstruct the WTO process.⁷¹² Kyoto as a true supra-national and regional accord would find itself opposed to many existing conventions on trade and the environment. Most regional programs have some set of environmental safeguards and protection in place with sundry loopholes and caveats that allow national parties to pursue local policies and measures. Such intra-regional environmental accords are quite rightly state-centric and the purpose of these agreements is to ensure adequate environmental protection and prevent resource and eco-system degradation. Kyoto is another form of agreement that sets limits and fines on certain chemical compound emissions. As such Kyoto is truly an intrusive non-state centric accord, accountable only to the UNO. There is no consensus on how Kyoto, [or even if Kyoto], supports the WTO process and the existing regional environmental accords in place, or whether somehow, Kyoto supersedes such accords in respect to certain chemical emissions.⁷¹³

Multilateral trade negotiations are complicated and they must deal with other non-trade related issues in order to be fully effective and to create a sense of social 'fairness'. It is politically impossible to have trade liberalization without offering policy proposals that address issues or values affected by such liberalization. Trade and the environment offer not only conflict but areas of mutual interest. A sustainable environment is conducive to trade yet the nature of 'sustainable' and its terminology will vary by state and locale complicating the creation of environmental standards across all parties. Yet in-toto trade liberalization leads to a more efficient use of resources; a more efficient relative price structure, more resources available for environmental management programs because of the growth in real income, and an increase in the availability of environment related goods and services through liberalization. The link between trade liberalization and economic growth is unequivocal and it is important that environmental protectionism be limited.⁷¹⁴

MEAs [Multi-Lateral Environmental Agreements] like Kyoto would need to deal with the problems pertaining to their treaty's implementation. Yet there is no clear dividing line between MEAs and the WTO making conflict between for instance Kyoto members and non-members who belong to the WTO almost inevitable. The WTO has embedded in its regulations numerous citations regarding environmental based trade disputes. For instance the WTO contains the sustainable development clause in the preamble, the provisions of the Tariff Barriers to Trade [TBT] agreement, Article XX of the GATT and in a number of other areas, which pertain to environmental legislation. These provisions have figured prominently in many reports of the dispute resolution panels.⁷¹⁵

Environmental protectionism is a real concern of those who support the WTO and MFN process. Protectionism can be enacted in 2 basic ways; restricting imported goods on the grounds that the good in question does not meet certain environmental standards in its manufacture or in its end use [hormone treated beef for instance]; or using national legislation to differentiate on the type of environmental standard to be applied to any goods in question. Another danger is that higher environmental standards which exist in an importing country than in an exporting one, could lead to a loss of international competitiveness for certain industries in the importing country and pressure for a lowering of environmental standards to gain market share. As well some nations might be tempted to sign eco-friendly accords but not impose them, which may attract FDI into their locales, which can avoid regulations and costs.

However the WTO is not all powerful. It is essentially just a collectivity of states acting on behalf of their constituents according to rules agreed upon consensually. Domestic parliaments must still ratify WTO accords and procedures. The WTO has a small secretariat with no enforcement powers nor any role in the interpretation of the legal rights and obligations of members. It is doubtful that it can be stretched to be the 'police man' of the world's environment. It has a total staff of only 500 and a budget of less than U\$90 million. It is a small organization in comparison with the World Bank, the UNO and the IMF. As well, within the WTO rule changes are rare and achieved