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## WTO and the Environment

REVIEW BY DON C. SMITH\*

FIONA MACMILLAN, *WTO AND THE ENVIRONMENT*; Sweet & Maxwell, London (2001); (£146); ISBN: 0-4218-2420-4; 368 pp. (hardcover).

One of the most vexing contemporary economic, legal, and political issues is the interrelationship between and underlying tension involving trade policy and environmental policy. Indeed, there has never been a time when trade and the environment have been so inextricably interwoven. This has come about largely because of the environmental ramifications relating to where goods are produced and sold. Moreover, despite the poor showing of the world economy in the last several years, it has been estimated that trade (measured in terms of value) in merchandise exports amounted to \$6,240 billion in 2002 while trade related to commercial services reached a new record of \$1,540 billion.<sup>1</sup>

The importance of encouraging cross-border trade has long been an important element in world economic development. However, it was not until the creation of the World Trade Organization (WTO)<sup>2</sup> in 1995 that trade was “elevated to its true level in the international economic pantheon.”<sup>3</sup> The objective of the WTO is to encourage, and oversee, the liberalization of trade between nation state members.<sup>4</sup> In the context of the WTO, nation state members agree to the avoidance of discriminatory trade practices.<sup>5</sup>

It is in this context that Fiona Macmillan undertakes consideration of the trade-environment issue through the prism of the WTO by looking at the protection of the environment on one hand and the liberalization of trade on the other. In so doing, the book aims to assess the way in which the WTO’s legal rules and system interact with environmental concerns.

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1. Press Release, World Trade Organization, Trade Recovered in 2002, but uncertainty continues, (April 22, 2003), [http://www.wto.org/english/news\\_e/pres03\\_e/pr337\\_e.htm](http://www.wto.org/english/news_e/pres03_e/pr337_e.htm).

2. WTO legal texts can be found at: [http://www.wto.org/english/docs\\_e/legal\\_e/legal\\_e.htm](http://www.wto.org/english/docs_e/legal_e/legal_e.htm).

3. Hugo Paeman, WORLD TRADE ORGANIZATION IN *ENCYCLOPEDIA OF THE EUROPEAN UNION* 490 (Dinan & Desmond eds., 2000).

4. Daniel Esty, *Economic Integration and the Environment*, in *THE GLOBAL ENVIRONMENT: INSTITUTIONS, LAW, AND POLICY* 192 (Vig, Norman & Axelrod, Regina, eds., 1990).

5. Ian & Pamela Barnes, *ENVIRONMENTAL POLICY IN THE EUROPEAN UNION* 153 (1999).

In terms of organization, Ms. Macmillan follows a logical and inclusive approach. Chapter 1 addresses general issues about trade and the environment. Chapter 2 considers the WTO system including rule making and conflicts between WTO agreements and multilateral environmental agreements. In Chapter 3 the institutional landscape of environmental policy is described and assessed. Chapter 4 provides a look at the General Agreement on Tariffs and Trade (GATT) and its relationship to environmental protection. Access to genetic resources and biotechnology and trade are the focus of Chapters 5 and 6. Trade in environmental services is analyzed in Chapter 7 while Chapter 8 reviews the difficulty associated with the regulation of multinational enterprises in the context of the environment. Chapter 9 provides a glimpse of the future. Finally, the book contains the full text of a number of key documents including the Agreement on Technical Barriers to Trade, the General Agreement on Trade in Services, and the Agreement on Trade-Related Aspects of Intellectual Property Rights.

In large measure, *WTO and the Environment* provides a thoughtful, if not always in depth, view of the issues involved in the environment-trade debate. This will be particularly useful to those who are not generally familiar with the issues at hand. By considering the central issues in terms of topics (e.g., the WTO system, biotechnology and trade, and trade in environmental services), the reader is provided a clear frame of reference in which to contemplate the oftentimes seemingly intractable tensions. For example, Chapter 7 presents a clear and succinct discussion about trade in environmental services including defining "environmental services," explaining why they are a WTO concern, and factors that restrict trade in environmental services.

On the other hand, however, it is unfortunate that a number of critical issues do not receive the attention they deserve. In this regard, the book generally does not really consider the role of trade sanctions in the context of achieving environmental goals. In addition, more analysis could have been undertaken in the matter of how the developed and developing countries view the underlying issues, and assessing the reason for the differences. This is a key to the overall debate since in many instances economic and even cultural differences play a role in how the two sets of countries view environmental protection and trade. Another topic that could have been expanded involves the relationship between multilateral environmental agreements and the WTO. While the book identifies this as a potential area of conflict, the discussion is brief and to some extent perfunctory. A final area that received scant attention, but could have been useful to a first time reader, would be consideration of how the world's two biggest trading powers, the European Union and the United States, view the integration of environmental protection into trade policies. In this regard, the E.U. recently tabled in the WTO a detailed list of sectors "where it is offering companies and individuals in third countries further opportunities to offer services in the E.U. market."<sup>6</sup> One of the types of services are those in the environmental area. This is not an insignificant

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6. Press Release, European Commission, EU proposes to improve trading opportunities giving developing countries a better deal, (April 29, 2003), [http://europa.eu.int/rapid/start/cgi/guesten.ksh?p\\_action.gettxt=gt&doc=IP/03/582|0|RAPID&lg=EN&display=](http://europa.eu.int/rapid/start/cgi/guesten.ksh?p_action.gettxt=gt&doc=IP/03/582|0|RAPID&lg=EN&display=)

proposal in its own right since currently two out of every three jobs in the E.U. are in the service sector. Moreover, the E.U. has advocated adopting a framework of trade policy rules that would encourage the integration of sustainable development into all areas of national policy-making.<sup>7</sup> The contrast of the E.U. with the current U.S. position, which has shown little interest in sustainable development generally, would be useful in illustrating the differences between the two economic superpowers and explaining how these differences might influence future WTO actions involving the environment.

In the final chapter, Ms. Macmillan sets out the case for the establishment of a World Environment Organization. While this is not the first time such an organization has been contemplated,<sup>8</sup> Ms. Macmillan does pull together an interesting list of features that should be a part of the new organization. Having described what a World Environment Organization might look like, however, the author admits that despite the growing consideration of such an organization, “[G]reening the WTO is a more urgent priority.”<sup>9</sup>

Bearing in mind the considerable range of issues that could be discussed in a book about the WTO and environment as well as the plethora of information that is available about nearly any WTO-related issue, *WTO and the Environment* is a work well worth having as a reference source for those who seek to understand the sometimes odd, but in nearly all cases complex, tapestry of the WTO.

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7. European Commission, Towards sustainable trade: background paper, <http://europa.eu.int/comm/trade/csc/bkg.htm>.

8. IN GREENING THE GATT: TRADE, ENVIRONMENT AND THE FUTURE (The Institute for International Economics, 1994), Daniel Esty introduced the idea of a World Environment Organization.

9. Fiona Macmillan, WTO AND THE ENVIRONMENT 274 (Sweet & Maxwell, 2001).

