



UN-ESCWA UNITED NATIONS - Economic and Social Commission for Western Asia



International Environmental Principles and Trade-Related Multilateral Environmental Agreements

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Outline of Presentation

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PART I

Background



MEAs and Trade

- Over 200 MEAs, but only 20 have trade provisions
- Relationship between WTO and Trade-related MEAs part of regular work program of the WTO Committee on Trade and Environment (CTE)
- No collective mechanisms exist for coordination among MEAs or trade-related MEAs, although UNEP is umbrella for most global agreements; thus MEA Secretariats assess their relationship to WTO measures on an individual basis
 - However, trade-related MEAs have collectively sought to secure standing before the CTE to at least observe proceedings within the CTE and WTO that may impact the implementation of MEAs



International Environment and Sustainable Development Policy

- Environment and natural resources are fundamental components of development. Competitiveness & Environmental Protection are compatible & reinforcing.
- Environmental movement emerged in the 1970s
- Linkages between environment protection and economic development emerged in 1980s, which lead to dissemination of “sustainable development” as a means to encourage the integration of policies across sectors.
- Rio (1992) focused on the environment, with reference to development; Johannesburg (2002) focused on sustainable development, but environment still dominant
- Challenge often associated with governance and moving from an environmental management culture to one that can handle integrated sustainable development.
- Interest to proactively formulate a trade and environment strategy makes Iran a leader in the region in this area.



PART II

General Principles of International Environmental Law



Environmental Principles that have implications for International Trade

While these are not incorporated or recognized by the GATT/WTO, which focuses exclusively on trade, these environment principles often guide MEAs and may run contrary to WTO measures depending on their application.

- Pollution prevention
- Precautionary approach
- Polluter-pay principle



Soft Law Environmental Principles

- **Pollution prevention**
 - Management approach which emphasizes the elimination and/or reduction of wastes at the source
 - Allowed under the general exception of WTO
- **Precautionary approach (Rio, Article 15)**
 - More conservative approach to risk assessment
 - Shifts the burden of proof by requiring potential polluters to demonstrate that their actions do *not* damage the environment
 - Implications for SPS and TBT Agreements.
 - SPS Agreement allows for precaution to be exercised only when pending collection of technical information needed to justify the measure
- **Polluter-pays principle**
 - Raises issues of liability and responsibility for environmental degradation
 - Begs the question if those who pollute the global commons more should pay more, and how.





Trade Principles that have implications for MEAs

Some basic principles of international trade are not necessarily compatible with measures applied in MEAs.

Principle of Non-Discrimination – can not differentiate between like products based on PPMs

- **Most Favored Nation Clause** – if trade in a certain product is only restricted to some countries
- **National Treatment** – if differentiation is allowed between between imported and domestically produced like products



A Couple International Law Fundamentals

1. One international agreement can not be subject to the terms of another agreement, **unless** specified and agreed to by the Contracting Parties
 - Therefore: International trade agreements do not have supremacy above international environmental agreements signed by the same Member States.
2. Chronology doesn't count
 - International agreements are equally valid over time, and are amended through agreements among the Contracting Parties (which may chose or decline to sign on to amendments or follow-up protocols)
 - An agreement that is signed first does not have supremacy over another agreement signed later, or the inverse, unless a clause in the most recent agreement stipulates otherwise.



PART III



Trade-Related MEAs



Trade-Related MEAs

- International Plan Protection Convention (1979)
- Convention on the International Trade in Endangered Species of Wild Fauna and Flora
- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal
- Rotterdam Convention on the Prior Informed Consent Procedures for Certain Hazardous Chemicals and Pesticides in International Trade
- Convention on Biological Diversity & Cartagena Protocol on Biosafety
- UN Fish Stocks Agreement
- Vienna Convention & Montreal Protocol
- Stockholm Convention
- UN Framework Convention on Climate Change

Roundtable on Issues Related to the
Establishment and Activation of National
Committees on Trade and Environment
(Beirut, 12 – 14 January 2010)



Country	IPCC	CITES	Basel	Montreal	Rotterdam	Biodiversity	Stockholm
Bahrain	X		X	X		X	X
Egypt	X	X	X	X	X	X	X
Iraq	X			acs (2008)		acs (2009)	
Jordan	X	X	X	X	X	X	X
Kuwait	X	X	X	X	X	X	X
Lebanon	X		X	X	X	X	X
Oman	X	X	X	X	X	X	X
Palestine							
Qatar	X	X	X	X	X	X	X
Saudi Arabia	X	X	X	X	X	X	X
Syria	X	X	X	X	X	X	X
UAE	X	X	X	X	X	X	X
Yemen	X	X	X	X	X	X	X
Sudan	X	X	X	X	X	X	X





International Plant Protection Convention

Purpose: Establishes licensing system for the entry of plants and pests into national territories to prevent the spread and introduction of pests and plant products (natural or cultivated). Linked to FAO.

- IPPC recognized in WTO SPS agreement as a source of international phytosanitary standards that WTO members are encouraged to use as the basis for their technical regulations. Measures should be applied in a manner that is **not discriminatory**.
- 1997 amendment to the IPPC sought to become more compatible with WTO agreements signed in 1994.
 - e.g., 1997 agreement calls on countries to adopt phytosanitary measures when “**technically justified**” while 1979 more liberal saying measures should not adopt measures unless “**necessary by phytosanitary considerations.**” Plus transparency component.



 **Convention on the International Trade in Endangered Species of Wild Fauna and Flora**

Purpose: To ensure that international trade in specimens of wild animals and plants does not threaten their survival.

- **Precautionary principle** fundamental to MEA
- **Seeks to manage trade in wildlife across countries through restrictions, licensing + quotas**
- **Encourage use of impact assessment of trade in wildlife**
 - Caviar example (contained in decisions):
 - Recommends import quota of 250g/person for imports
 - Requires compliance with universal labeling regime to authorize imports of caviar
 - Notification system to secretariat regarding exports
 - Also subject to CITES-wide export quota controls, which establishes four different sources of export quotas.



 **Rotterdam Convention on the Prior Informed Consent Procedures for Certain Hazardous Chemicals and Pesticides in International Trade**

RC objectives are to promote shared responsibility & cooperative efforts among Parties in the international trade of certain hazardous chemicals in order to protect human health and the environment from potential harm; and to contribute to the environmentally sound use of those hazardous chemicals, by facilitating information exchange about their characteristics, by providing for a national decision-making process on their import and export and by disseminating these decisions to Parties.*

- **Prior Informed Consent (PIC procedure)**
- 80 signatories
- Provides framework for Governments to notify regarding chemicals for which PIC required
- Linkage to Basel Convention
- MEA explicitly recognizes relationship to WTO

*including pesticides & industrial chemicals, i.e. DDT, Lindane, mercury compounds, Asbestos, etc..)



Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal

The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal is the most comprehensive global environmental agreement on hazardous and other wastes. The Convention has 172 Parties and aims to protect human health and the environment against the adverse effects resulting from the generation, management, transboundary movements and disposal of hazardous and other wastes.

- Convention (163 signatories), Ban Amendment (55 signatories), Liability Amendment (4 signatories)
- Bans on export/transport of hazardous waste to countries unable to dispose/recycle it in an environmentally-friendly way. Duty to re-import if importing country can't do that. (TBT and quota conflict)
 - Issue regarding what is hazardous, recyclable (e.g. copper, zinc, lead ashes, zinc ashes)
- Includes **Prior Informed Consent** / control system clause requiring Governments to be notified of export or import of product
- Non-Parties to agreement still subject to its terms due to measures governing actions of parties.



Montreal Protocol on Ozone Depleting Substances (ODS)

- Montreal Protocol to the Vienna Convention.
- Bans imports and exports of ODS controlled substances by Parties (CFCs, HBFCs, Methyl Bromide (MB), Bromochloromethane),
- Discourages export of technologies to produce ODS to countries that are not party to protocol.
- BANGKOK (1993) recognized that could not ban/restrict trade in products MADE WITH, but not containing ODS (Product v/s Product Production Method/PPM issue)
 - PRAGUE (2004) invites countries to NOT restrict trade in products/commodities that have been TREATED with MB or grown in soil treated with MB if country ratified the Montreal Protocol
- **Technology transfer** encouraged for production of ODS alternatives or emission reduction technologies, exception allows sale of ODS recycling technology.



 **Convention on Biological Diversity
& Cartagena Biosafety Protocol**

Purpose: Convention + Protocol recognize that the agreements provide way for developing countries for the conservation and sustainable use of their biodiversity, particularly those who are not WTO Members

- Implications for compliance with international trade principles and agreements on: SPS and TBT Agreements, precautionary principle, TRIPs
 - TRIPS – supports application of *sui generis* regimes to protect indigenous knowledge, but such regimes should also take into consideration customary law (not only principles enshrined in TRIPs)
- Requires labeling of products destined for food, feed or products that may contain Living Modified Organisms (LMOs)
- Supportive of elimination of subsidies that may lead to the over exploitation of fishery resources
- Outcome of GMO concerns and considerations



 **Stockholm Convention
on POPs**

- It requires Parties to take measures to eliminate or reduce the release of POPs into the environment → 1st global legally binding to protect human health & the environment
- POPs are carbon-based compounds (12 POPs: pesticides, industrial chemicals & by-products; e.g. DDT, PCBs, lindane, etc...)
- Signatories: 152 countries
- Bans on export/transport of chemicals including POPs from **both parties and non-parties** except if it's destined for environmentally sound disposal.
- It also requires that POPs not be transported across international boundaries without taking into account relevant international rules, standards and guidelines
- Annual certification is required from parties exporting POPs specifying its use & in case of DDT's use, it should be in accordance to WHO guidelines.



United Nations Framework on Climate Change

The Kyoto Protocol (KP), an international agreement linked to UNFCCC, set binding targets for industrialized countries for reducing greenhouse gas emissions (GHG).

- CC Mitigations measures might raise the cost of international trade; e.g. fuel taxation, etc.;
- UNFCCC secretariat has an observer status in CTE
- Border measures are a hotly debated policy tool that may be applied to imported products based on their carbon footprint band that can be used as means of encouraging compliance with emissions targets
- The elimination or reduction of trade restrictions will benefit trade and the environment by improving countries' ability to obtain high quality environmental goods.
- Supportive to remove energy subsidies and restructure fuel taxation and provide incentives to ensure that polluting sources (with high carbon content) are penalized.



Thank you.



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The slide features a header bar with a row of 15 circular icons representing various national flags and the UN-ESCWA logo. Below the header, on the left side, is a blue circular icon containing a white question mark. In the center of the slide, the word "Questions?" is written in a large, bold, red, italicized font.