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Trade-Environmental Linkage in multilateral environmental agreements: implications for sustainable development in developing countries

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Abstract

Multilateral Environmental Agreements (MEAs)[1] provide the regulatory framework of principles and policies for the protection of the global environment and for addressing global environmental problems. Together, the MEAs form an international environmental regime made up from a number of agreements designed to strengthen international cooperation to address environmental problems. MEAs prescribe different types of trade measures. Some of them take the form of outright bans/prohibitions, quotas and certificate arrangements that include import and/or export permits and prior informed consent procedures and mandatory labeling schemes. Such trade measures have at times been considered negative, coercive and even punitive, yet they may be applied between parties to an MEA, and/or between parties against non-parties.[2] As the environment and economy are interlinked, the environmental protection measures set out in MEAs will inevitably overlap with world free trade rules. They often have the same parties and address the same issues from different perspectives. This overlapping results in MEA-WTO linkages. Such linkages have the potential to impact the scope and amount of global free trade. This paper will examine the interaction of trade and the environment in three MEAs, and argue that these interactions leave developing worse off than developed countries.

1 Herein after referred to as MEAs.

2 Chiedu Osakwe, 'Finding New Packages of Acceptable Combinations of Trade and Positive Measures to Imporve the Effectiveness of MEAS: A General Framework' in Agata Fijalkowski and James Cameron (eds) *Trade and the Environment: Bridging the Gap*, Cameron May Ltd, 1998 at 48.

Environmental Dispute Resolution – producing outcomes that are environmentally fair

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Abstract

This focus of this paper is on the resolution of environmental disputes, either through litigation, mediation, managerial direction or by the combination of the three. It considers the possibility of ensuring that the outcome reached in such processes is fair or 'just' in environmental terms. A good outcome in legal, economic or social terms may not be so in environmental terms. Measurements in terms of parties' satisfaction, the fairness of the process in procedural terms, the efficiency of the outcome do not necessarily relate to a

fair environmental outcome. Framing and measuring a determinant of environmental fairness presents its own difficulties. To assert that 'environmental degradation was avoided/minimised' is one thing, but to measure it is another. One starting point may be to consider how well a dispute resolution procedure itself is geared to producing accurate assessments of environmental desirability. Is such evidence gathered by adversarial methods, by the use of expert panels or some other consensual approach? The fairness of a process may be assessed on how well it is geared to collect and use technical and scientific information in terms of transparency, in terms of its ability to narrow areas of scientific uncertainty and to arrive at an informed view of likely effects. This method of using fair process as a proxy for fair outcome is not new. The paper applies this method for assessing the environmental fairness by reference to the process used in two natural resource management disputes. Each process is reviewed in terms of whether there been an attempt to develop an agreed set of criteria to assess environmental desirability and whether these criteria been subsequently applied to arrive at a fair outcome.

RMA Review - An Exercise in Legislative Indeterminacy?

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Abstract

The RMA has been the subject of major amendments in 1993, 1996, 1997, and 2003. Currently, a further review process has been launched by Associate Minister for the Environment, David Benson-Pope, on 12 May 2004. Some of the problems identified by the review, however, appear to be similar to issues considered previously. This paper will, therefore, critically analyse the need for review and what should be done to improve the RMA. Contents of the Paper The paper will focus on the key issues identified in the current review process and examine specific proposals for RMA amendment. In particular, the paper will consider whether comparative analysis of other jurisdictions would inform the debate in New Zealand. The paper will also explore some of the myths about the RMA, e.g. delays in resource consent processing and Environment Court appeals and question whether further legislative amendment is required to address these matters. The paper will also examine what amendments should be made to the RMA to process consents for major projects more efficiently, together with better ways of preparing national policy guidance.