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## DOES TRADE AND ENVIRONMENT CO-EXIST?

### Introduction

Politicians, scholars, and the general public have all engaged in intense disputes about trade and the environment in recent years. Trade has been praised for spurring economic expansion and progress on the one hand, but it has also been held accountable for aggravating climate change and creating environmental damage on the other. Can trade and the environment coexist in this dynamic landscape?

Trade is seen as a force that prioritises commercial interest over environmental concerns, and the two have long been seen as hostile. However, the idea that a healthy environment is equally necessary for long-term economic prosperity has gained traction in recent years. Due to this, attempts have been made to use international cooperation and regulations to balance commerce and environmental goals.

The primary international platform for discussing issues related to commerce and the environment is the World Trade Organisation(WTO). Settlement of trade disputes amongst member nations is one of its primary responsibilities. The WTO has handled trade and environmental disputes on many occasions during the last 20 years. We can learn more about whether commerce and the environment can coexist via these situations involving conflict resolution.

### Case laws

1. The US-Tuna II dispute is a significant case that highlights the complexities of international trade and the need for countries to abide by their obligations under international agreements. The dispute arose from Mexico's challenge to certain US measures regarding importing, marketing, and selling tuna. The US's requirement that any tuna product labelled as 'dolphin-safe' must be certified that no dolphins were harmed during the fishing process was put in place to protect dolphins, which often swim alongside schools of tuna and are unintentionally caught in fishing nets. Mexico argued that this second requirement was discriminatory and violated its rights under the World Trade Organization (WTO) agreements.

The dispute was first brought to the WTO in 2008, and after several rounds of consultations and panel hearings, a WTO panel ruled in favor of Mexico in November 2011. The US appealed the panel's ruling, but the Appellate Body upheld the panel's findings in May 2012.

In June 2013, the US modified its dolphin-safe labelling requirements to allow Mexican tuna products caught using methods deemed harmful to dolphins to carry the 'dolphin-safe' label. In November 2015, the WTO Dispute Settlement Body (DSB) ruled that the US had failed to comply with the previous rulings and authorized Mexico to impose retaliatory measures on US goods worth up to \$163 million annually.

After years of negotiations, the US and Mexico reached a settlement in May 2016, ending the long-running dispute and allowing both countries to move forward with a renewed commitment to fair trade practices. (*WTO | dispute settlement - DS381: United States Measures Concerning the Importation, Marketing and Sale of Tuna and Tuna Products*, The Disputes [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds381\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds381_e.htm).)

2. The Brazil - Taxation and Charges dispute at the World Trade Organization (WTO) demonstrates the growing importance of promoting renewable energy and reducing carbon emissions in the fight against climate change. The case revolves around tax incentives and benefits granted by the United States to domestic producers and importers of ethanol. Brazil, a major producer and exporter of ethanol, challenged these measures, arguing that they were in violation of WTO rules. The WTO Panel found that the US measures did indeed violate WTO rules and were inconsistent with the national treatment and most-favored nation obligations under the General Agreement on Tariffs and Trade (GATT) 1994. The ruling has significant implications for both trade and environmental policies.

On the trade front, it highlights the potential for measures promoting renewable energy to conflict with international trade rules. The WTO operates on the principle of non-discrimination, but the use of tax incentives and other benefits can create a situation where domestic producers are given preferential treatment, leading to accusations of discrimination by foreign producers.

The ruling also highlights the importance of balancing trade and environmental policies. The EU has a Renewable Energy Directive that requires member states to meet a set target for renewable energy use, which could potentially be challenged by other countries at the WTO.

In conclusion, the Brazil - Taxation and Charges dispute is an essential case that highlights the potential conflict between trade and environmental policies. (*WTO | dispute settlement - DS472: Brazil Certain Measures Concerning Taxation and Charges*, The Disputes [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds472\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds472_e.htm).)

These examples highlight the intricate relationship that exists between trade and environmental conservation. WTO regulations are meant to guarantee that trade is carried out impartially and

without bias, but they also permit some deviations in order to address justifiable environmental concerns. For example, nations may enact measures required to preserve finite natural resources or to safeguard human, animal, or plant life and health under Article XX of the General Agreement on Tariffs and Trade (GATT), so long as they are not implemented in a way that would amount to arbitrary or unjustifiable discrimination (*GATT-AI-2012-Art20*, (May 24, 2012), [https://www.wto.org/english/res\\_e/booksp\\_e/gatt\\_ai\\_e/art20\\_e.pdf](https://www.wto.org/english/res_e/booksp_e/gatt_ai_e/art20_e.pdf)).

### Conclusion

To sum up, trade and environmental conservation can coexist, but doing so will need careful consideration of conflicting interests. As demonstrated by recent WTO dispute settlement judgements, a comprehensive strategy that considers trade and environmental factors is necessary to support sustainable development.