JudicateMe Journal

JudicateMe

2020

GATT AND ENVIRONMENT: AN ANALYSIS

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GATT AND ENVIRONMENT: AN ANALYSIS

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ABSTRACT

Marrakesh agreement establishing WTO reads in its preamble that the trade being an important purpose is not in itself an end to world economic forum, but sustained development and protection of environment is a major goal of WTO. But the issue of environment has been compromised over the basic principles of the world trade organization. The basic agenda during different rounds of trade negotiations was the development of a regulating body for international trade and tariffs. Environment was coincidental to the undisputed functioning of such regulatory framework.

Trade and environment have been in conflict over long, even before the WTO era. A series of cases serve as evidences to the existing conflict thereby purporting to the fact that WTO has always been bent towards trade because of its economic importance. The major case relating to this has been the United States-Import Prohibition of Certain Shrimp and Shrimp Products. The research article is divided into various sections as to identify the various aspects of the interplay between WTO and environment. The research methodology used in this piece of work is observative and secondary date analysis type of research. It aims to establish that environmental concerns though given proper momentous in the instruments of WTO was never considered indispensable in terms of practice under it.

In this research article, a major analysis will be made on the environmental exceptions provided under article XX of the GATT, and how these are subsided for trade benefits along with a thorough study of the shrimp-turtle case. This article also provides for the various suggestions as to how new rules are required so as to raise environment concerns in WTO and its contracting parties so as to truly make the appellate body of tribunal independent and impartial.

Keywords: WTO, environment, trade, conflict.

INTRODUCTION

WTO is the single regulator or body which contains all the norms for international trade and therefore is the center of global debate that quests to define the relationship

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between the economic global trade and the environment. With the pacing of economies to a more globalized market and inclusive behavior, the need for an international regulating body was realized by the economic leaders of the allied powers of the world. The apprehensions of war and partiality bread the ground for draft of an international agreement, which came to be called GATT, with the sole purpose of securing non-arbitrariness and equal treatment in respect of trade among nations. Environmental factors gained momentum at a later stage. The interplay between trade and environment contains various issues which are dealt in the WTO committee on trade and environment basically called the CTE.

HISTORY AND EMERGENCE OF ENVIRONMENTAL TRENDS IN WTO/GATT

"Trade and environment, as an issue, is by no means new. The link between trade and environmental protection both the impact of environmental policies on trade, and the impact of trade on the environment was recognized as early as 1970.

Growing international concern about the impact of economic growth on social development and the environment led to a call for an international conference on how to manage the human environment. The 1972 Stockholm Conference was the response.

In 1972, the UN held a Conference on the Human Environment in Stockholm. During the preparations in 1971, the Secretariat of the General Agreement on Tariffs and Trade (GATT) was asked to make a contribution.

In 1971, GATT Director-General Olivier Long presented the study to GATT members. He urged them to examine what the implications of environmental policies might be for international trade.

In the discussions that followed, a number of GATT members suggested that a mechanism be created in GATT for the implications to be examined more thoroughly".[1]

During the Tokyo round of negotiations in 1973, the extent of barriers to trade in the form of environmental concerns was discussed. An agreement containing technical barriers to trade was discussed in the name of standard codes. Then the same concerns were raised in the Uruguay round in 1986 and its mention was made in the GATS and AOA (agreement on agriculture) as well as the TRIPS (trade related intellectual property rights) agreement.

In 1982, GATT ministerial meeting was held after concerns arose due to trade restrictions imposed by countries for environmental protection. This led to creation of working group in 1989 on the export of domestically produced goods and hazardous substances.

The major dispute that first arose in GATT realm was between USA and Mexico which lead to criticism of the GATT environmental norms. This case formed the major grounds for incorporation of environmental exceptions in the GATT

[1] 'WTO, Trade and environment' <www.wto.org/english/tratop_e/envir_e/hist1_e.htm> accessed 24.06.2020

which shall be discussed in the later part of the article.

The EMIT group set up in 1971 by the representatives of GATT council made recommendations and discussions of environmental issues were taking up in GATT dealing in environmental measures in international trade and the correspondence of multilateral trade with multilateral environmental agreements. Other developments were also made as the in 1992 UNCED or Rio earth summit stressing over the issues of international trade a leading cause for poverty elevation and environmental degradation and its agenda 21 discussing the measures of sustainable development. Thus, in the Uruguay round attention was given to the environmental concerns to be incorporated in the Marrakesh agreement which would establish a body for the governance of international trade which later came to be known as WTO.

The impact of these discussions on environment was later seen in the preamble of the Marrakesh agreement establishing WTO which reads as:

"Recognizing that their relations in the field of trade and economic Endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production of and trade in goods and services, while allowing for the optimal use of the world's resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment and to enhance the means for doing so in a manner consistent with their respective needs and concerns at different levels of economic development,"[2]

Recently the Doha rounds of negotiation which continued to work on the issues of sustainable development, environment requirements and market access, labelling requirements and environmental reviews have come to an end.

ENVIRONMENTAL EXCEPTIONS UNDER GATT

Article XX provides for general exceptions to the rules set forth in the agreement on tariffs and trade. This article first state a condition to applying such exceptions, which is: that application of the exceptions should not be in a manner to constitute any means of arbitrary or unjustifiable discrimination to any country where the same conditions prevail or a disguised restriction on international trade. It can be easily inferred from the language of the article that the exceptions provided in the agreement are a mere means which can be used as a tool for the restriction of trade in exceptional and unavoidable circumstances and that no country can use it for the trade benefit of its own domestic industry or some other nation to which it offers favourable treatment.

Article XX (b) states "necessary to protect human, animal or plant life or health[3];

[2] WTO Agreement: Marrakesh Agreement Establishing the World Trade Organization, Apr. 15, 1994, 1867 U.N.T.S. 154, 33 I.L.M. 1144 (1994) [hereinafter Marrakesh Agreement or WTO Agreement]

[3] Article XX(b) of GATT 1994: General Agreement on Tariffs and Trade 1994, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1A, 1867 U.N.T.S. 187, 33 I.L.M. 1153 (1994) [hereinafter GATT 1994].

Article XX (g) states “relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption”[4]

Both these clauses in the agreement provide for a settlement between trade and environment in GATT and cross border trade. These provide for protection and conservation of plant, animal and human life along with exhaustible natural resources. This places the environment on a higher pedestal and provides for priority of environment protection over liberalization of trade and global market access.

The appellate body under the GATT provides for mechanism in cases of such claim under environmental exceptions by any contracting state. In regard to such claim, the party which claims that the exception under clauses (b) or (g) have to prove that the requirements of the chapeau under article XX have been met, that is the claim is not just any arbitrary means or unjustifiable discrimination to the other parties. Whereas, the burden of disproving that such environmental harm is not being done lies on the party denying the applicability of the exception. Though there is no sequence that is to be followed by the panel in examining the case of such environmental exception. It is also noteworthy that the GATT inconsistent measure doesn’t in itself follow the chapeau under Article XX.

The decision as to correct sequence of the proceedings was made in the *EC- asbestos case*[5], which provided that first the eligibility of the inconsistent provision should be checked in accordance with the Article XX and then the consistency with the chapeau of the article should be taken into consideration and if both these conditions are satisfied, only then the claim would arise.

Article XX (g) has three necessities to check for inconsistency – 1. The measure must be for the conservation of exhaustible natural resources, or related to such conservation 2. The measure must be related to the restrictions on the domestic production or consumption and then,

The consistency with the basic condition under article XX should be taken into consideration and then the claim or environmental exception will be valid.

A *necessity test* is an approach developed by the GATT in *US –gasoline case* [6]and *the shrimp –turtle case* in which a policy measure may be valid even when it is inconsistent with GATT, but valid under the general exception for protection of plant, animal and human life. The two necessities that are mandatory for such justification are: 1. That such inconsistent measure must be for the protection of human, plant and animal life 2. The inconsistent measure must be necessary for the fulfilment of policy objective.

[4] Article XX(g) of GATT 1994: General Agreement on Tariffs and Trade 1994, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1A, 1867 U.N.T.S. 187, 33 I.L.M. 1153 (1994) [hereinafter GATT 1994].

[5] WTO, *Appellate Body Report, European Communities — Measures Affecting Asbestos and Asbestos-Containing Products,* WT/DS135/AB/R, adopted 5 April 2001

[6] WTO, *Appellate Body Report, United States — Standards for Reformulated and Conventional Gasoline*, WT/DS2/AB/R, adopted 20 May 1996, DSR 1996:I, 3

Some examples of such policy objectives can be: to reduce consumption of cigarettes for the protection of human life, to reduce pollution from gasoline, to reduce the threat of diseases like malaria from the reduction in accumulation of waste from discarded tires, etc.

IMPACT OF GATT EXCEPTIONS

The exceptions listed under Article XX (b) and (g) apply generally to all parts of the GATT, 1994 but it has major implication on the two basic principles of GATT, namely:

1. The national treatment obligation (article III)
2. The most favored nations principle (article I)

ARTICLE III OF GATT

The imported products can harm the environment in two ways. First, it is in itself harmful to the environment, meaning the consumption of such product leads to environmental degradation and the second, which is more common is the production externalities of the imported product as in the case of shrimp turtle and tuna dolphin.

GATT, 1994 provides discrimination for both of the principles of MFN (Article I) and the national treatment (Article III), but most of the cases relating to a dispute of trade and environment have arisen under article III. Article III generally examines discrimination of product by product differentiation, based on article III clause iv which talks of favorable or less favorable treatment. The discrimination is judged by the appellate body of the WTO by examining the two factors of a) like products b) product process externalities.

Like products can be interpreted as two products having the same aim and effect relationship along with when they are competitive to each other , but this test of like products was not enough as highlighted by the appellate body in the *Japanese alcoholic beverages* [7]case. Appellate Body in Japan-Alcoholic Beverages pointed out that the purpose of Article III is to limit protectionism and to ensure equal competitive opportunities, it did not at this point hold that the like products determination is focused solely on competitive relationships. In the 2001 *EC-Asbestos case*, the Appellate Body determined that likeness under Article III:4 is "fundamentally, a determination about the nature and extent of a competitive relationship between and among products[8]

Some products may be restricted under article XX (b) or (g) based on the way they are manufactured, processed, harvested or obtained for exports. This may be termed as product process and product manufacturing (PPM). These products may not be directly harmful to the environment but their obtaining may cause environment degradation. In current world, such measures can be taken in cases of carbon emissions and such disputes may arise in the near future.

MULTILATERAL ENVIRONMENT AGREEMENTS AND

[7] WTO, *Appellate Body Report, Japan-Taxes on Alcoholic Beverages*, 17-22, WTO Doc. WT/DS8/AB/R (adopted Nov. 1, 1996)

[8] Joel P. Trachtman, “WTO Trade and Environment Jurisprudence: Avoiding Environmental Catastrophe” (2017)58 Harv. Int'l L.J. 273

INTERNATIONAL ENVIRONMENTAL LAW

Until now, the focus has only been granted to the environmental measure under the WTO, but there are other multilateral environmental agreement and international environmental law in existence too. The conflicts of environmental nature can easily be dealt with such MEA's and laws, but the appellate body under the WTO does not apply such law liberally. The major reason for such reluctance may be that the measures which may be allowed under the GATT may also not be justified under the international environmental Law. What may be necessary under international environmental law may not be consistent with article XX of GATT. The WTO does not have any specific regulation to specify the law to apply to a dispute resolution process and there always exists a doubt as to application of certain laws to such disputes. Therefore, the appellate body has been evidently using various international laws and MEAs for dispute settlement according to its own interpretation and benefit.

The appellate body in the US shrimp case used the modern international conventions and declarations to understand the meaning of exhaustible and natural resources under article XX (g). Multilateral environmental agreements have been undisputed in WTO till now which means that no dispute has been brought to WTO in connection to any measure of an MEA. There are currently more than 250 MEA's in force which deal with a wide variety of environmental issues such as CITES (convention on international trade in endangered species of wild fauna and flora), ICCAT (International convention for the conservation of Atlantic tunas).

TRADE OR ENVIRONMENT: THE CONFLICT

WTO law has as its focus the promotion of a liberal trading system. The primary purpose of WTO law is not to promote environmental protection. Even so, the first preamble of the Marrakesh Agreement Establishing the World Trade Organization refers to the need for compromise between the goal of growth, on the one hand, and the need to protect the environment, on the other hand.' This is critical context for interpreting the WTO Agreement, and it suggests why many of the provisions of WTO law entail complex tradeoffs between trade liberalization obligations and regulatory space for environmental protection. If negotiators were beginning with a clean sheet, they would be well advised to write this compromise differently and more generally, to apply consistently across the various agreements and commitments. The basic thrust of the negotiators agreement would be to exempt from restriction under trade law all environmental protection measures that are not disproportionate-that are not excessively costly in relation to the benefits they offer. [9]

Though the legal framework is not that favorable to the environmental concerns, it is a bright light that the contemporary judges of the appellate body act in judicious cautiousness and may favor environmental

[9] Joel P. Trachtman "WTO Trade and Environment Jurisprudence: Avoiding Environmental Catastrophe" (2017) Harvard International Law journal, 58 Harv. Int'l L.J. 273.

protection, which is desirable but not enough for a sustained survival. The major example of such an adversity is the US regime of import of tuna products in case of tuna-dolphin[10].

Since 1995, the WTO has made rulings in nine disputes involving environmental and health regulations affecting gasoline, shrimp/ turtles, hormones, asbestos, salmon, apples, agricultural products, generic drugs, and genetically modified organisms (GMOs). These nine disputes address nearly all of the environmental and health controversies surrounding the WTO. Yet they have done little to defuse these controversies because all but the asbestos and generic drug rulings went against the government imposing the regulations in dispute. For critics, these adverse decisions demonstrate that the WTO favors trade at the expense of the environment and public health and poses a threat to sovereignty. But a more careful reading of the rulings reveals that governments may pursue environmental and health goals provided that they do not discriminate among their trade partners and can provide scientific support for their regulations. In addition, the disputes demonstrate the essential role that the nondiscrimination and scientific-justification requirements play in distinguishing between legitimate environmental and health regulations and those designed to protect domestic producers. However, the rulings also suggest that the dispute-resolution process can be strengthened by instituting reforms that improve compliance, enhance transparency, and reduce the cost of participation for poor nations[11]. It is noteworthy that none of the nine major environmental related disputes have evolved a MEA.

One problem is that environmental conflicts are resolved by trade experts on the WTO panels. These panelists are not educated in resolving environmental issues. The panels will review non requested material from non-governmental organizations. Furthermore, the panels do not review the policy itself, but only the manner in which that measure is applied. This is still an unfortunate situation for the environment since the WTO is set up to promote free trade." Therefore, free trade principles are very likely to prevail over environmental concerns if the two are in conflict before the WTO.[12]

And, thus a worrisome state of environmental issues is prevalent in the dispute settlement body of WTO. With no analysis been made on the actual policy or discriminatory measure but only on its implementation leads to the conclusion that the significance of environment protection measures is understated in WTO. The panelists do not acknowledge the importance of such measure but only of its maintainability in the international trade sphere.

[10] It was suggested by the appellate body that there is a serious lack of national autonomy in case of environmental conservation and protection, See Appellate Body Report, United States-Measures Concerning the Importation, Marketing and Sale of Tuna and Tuna Products, Recourse to Article 21.5 of the DSU by Mexico, WTO Doc. WT/DS381/AB/RW (adopted Dec. 3, 2015) [hereinafter Tuna 1121.5]

[11] Kelly, Trish. “Is the WTO a Threat to the Environment, Public Health, and Sovereignty?” *Challenge*, (2008) vol. 51, no. 5, pp. 84–102

[12] Laura Yavitz “The WTO and the Environment: The Shrimp Case That Created a New World Order” (2001) 16 J. Nat. Resources & Envtl. L. 203

THE US SHRIMP TURTLE CASE: AN ANALYSIS

FACTS OF THE CASE:

The US had a prevalent law regarding the endangered species known as the endangered species act, 1973 which list five endangered and threatened species of sea turtles and prohibits their take within the US and the territorial waters of US as well as high seas. Pursuant to this act, US provided for a necessary measure of installing turtle excluder devices in the nets of the fish trawlers while fishing in the areas where there would be a likelihood of existence of sea turtles. Section 609 of the public law 101-162 enacted in 1989 by the US prohibited that the shrimp harvested with technology that might harm the sea turtles can't import to US unless it has taken measures to set up a regulatory programme to protect the sea turtles and the incidental taking rate of such sea turtles as compared to US or that fishing environment does not pose a threat to the life of sea turtles. This indirectly meant that the turtle excluder devices had to be installed by every fishing person.

The complainants i.e. India, Malaysia, Pakistan and Thailand, contested that this was in contravention to article I(i) and article III as it restricted the import of shrimp and shrimp products from countries without certification while the other countries could export their products freely to US. The US thus stated the exceptions under article XX(b) and (g). It was argued that the measure was important for the protection of animal life and conservation of exhaustible natural resource.

In contradiction to this, the complainants answered that the clauses under exceptions can't be applied to animal life which does not fall under the jurisdiction where the measure is applied.

HELD:

In this case, the panel first looked into the chapeau provided under Article XX of the GATT. The chapeau proc\vides that the exception claimed under the Article XX should not be in such a manner that it becomes a means for arbitrary and unjustifiable differentiation in contracting parties. The panel under the WTO dispute resolution found that the measures of the US were in a nature of unjustifiable discrimination between the same member countries and thus was not within the scope of article XX. The panel reasoned that allowing such restriction would mean taking away the autonomy of the countries in determining their own policies. Since, it was found in contravention of the chapeau, the panel did not take into consideration whether the restriction fell under the exceptions of (b) or (g) of article XX.

Though the appellate body found the restriction to be falling under the XX(g) as sea turtles were an exhaustible natural resource but since the measure was discriminatory of the countries where the same conditions prevailed, therefore the measure could not be justified.

After this, a claim was filed by Malaysia contesting to check whether the US has complied with the directions issued by the panel in the shrimp turtle case. Malaysia contested that the revised guideline under section 609 of the said regulation still violated the provisions of article I of the GATT in 2000.

Malaysia also claimed that US must have first discussed such a measure in the form of bilateral or multilateral environmental agreement before making it a unilateral prohibition.

The appellate body in this claim ruled that the revised provision of section 609 does not make any arbitrary or unjustifiable discrimination between the nations with same conditions, therefore the restriction also falls under the exception given under article XX(g) of the GATT articles, thus the ban is justifiable and the violation of article I is justified. The appellate body also said that it is important for environment protection and conservation for the member nations to work together with co-operation. The board also stated that no multilateral or bilateral discussion is required for any country before imposing an export prohibition. It also stated that US has worked in major good faith to conclude a fair international agreement.

ANALYSIS

The Appellate Body Report in Shrimp Turtle II confirms the view advanced by me nearly two years ago in the pages of this journal that the WTO is far from being the anti-environment organization it is portrayed as being by northern states and green groups and their allies at home. The implications of the Appellate Body report in Shrimp Turtle II are grave, and perhaps of greater import than the explicit agenda included in the Doha Ministerial Declaration. For it represents a clear move away from the understanding that GATT/ WTO rules shall not regulate process and production methods, i e, as opposed to product characteristics. The Appellate Body Report not only tramples upon the sovereign rights of states to have their own environmental protection regimes, but also goes a long way to legitimize green protectionism. The interpretative revolution that the Appellate Body Report brings about in Shrimp Turtle II will become clear at a later stage when we contrast it with the GATT Panel Report in the famous Tuna Dolphin I case written only a decade ago. But the significance of the Appellate Body report in Shrimp Turtle II goes far beyond the potential threat of non-tariff barriers to third world trade. It raises the issue of the place and function of the dispute settlement system in the WTO scheme of things. For the Appellate Body Report highlights that WTO dispute settlement bodies can alter the balance of rights and obligations contained in adopted agreements by creating new obligations through the process of interpretation. That is to say, the dispute settlement system is being used by the powerful states to bring in new rules through the backdoor. [13]

Multilateralism and unilateralism: in its report panel emphasized that WTO favors a multilateral approach to trade issues while the appellate body signified that a multilateral approach is not necessary and favored a unilateral approach in order to make sure that the benefits of trade do not always trump the environmental constraints.

REFORMS NEEDED IN THE FUNCTIONING OF GATT/WTO DISPUTE SETTLEMENT

[13] B. S. Chimni "WTO and Environment: Legitimization of Unilateral Trade Sanctions" *(2002)37 Econ* polit wkly, (133)

1. **The reports that are available to the public should be more descriptive.**
   The panel and appellate reports are invaluable to policymakers, scholars, and others who have the time and expertise to read them. But their length (400-500 pages for the asbestos and shrimp/turtle reports and more than 2,000 pages for the GMOs panel report), complexity, and terminology limit their usefulness to the broader public. The dispute summaries provide only a partial solution to this problem because they focus primarily on panel and appellate findings. The summaries should be expanded to include sections addressing each of the major components of the dispute resolution process: disputants' arguments, expert testimony, analysis, and rulings.
2. **Panel and appellate hearings should be opened to the public[14].**
   Barring public from such judicial proceedings goes against the judicial character of such proceedings and changes their nature. It even earns criticism to such proceeding because public doesn't understand their true nature. Allowing public to view such proceedings would not fetch any disadvantage to the government rather earn it credibility and support. The availability of such proceedings to public encourages such action and spreads environmental awareness.
3. **The developing countries or the third world countries should be supported financially during such disputes.**
   The poor countries do not often file such cases for the lack of resources financially. It is very difficult for such countries to win against the developed nations. As of 2008, only one least developed nation which is Bangladesh has filed a dispute in WTO, the high cost of sustaining the dispute limits their access to dispute resolution system under the WTO. It thus renders the major principles of equality and no discrimination of WTO meaningless and unreliable.

A major change is also needed in the way and the application of rules applicable to the dispute settlement of matters relating to environment. Alongside the GATT articles, the international environmental laws and the various MEA's should also be given due consideration while deciding environmental matters. The international environmental law provides a great deal of measures to protect and conserving the environment, the natural resources and the human, plant and animal life and thus the importance of the law should not be ignored.

CONCLUSION

The approaches of international economic law and international environmental law have been very different for one another.

[14] Kelly, Trish. "Is the WTO a Threat to the Environment, Public Health, and Sovereignty?" (2008) *Challenge*, vol. 51, no. 5, pp.94-96.

When the economic law focuses on the free trade and removal of trade and tariff barriers from international trade and the liberalization of global trade, the international law focuses on the protection of environment globally from the trade which adversely affects the environment. The environmental disputes having no separate dispute settlement body are inevitably going to land to the DSU under the WTO. In various instances under the GATT where any sovereign puts any restriction on the trade for environmental concerns, it is either opposed by the contesting state or is found in the derogation of the GATT articles majorly Article I and Article III.

It is majorly argued that the operation of WTO in the concerns for environmental policies is in conflict with the liberal trade policy. Major criticism falls in that dispute settlement arena where the understanding of environmental laws is too low in the panel as well as the appellate body. In turn the WTO dispute settlement system undermines the environmental efficacies. Some pro-environmentalist also supports the model of WTO for world environmental organization. Others suggest strict adherence to trade-related environmental measures in the purview of liberal trade policies. A stringent view is also held by many that the WTO is not and environmental agency and does not aspire to be so and thus, the member nations are free to devise their own environmental policies subject to the conditions under the Article XX of GATT.

The tension between GATT and WTO code rules and environmental measures is real. GATT and WTO panels have found several domestic environmental measures inconsistent with GATT, including measures to protect dolphins, to assess penalties against manufacturers of automobiles that do not meet designated fuel efficiency standards, and to reduce emissions from gasoline. To achieve the goals of liberalized trade, panels consistently have read GATT's obligations broadly, while narrowly construing its exceptions. The WTO has not suggested that a country's implementation of trade related measures of multilateral environmental agreements should be treated more favourably, even if a vast number of countries have agreed to the trade provisions of the environmental agreement and even if the trade provisions are vital to the success of the environmental agreement. For agreements such as CITES and the Basel Convention5 that regulate trade because trade is the problem, this situation is unacceptable. Requiring free trade in species that have become endangered due to international trade seems unthinkable, but such a ruling would be consistent with previous GATT and WTO panel decisions. Clearly, this tension between trade rules and environmental rules must be reconciled.[15]

The continuing Doha rounds of negotiation under the GATT focus on the three aspects namely the trade, environment and sustainable development. A successful completion of the Doha Round could have beneficial effects for the environment and sustainable development. Specifically, in the area of agricultural subsidies, domestic and export subsidies by developed

[15] Chris Wold "Multilateral Environmental Agreements and the GATT: Conflict and Resolution" (1996) 26 Envtl. L. 841

countries - in particular, by the United States and the EU - have encouraged overproduction of field crops (corn, cotton, wheat, and soybeans, for example). Such overproduction has in turn put pressure on natural resources, including water and arable land. In addition, this overproduction has caused injury to farmers in developing countries who cannot compete in domestic and international markets with subsidized agricultural products sold by farmers in developed countries in those same markets. Thus, if the Doha Round is able to secure real reductions in farm subsidies, important gains for sustainable development in the agriculture sector could be achieved.[16]

The biggest wave of shock hit the economies when the newspaper headlines read that the Doha round has come to an end after years of deliberations, the expectations from Doha round met the ground and thus came falling down the environmental concerns raised in WTO. The WTO negotiations are suspended, commerce and industry minister Kamal Nath said. Asked how long the suspension could last, he replied, anywhere from months to years.[17]

It is abundantly evident that WTO may never be enough for the protection of exhaustible environment from harmful trade practices by the countries owing to the loopholes in the environmental policies under GATT. Therefore, the need for a separate international environmental protection framework has always existed and continues to exist till date.

[16] Kevin C. Kennedy, The Status of the Trade-Environment-Sustainable Development Triad in the Doha Round Negotiations and in Recent U.S. Trade Policy, (2009)19 Ind. Int'l & Comp. L. Rev. 529

[17] '*Doha round talks fail' financial express* (New Delhi, 25. july.2006)