

# INTERNATIONAL TRADE AND THE ENVIRONMENT

*Presented by Pamela Katz, Director, State Court Watch,  
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## How to have *Sustainable Trade*?

The trade regimes of the General Agreement on Tariffs and Trade, World Trade Organization, North American Free Trade Agreement and other regional agreements seek to promote economic development and improve people's lives through free trade. They do so through a series of "disciplines" intended to de-regulate and open markets and remove barriers to trade.

Efforts at environmental protection are intended to reduce pollution, conserve and protect natural resources, promote human health and protect the planet. Measures to do so by individual nations or through bi-or multilateral agreements often are regulatory in nature, creating barriers to trade and bringing trade and the environment on a collision course.

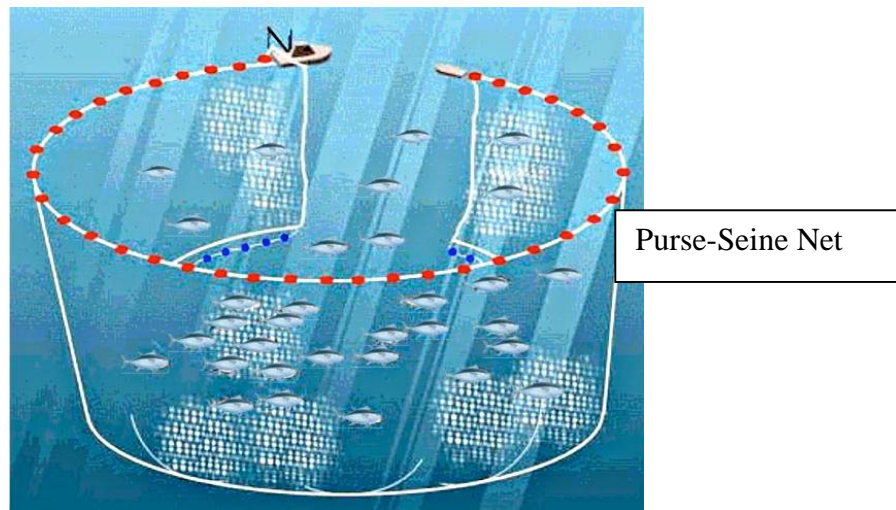
Of course, some measures geared toward sustainability are de-regulatory and dovetail with free trade, e.g. removing governmental subsidies for polluting industries and products. But many believe that these measures are not sufficient to protect our health and planet so the challenge is to find "policy space" within the free trade regimes for more fulsome environmental protection.

## Selected Issues and Problems

1. Sometimes measures that are said to intend to protect the environment are merely *protectionism* in the guise of environmental protection. And, sometimes measures that appear to be protectionist are really intended to protect the environment.
2. An individual nation's ability to set its own environmental standards is a matter of *national sovereignty*. International trade regimes that prohibit regulations limiting imports of goods produced in an unsustainable fashion challenge national sovereignty.
3. International trade regimes that require open markets optimize *comparative advantage* and promote market efficiencies. At the same time, they interfere with an individual nation's ability to regulate industry within its own borders because of the economic advantage to dirty producers who *externalize* the environmental costs of production. These exporters can make their products and then sell them at a lower price in comparison with domestically produced goods under regulation.
4. Free trade regimes that prohibit barriers to trade challenge national sovereignty and *democracy* since these trade regimes and organizations are not accountable to the People. Free trade agreements include exceptions that permit nations to act in the interests of the environment and their people's health and safety, however, the institutions that interpret and enforce these exceptions are not directly accountable to the People.
5. The effort to protect human, animal, and plant life or health from risks arising from pests, diseases, food additives and the like within a free trade regime is tricky. The reliance on science to determine whether such measures are justified presumes *science as the neutral arbiter of risk*. Even when the science and the risk is clear and indisputable, the question then arises as to whether an international body like the WTO should be able to second-guess or determine the *allowable level of protection* any nation wishes to provide its people.

## Issues for Debate:

- **Tuna/Dolphin Dispute:** Under the U.S. Marine Mammal Protection Act (MMPA), the U.S. sought to protect marine mammals by issuing tuna fishing permits only to such commercial entities that limited the killing of dolphins and banned imports of tuna from countries which exceeded these limits. Under this law, imports of tuna from Mexico, Venezuela and Vanuata were embargoed because the tuna in those nations were harvested with purse-seine nets and resulted in an unacceptable incidental killing of dolphins under the US law. At the time of the dispute, the only fishing fleet granted a permit under the MMPA was to American tuna fishing fleets.
  - Apply the **GATT/ WTO Disciplines** (<http://www.statecourtwatch.org/pdf/wto.pdf>) and **Exceptions** (<http://www.statecourtwatch.org/pdf/wto-exceptions.pdf>) to this dispute to determine who wins.
  - Protectionism or valid sustainability measure?



- **Genetically Modified Food:** Genetically Modified Organisms (GMOs) are organisms in which genetic material (DNA) is altered in a way that doesn't occur naturally. Agricultural biotechnology uses GMOs to spur productivity and increase yields. Supporters contend the environmental benefits are great: Decreasing deforestation, land, fertilizer, water, pesticide and herbicide use. The question for many governments is whether genetically modified foods (GMFs) are safe for human consumption and whether they can be released safely into the environment. GMF and GMO crops can germinate in local soil and alter the genetic make-up of local crops, potentially setting off a cycle with unpredictable and de-stabilizing impacts on entire ecosystems. There have been no studies of the long term effects of GMF on people who consume them. Given this uncertainty, the European Union (EU) instituted a prior approval procedure for all GMF imports and refused to approve any imports of GMFs. The United States, Argentina and Canada, whose exports include a great percentage of GMFs, challenged the EU's moratorium on imports of GMFs as a protectionist trade barrier.
  - Apply the WTO Agreement Sanitary and Phytosanitary Measures – SPS Agreement (<http://www.statecourtwatch.org/pdf/sps.pdf>) to this dispute to determine who wins?

- Should the EU be permitted to protect its population from unknown impacts when the science is unclear or are they excluding imports from the US, Argentina and Canada to protect their own farmers' markets and using "risk to health and environment" as an excuse?

## Terms to Know

- Comparative advantage
- Embargo
- Externalities
- Fast track – Trade Promotion Authority
- General Agreement on Tariffs and Trade
- Market access
- Protectionism
- World Trade Organization

## Useful Links

- ❖ United States Trade Representative: <http://www.ustr.gov/>
- ❖ World Trade Law <http://www.worldtradelaw.net/>
- ❖ United Nations Environment Programme <http://new.unep.org/>
- ❖ The Transatlantic GMO Dispute Against the European Communities: Some Preliminary Thoughts, by David Wirth  
[http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=920474](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=920474)