



**LUND**  
UNIVERSITY

Department of Political Science

STV004

VT06

Tutor: Prof. Magnus Jerneck

# Trade, the Environment and the Disillusions

Why Environmental Standards Should Not Be Incorporated  
Within the World Trade Organization

Daniel Kipowski

# Abstract

Since the Second World War, the systems of trade and environmental law have evolved very differently. It is claimed that the complete trading system impedes the development of the more shattered environmental system and that conflicts between them are likely to increase.

Some argues that a solution would be to incorporate the environmental system should in the WTO. The purpose of this thesis is to show why these debaters are wrong and why the environmental system should *not* be incorporated within the WTO. This is done through a normative approach and by drawing on four economic principles as well as by showing that the existing economic order can be completely compatible with sustainable development. Integration is argued as harmful because of the power asymmetry. Instead, an establishment of a new World Environmental Organization is important to ensure a sustainable development. To do this, theories as the Environmental Kuznet's Curve, the Pollution Haven Hypothesis, new institutionalism and environmental ethics are used.

The thesis argues that the best way to ensure sustainable development is to keep the systems separated and to establish a WEO. The thesis also claims that there is a need for environmental ethical change in the definition of sustainable development.

*Key words:* Trade, Environment, Sustainable development, Environmental ethics, World Trade Organization

*Characters:* 69 729

# Table of Contents

<b>1</b>	<b>Introduction.....</b>	<b>1</b>
1.1	Purpose and research questions.....	1
1.2	Methodological Considerations.....	2
1.2.1	A Wide Variety of Theories.....	2
1.2.2	A Normative Approach.....	3
1.2.3	Assumptions of the Desired Economic Order.....	3
1.2.4	Material.....	3
1.3	Essential Concepts.....	4
1.3.1	Trade and Environmental Standards.....	4
1.3.2	Sustainable Development.....	4
1.3.3	Norms and Ethics.....	5
1.4	Outline.....	5
<b>2</b>	<b>The International Systems of Trade and the Environment.....</b>	<b>6</b>
2.1	The Environmental System.....	6
2.1.1	The Geopolitics of the Environment.....	6
2.1.2	The Basics of the Environmental Principles.....	7
2.2	The International Trade Law Regime.....	8
2.3	The Conflict of Jurisdiction.....	9
2.4	Implications for Future Regimes.....	10
2.4.1	A Proposal for a World Environment Organization.....	11
2.4.2	An New Institutionalistic Approach towards a WEO.....	11
2.4.3	A Highlighted Relationship during the Rio Conference.....	12
<b>3</b>	<b>The Economic Trade and Environment Relationship.....</b>	<b>14</b>
3.1	The Environmental Kuznet's Curve.....	14
3.2	The Pollution Haven Hypothesis.....	15
3.3	The Implication for Future Regimes.....	16
3.3.1	Should Environmental Matters be Included in the WTO?.....	16
3.3.2	The Conflict Resolution Mechanism of the WTO.....	17
3.3.3	The Need for Joint Policy Responses.....	18

<b>4</b>	<b>A Defense of the Prevailing Economic Order from an Environmental Ethics Perspective.....</b>	<b>20</b>
4.1	Environmental Ethics .....	20
4.2	The Character of Public Goods .....	21
4.3	The Implication for Future Regimes .....	22
<b>5</b>	<b>Needed Reforms of the WTO.....</b>	<b>24</b>
<b>6</b>	<b>Conclusions.....</b>	<b>26</b>
<b>7</b>	<b>References.....</b>	<b>28</b>

# 1 Introduction

The international trade has increased tremendously the past 50 years. So has the change in the environment. The effect that people's creativity and ability to take action have had on the earth has, except positive effects such as increased welfare and development, meant that we today stand before many difficult environmental challenges. While an international trade law system with a conflict resolution mechanism has been developed during the post-war era, which created the World Trade Organization in 1995, the development within environmental law has not been equally straight forward.

The relationship between the two legal systems has on both sides been subject to a heated debate the past years. Who does not remember the riots in Seattle 1999? In part those riots had to do with this debate. How the trade-environment problems are dealt with is highly asymmetric and creates tensions and conflicts. Tensions and conflicts that are likely to increase in the future. One reason for this is that the systems of today is said to impede the development of the MEAs.

The issues about the relationship between the WTO agreements and MEAs have been in the centre of the debate for more than ten years. The phrase that the two systems should be "mutually supportive" is constantly repeated in political documents and declarations. But such a relationship is not prevailing today, and neither WTO nor the UN has been able to concretize the practical meaning of it.

## 1.1 Purpose and research questions

Even though the environmental system is underdeveloped, many important steps have been taken to protect the global environment and to work for sustainable development through multilateral environmental agreements. At the same time a development of a legal international trade system is ongoing within the frameworks of GATT and the World Trade Organization. The relationship between them is subject to a heated debate between them.

One of the major obstacles is the asymmetry that exists between the full feathered trading system and the shattered environmental system. The trading system includes a conflict resolution mechanism as well as possibilities of sanctions. In the environmental system such mechanisms are virtually non-existent. The legal environmental system is much weaker and this is said to obstruct the development of it. It is of great importance to provide the right tools so that the trade potential for economic growth leads to environmental sustainable development. This is an uncontroversial statement but so far unrealized in reality. The conflicts between the two legal systems are likely to increase in the future.

How these should be solved is a problem and a matter of high controversy. Calls have been made to incorporate the environmental system in the WTO. The question is whether or not this should happen.

The purpose of this thesis is to oppose the calls of integration and present one view of why the environmental system should *not* be incorporated within the scope of the WTO as a mean of achieving sustainable development.

As a continuation of this discussion, the following research questions, that this thesis seeks to answer, are exposed:

- Why should the two legal systems *not* be integrated within the framework of the WTO? Why is this the best solution to ensure a sustainable development?
- Since the two systems should be kept apart, how should the environmental system look like and how can they be mutually supportive so that sustainable development can be achieved?

The approach and purpose of this thesis is not to present a full and simple solution. If anything, this thesis seeks to present *one* perspective and *one* interpretation of how the trade and environment debate should be handled and solved so that we can move closer towards sustainable development.

## 1.2 Methodological Considerations

### 1.2.1 A Wide Variety of Theories

This thesis will make use of several theories including the Environmental Kuznet's Curve (EKC), the Pollution Haven Hypothesis (PHH), new institutionalism and environmental ethics. The different theories will not be explained fully in a separate chapter. Rather, they will be explained throughout the text and only those elements relevant to the topic are discussed and then an analysis is done in an integrated fashion.

The EKC and PHH are chosen since they deal directly with the relationship between trade and the environment at the same time as they are the dominant theories within economics. Since the thesis will point towards the need for new institutions, the new institutionalism has been chosen. This is in part due to the fact that it is compatible with the liberal assumptions in the thesis. To further show that sustainable development and the goals of the two systems really are compatible, environmental ethics will also be included.

## 1.2.2 A Normative Approach

The normative research has been held back during the domination of modern and positivistic social science research. The normative research has before not been fully accepted but a change has been seen during the last decades and today, the positivistic view of science is challenged and the normative approach is as accepted as any form of social science research (Lundquist 1993:75 and Esaiasson et al 2004:27f).

A normative research problem seeks to construct good arguments for acceptable human action and to give an answer to how things should be and what is and what is not desirable. A normative analysis includes a large share of the author's own arguments of how something should be (Esaiasson et al. 2004:42).

This thesis is intended to have a normative approach and it makes use of the normative analysis. The purpose is, as previously stated, to give an answer to why the environmental system should not be incorporated within the framework of WTO.

## 1.2.3 Assumptions of the Desired Economic Order

The thesis is guided by several assumptions. Some of these will here be presented in a short and concise manner. A few other assumptions, that do not guide the whole thesis, are explained and defined throughout the text.

The most basic assumption in this thesis is that international trade is assumed to increase the economic activity and economic growth. Furthermore, it is assumed that economic growth will lead to a better standard of living no matter what kind of allocation of resources that is used. However, a market economy is seen as the best way of achieving a good standard of living. Thus, free trade makes everyone better off and is a prerequisite for development and is therefore something all nations should strive for.

While free trade is something to strive for, it is also presumed that good environmental quality is desirable. The right to good environmental quality is a basic human right. To be able to work towards these two goals, sustainable development is a key concept (defined in chapter 1.3).

This thesis will also in part be based on the basis of liberal environmentalism (Bernstein 2001). One of the major arguments of liberal environmentalism that will be used here is that international governance is based on environmental protection together with the promotion of a liberal economic order. A liberal economic order, privatization of global commons and market norms are in fact compatible with environmental protection (Bernstein 2001:213).

## 1.2.4 Material

The material used in the thesis has primarily the character of secondary sources as books, articles and reports. However, some primary sources are also used as

different conventions and treaties that are relevant to this thesis. The material is used to illustrate the line of reasoning and to back up the arguments.

At first, the search for information was done in an open manner and included all sides of the debate. As the thesis progressed and as the line of reasoning required more specific back ups of different arguments, searches were done in a more goal oriented fashion. Since secondary sources are worked up, they have been interpreted with a critical mind (Lundquist 1993:107). Nevertheless, one does get affected by one's preunderstanding of the subject and therefore should also readers of this thesis be critical. Most of the literature used is gathered from recognized scholars in their respective fields. It is important to notice that all literature that has been used do not have an economic bias.

## 1.3 Essential Concepts

### 1.3.1 Trade and Environmental Standards

Trade occurs in all levels of society, including the international which is the level this thesis will focus on. Trade is also occurring in several stages in a product's life cycle. Theories about why international trade comes about are for example the theory of comparative advantages and consumer preference theories. Free trade is defined as trade in goods across borders that is totally free from tariffs and quantitative restrictions. International trade has during the last 20 years been much liberated but completely free trade is hardly existing anywhere (SIDA 1998:5f).

Environmental standards in this thesis are defined as national regulations. These are aimed at influencing the use environmental resources by producers and consumers in a sustainable direction (Maskus 2002:140).

### 1.3.2 Sustainable Development

Sustainable development is a term which has not yet been given a clear definition by the international community. This is problematic and there have been more than a few calls for a joint multilateral definition which still is to be realized. This thesis will use the definition used in *Our common Future* or the Brundtland report as it is also called (World Commission on Environment and Development 1987) which is the actual name of it. The Brundtland report defines sustainable development as something that "meets the needs of the present without compromising the ability of future generations to meet their own needs" (World Commission on Environment and Development 1987:24). Two concepts are contained within this definition. The first is the concept of needs, especially the essential needs of the poor. According to the report, priority should be given to these people. The second concept contains an idea about limits. It does not imply



absolute limits but limitations imposed by the present state of technology and social organization on environmental resources to meet present and future needs (ibid:24 and UNEP 2005:10). Eklöf (2004:14) claims that this definition is the one that is generally accepted.

### 1.3.3 Norms and Ethics

Ethics is a much discussed topic which can be dated back until the beginning of time. The discussion is centred on what is good or bad, right or wrong, desirable or undesirable. To understand ethics, one needs to take a closer look at values and norms.

The conception norm is a direction or expectation on how one should or should not act to be able to live up to one's values. To reflect and to take a stand on the basis of our values lead to norms, that is, what we consider being the right way of action. Values can not be said to be right or wrong and they often change during the years through new encounters and through new understandings from new situations etcetera. What we are allowed to do is bounded by our norms. Together, values and norms give us our moral, which can be said to be the practice of ethics.

## 1.4 Outline

The first chapter after the introductory chapter of this thesis presents a brief overview of the two regimes that this thesis deals with. The basis of the two systems and the conflicts between them will also be sketched out in this chapter. Chapter three deals with what economic theory has to say about the relationship between the two regimes and the need for joint policy responses and a need for a are outlined. The next chapter focuses on environmental ethics and chapter five focuses on the WTO's need for reform. Every chapter is concluded with an analysis regarding the implication for the future regimes. These sections are based on what has been written earlier in the chapter as well as new reference material. But it also worth to point out that some parts of these analysis and thoughts are my own. This is in line with the normative approach this thesis is based on. The analysis of Chapter two will focus on the need for a World Environmental Organization, chapter three on why environmental matter should not be included in the WTO according to four fundamental economic principles. It will also point out the need for joint policy responses. The analysis in the following chapter will deal with why there is a need for environmental ethical change. Chapter five will briefly touch upon the need for reform within the WTO.

## 2 The International Systems of Trade and the Environment

The following chapter will contain a brief overview of the two regimes and their interrelations and conflicts. The chapter will be concluded with a focus on the need for a World Environment Organization.

### 2.1 The Environmental System

#### 2.1.1 The Geopolitics of the Environment

The geopolitical context of is critically to understanding current and past status of international environmental law making. The basic dividing line goes between the industrialized countries in the North and the developing countries in the South. The differences in development patterns between North and South have led to different approaches to international environmental issues (Hunter et al 2002:266f).

While the North has an urge to solve global environmental problems, the South has a sense of urgency to overcome the cycle of poverty through a redirection of the global economy. Some of the countries in the South do not believe that environmental matters should be on the international agenda at all. Some feels that it, because of the link to development issues, should be addressed only at the national level. Most of the countries believe that a global harmonization of environmental concerns will lead to a slower pace in development and limit their economic growth and capabilities to respond to the problems. These are mainly caused by the insatiable consumption in the North. Many in the South also view the ambitions of the North with great suspicion. They feel that it is an infringement in their sovereignty (Hunter et al 2002:267).

These different views are only a few examples of the different views within the blocs. North and South are not homogenous groups of countries. Within them exists many subgroups.

## 2.1.2 The Basics of the Environmental Principles

The modern day international environmental system was established in Stockholm, where the United Nations Conference on the Human Environment was held in 1972 (Eklöf 2004:13).

At the Stockholm conference, it became obvious that global environmental protection contains two dimensions. One wants to concentrate on man's affect on the environment as well as methods to limit pollution and the exploitation of the natural resources. The other dimension emphasizes that social and economic development in the third world is the main issue. This leads to an overall judicial question which is still valid today, namely whether the same demands on environmental protection and limitations on pollutants can be put on developing countries as on developed countries. This refers to the notion that the developed countries have more resources to deal with the demands and, foremost, to the opinion that the developed countries are the ones mainly responsible for the environmental degradation of today. In the Stockholm declaration, a synthesis of these two dimensions was agreed upon. The declaration also consisted of a commitment to not just the now living generations but also to future generations (Ebbesson 2000:41 and 48f).

During the 1980ies, a demand for more joint global efforts arose together with a feeling that development had to be included in the focus of the environment. The global environmental issues had to be integrated in a development perspective. The World Commission on Environment and Development were established in 1985 by the UN and they published the Brundtland report in 1987 (Eklöf 2004:13). The report formed the basis for the discussions leading up to the United Nations Conference on Environment and Development (UNCED, also called the Rio Conference or the Earth Summit) held in Rio de Janeiro in 1992 (Hunter et al 2002:166f).

The Rio Conference was held at a time when environmental concerns were highly prioritized on the international agenda. The old differences of opinion and perspectives were still valid though and the skeptics claimed that economic interests and principles of national sovereignty over natural resources still created obstacles for real progress. Some even argues that the outcome of the conference was a step backwards (Berlin and Möller 2005:223). The Rio Declaration settled 27 agreed principles<sup>1</sup> for the global, national and local work with issues

---

<sup>1</sup> The most important principles in the Rio Declaration are:

- All states have sovereign right to exploit their natural resources, pursuant to their own environmental and developmental policies. There is also a responsibility to ensure that their activities do not cause damage to the environment of other states (Principle 2).
- All states have a common responsibility to conserve, protect and restore the ecosystems of the earth. However, the developed countries have a larger responsibility because of greater financial and technical resources and a greater pressure their societies place on the environment (Principle 7).
- States should cooperate to strengthen endogenous capacity-building for sustainable development by improving scientific understanding through exchanges

concerning environmental protection and development. Even though all principles were not new, they became globally recognized since they were agreed upon with consensus (Eklöf 2004:14).

The work since then has been focused on implementing existing conventions and agreements rather than entering into new agreements. One important example of this is the much debated so called Kyoto protocol. The principles of the protocol were agreed upon already in 1992 but how they were to be implemented was agreed upon in the protocol from 1997 (Berlin and Möller 2005:224).

## 2.2 The International Trade Law Regime

While the international environmental system is rather complicated, the international trade regime is straight forward. That said, it is by no means an uncomplicated decision making process nor is it something that all countries agree to. The international trade regime dates back to 1947 when the negotiations about the General Agreement on Trade and Tariffs (GATT) were concluded. The trade regime has ever since been guided by two basic directions (UNEP 2004:25 and Eklöf 2004:21):

- to lower and eliminate tariffs because of developing requirements, and
- creating obligations to prevent or eliminate non-tariff barriers to trade

The WTO was established in 1994 by the convention called the *Marrakesh Agreement Establishing the World Trade Organization* and GATT was then

---

of scientific and technological knowledge, and by enhancing the development, adaptation, diffusion and transfer of technologies, including new and innovative technologies (Principle 9).

- Environmental issues are best handled with participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes (Principle 10)
- States should cooperate to promote a supportive and open international economic system that would lead to economic growth and sustainable development in all countries, to better address the problems of environmental degradation. Environmental measures addressing transboundary or global environmental problems should, as far as possible, be based on an international consensus (Principle 12).
- Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation (Principle 15).
- The polluter should, in principle, bear the cost of pollution. National authorities should endeavor to promote the internalization of environmental costs and the use of economic instruments (Principle 16).

(The United Nations Conference on Environment and Development [UNCED] 1992 and Eklöf 2004:14)

incorporated in the new institution with a few changes and amendments. One of the key changes was a new more effective dispute settlement system with an appellate body. The work of the WTO has always been guided by two basic principles, which are the most favored nation principle<sup>2</sup> and the principle of national treatment<sup>3</sup> (Eklöf 2004:21).

Another change that came about when the WTO was established was the change in the preamble. There was one change of wording from “[...] developing the full use of the resources of the world [...]” to “[...] allowing for the optimal use of the world’s resources [...]”. An amendment to this phrase was also added. It reads: “[...] 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” (WTO 1994:1<sup>st</sup> Paragraph).

Some argue that this inclusion of the concept of sustainable development has led to a principle to guide the interpretation of the WTO agreements. An appellate ruling<sup>4</sup> in 1998 confirmed that. *How* this interpretation will be used remains to be seen, though. However, it is clear that it was one small step towards making trade policy and sustainable development mutually supportive (UNEP 2004:32f).

## 2.3 The Conflict of Jurisdiction

The two legal systems have evolved as two parallel structures of law. During a long period of time, this did not create any problems of compatibility. However, as a result of the process of globalization, tensions between the two systems have emerged. The tensions have been consisting of an incompatibility in the principles for environmental protection and free trade (Ebbesson 2000:196). Who is to decide if it is right or wrong when a country introduces a trade measure to obtain a goal of a MEA, if this measure is doubtful or perhaps illicit?

---

<sup>2</sup> The most favored nation principle requires that if special treatment is given to the goods and services of one country, it must be given to all WTO member countries. No one country should receive favours that distort trade (Article I in the GATT).

<sup>3</sup> The principle of national treatment requires, in its simplest terms, that the goods and services of other countries are to be treated in the same way as those of your own country (Article III in the GATT).

<sup>4</sup> This case refers to the 1998 Appellate Body ruling in the *U.S.-Shrimp-Turtle* case. The case was about a U.S. ban on imports of shrimps from countries that did not mandate measures similar to those mandated for the U.S. fleet to protect the endangered sea turtle from drowning in shrimp nets. Even though the ruling went against the U.S., the Appellate Body made clear that PPM (processes and production methods) based measures could be allowed under a GATT exception (Article XX[g] which focuses on conservation of natural resources). The Appellate Body also looked outside trade law and made use of MEAs to help them define living resources as natural resources. The whole case was a precedent from a sustainable development perspective (WTO 1998 and UNEP 2004:32f)

From a judicial perspective, there are several laws concerning this. The most important is the Vienna Convention on the Law of Treaties. This is a convention of conventions and stipulates that, if nothing else is stipulated in the agreement, the eldest agreement in a conflict has the right of precedence. In terms of environment and trade, that means that MEAs adopted before the Marrakesh Agreement has the right of precedence while MEAs adopted after Marrakesh Agreement do not have this right (Eklöf 2004:26).

Another legal aspect that is not included in the Vienna Convention, but recognized in international law and by the International Court of Justice in The Hague is the so called *lex specialis*. This principle means that specific regulation has the right of precedence over more general regulations, no matter when the conventions were adopted. One example of this is CITES (Convention on International Trade in Endangered Species of Wild Flora and Fauna) which, because of its specific rules, has the right of precedence over the more general WTO regulations. Another principle is that nations that are only part of one agreement are not obliged by the other, regardless of when the agreements came into practice (Eklöf 2004:26).

Restrictions or bans on trade are methods in a few MEAs. Such agreements have been adopted to protect for example endangered species, tropical timber and dangerous chemicals. Incompatibilities between the two systems can not be judged merely on if a decree in a MEA is in opposition to a decree in a trade agreement. The MEAs are often process oriented and norms are established gradually within the scope of existing treaties. For further development of these trade restricting MEAs, it is of great importance that it is possible to agree on trade restrictions as well (Ebbesson 2000:197).

## 2.4 Implications for Future Regimes

Nations that are part of only one agreement are not obliged by the other, regardless of when the agreements came into practice. When this uncontroversial principle is applied on the WTO and the MEAs, it might cause problems for the latter. The WTO agreement stipulates the *right* to trade while the MEAs focus more on the *obligation* to act for the protection of the environment (Eklöf 2004:26). If WTO members can benefit from the trade advantages the WTO agreement give them, without being tied to any obligations under the MEAs, they will enjoy a competitive advantage towards other WTO members. This might lead to an unwillingness to ratify environmental conventions. Thus, if the WTO is not able to enjoin the same environmental obligations for all members, it will undermine an important incentive in the international environmental cooperation. Another solution would be to introduce mechanisms that will compensate the countries that have additional costs if they take on an environmental responsibility (Eklöf 2004:26 and Ebbesson 2000:198f).

### 2.4.1 A Proposal for a World Environment Organization

The two systems have evolved very differently and there exist a large asymmetry between them in strength, power and possibilities of enforcement. The states have failed to create a functional and institutional order to deal with environmental protection. The administration of the environment is seen as weak, fragmented, under financed and limited by narrow mandates. In addition, there is no established and efficient forum where a determination of priorities and the preparation of action plans with a long term perspective can take place (Eklöf 2000:48).

During the last decade several ideas about new institutions and initiatives to reform the environmental system have been introduced. Eklöf (2004:49) summarizes the arguments that most of the proposals have in common:

- Better coordination, more efficient administration and clearer priorities;
- Strengthened authority and capability to implement the MEAs;
- To create a collected counterweight and counterpart to the WTO and its strong dispute settlement mechanism, to strengthen the free standing conventions and avoid WTO rulings in environmental matters, where their expertise is limited.

How this should be done has of course been a matter of debate. Several suggestions about some kind of World Environment Organization (WEO) have been put forward. In 1997, Brazil, Singapore, South Africa and Germany put forward a joint proposal suggesting a global umbrella organization for the environment within the UN system. In 2000, during the French chairmanship of the EU, the then French Prime Minister Lionel Jospin explained that France was to work for the establishment of a WEO. This call was repeated in 2003 by the French President Jacques Chirac and the then German Chancellor Gerhard Schröder.

### 2.4.2 An New Institutionalistic Approach towards a WEO

Some critiques claim that these suggestions have the wrong perspective. One argument has been that the work for the protection of the environment is supposed to be done as an integrated part of development. Thereby, a pure environmental organization would be a step backwards. Another argument is that the nature of the problems is not structural. The critics claim that after so many years of broken promises, it is rather a lack of trust that makes effective global environmental governance impossible (Eklöf 2004:49f).

No matter if these arguments are true or not, they do not constitute enough motives for not working towards a WEO. It might be true that we have had too many years of broken promises but it is also true that there exist structural problems within the environmental governance of today. These structural problems are serious and these problems are the ones that have made all the

promises impossible to implement. A new institution could be a new beginning by solving the structural problems and create the trust and legitimacy necessary.

The critics rely on the new institutionalism's theory of path dependency. Political and institutional change is often influenced by the politics that was carried out before the change. It can according to the same theory be difficult to start over without being influenced and it takes time. The problem in the case of the environment is that there has been very little of political change at all. The new institutionalism has a focus on this slowness and derives institutional change to crises, wars and catastrophes (Zannakis 2005:183ff). It leaves very little hope to environmentalists if institutional change only is a result of crises. It would be sad to see that the environment has to be affected by a catastrophe of a magnitude yet to be seen before any change comes about.

This is a dilemma but even so, it is a matter of fact that the world change even in the absence of crises and it will sooner or later be difficult to hold on to the past. An increased awareness that many environmental issues are of a global nature and difficult to handle is such a change. Thus, this is verification that people's understanding of reality does change (Zannakis 2005:189 and Bernstein 2001). Ingrained opinions and institutionalized ways of thinking and acting put limits on the possibilities for change. This is presumed to happen because people interpret the reality through institutionalized ideas and norms (Zannakis 2005:184).

The changes needed within the environmental system will probably be influenced by the path dependency. As already stated, there has already been a change in the form of an increased awareness of environmental issues. The norms and values of the MEAs should stay the same. It is rather the means of implementation that needs to change and it can therefore be claimed that the path dependency is not of equally large importance.

### 2.4.3 A Highlighted Relationship during the Rio Conference

If the two regimes would be integrated at the present state, it could lead to the trade system automatically being prioritized over the environmental system. To form a World Trade and Environment Organization could be harmful for the environment. The environmental regime needs to develop further on its own and it needs to develop in a more integrated fashion. To incorporate a few hundred MEAs with the trade law would be an impossible mission. Not even an integration of the MEAs has yet been feasible. Until that has been done, it will not be possible to integrate the two systems on the same conditions, if that is deemed desirable.

However, that does not mean that they should operate irrespective of each other. Mutual supportiveness and joint policy responses between the two regimes are, as will be seen later, crucial to be able to obtain a sustainable development.



The relation between environmental protection and trade was highlighted during the Rio Conference. Two principles in the Rio declaration (UNCED 1992) explicitly deal with this. Principle number 4<sup>5</sup> contains a notion that environmental protection shall be taken into consideration in all sectors of the society and is not to be view as something separate to be applied on some dysfunctions. That means that the environmental protection needs to be integrated in for example trade but also other sectors as transport and investments. The other principle is Principle 12 (see footnote 1) and it underlines the importance of multilateral agreements and measures when trade policy measures are used in the purpose of environmental protection (UNCED 1992).

To be able to realize the second principle about environmental protection and trade, integration according to the first principle is important. Ebbesson (2000:197f) claims however, that the second principle has had a greater impact on the international level and that the interest of trade is in a superior position than other societal interests. In addition, he claims that even if the WTO treaty refers to sustainable development, the original principles of free trade from 1947 remain unchanged. Hence, the approach of sustainable development and the aspects of environmental protection in the preamble of the Marrakesh Agreement are not serious considering the existing trade treaties.

The first principle tells us that environmental protection shall be taken into consideration in *all* sectors of society. That, of course, includes the trade sector as well but not the trade sector alone. It has to be integrated in so much more. From a sustainable development perspective, this principle is of great importance. To fully integrate the WTO with the MEAs leave out several other sectors since not everything has to do with trade. The risk if the environmental protection is focused even more on trade is that these sectors will receive a kind of unwanted and unintended leeway.

---

5 Principle 4 states:” In order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it.” (UNCED 1992)

# 3 The Economic Trade and Environment Relationship

Through the increased interest in trade and the environment it is not unlikely that we will experience more tension between the two and, thus, see more conflicts in this area in the future (Brack 1995:497f). The overall policy issue is how these conflicts can be solved but to be able to do that in the best way possible a valuation of the relationship between trade and the environment has to be done. Do trade lead to worsen the environmental problems? Is free trade good or bad for the environment? It is assumed that international trade increases the economic growth and, thus, economic growth is intertwined in the trade concept. This chapter will at the end discuss how this is related to why the environmental regime should not be integrated within the WTO.

## 3.1 The Environmental Kuznet's Curve

The so called Environmental Kuznet's Curve (EKC), put forward by Grossman and Kreuger (1991 and 1994) is the most important contribution to this debate. The EKC is an inverted curve and predicts that economic growth will be good for the environment as soon as it reaches a certain level of GDP. One interpretation is that the industrial base, as well as industrial pollution, is very small in the beginning. The consumption increases rapidly at this level since the demand for material welfare is great in this stage of development. The marginal benefit starts to diminish after a while and the demand for environmental quality increases as well as the capacity to pay for it. At the same time there is a technical development which leads to more efficiency. These developments will eventually lead to an improved environmental quality.

In empirical testings, Grossman and Kreuger (1991 and 1994) showed that the turning point will be at around \$8,000, measured in 1985 U.S. dollars. Shafik och Bandyopadhyays (1992) found support for the EKC. They stated that it is possible to *grow out* of some environmental problems. But they also state that there are indicators which are not in line with the EKC, for example carbon dioxide. In addition, they conclude that the ameliorations are not automatic.

The research about the EKC has been positive for a number of economists and policy makers. It has given them the argument that they were lacking, namely that economic growth and the environment does not need to be in conflict. On the contrary, they have a positive relationship and one should concentrate on

maximizing economic growth and forget about environmental concerns, since they will be grown out of (Galeotti 2003:5).

The critique against the EKC has been heavy. Galleoti (2003) and Arrow et al (1995) say that the relationship between trade and the environment is more complex than what the EKC predicts. The relationship is determined by a number of factors, such as the size and structure of the economy, how modern technology that is used, the demand for environmental quality and the quality of the environmental protection measures.

From a development perspective, there is a worry that the expansion of the world economy is not consistent with sustainable development and that it will lead to irreparable damages to the environment. This is not least due to the composition of the environment. It is in many cases the accumulated discharges that are of importance in the environment and not the yearly additions. Carbon dioxide is the most important example of this. Thus, it does not matter if Grossman and Kreuger are right. If the damages are irreversible, it does not matter that there will be a change. The cost of this is immeasurable (Hermele 1995:108, Sterner 2000:8, 112ff, Arrow et al 1995:92).

## 3.2 The Pollution Haven Hypothesis

Simply put, the pollution haven hypothesis (PHH) predicts that pollution intensive production will, in a shift from autarky to free trade, move from countries with a high income and stringent environmental regulations to countries with low income and less stringent regulations. To liberalize trade will then lead to a reduction of discharge in rich countries but an increase in the poorer. The world's total discharge will increase since there are no longer any incentives to control the discharge (Taylor 2004:2ff).

If the PHH is true, it would be a good argument for establishing different kinds of trade barriers. If it, on the other hand, is false, it means that a liberalization of trade affects the environment to a lesser extent.

However, empirical studies by Grossman and Kreuger (1994) and Jaffe et al (1995) did not find any support for the hypothesis. Both studies find that the trade flows first and foremost depends on considerations regarding the production factor availability and not on differences in environmental costs. Frankel (2003) also finds very little evidence that the hypothesis holds. Taylor (2004) also criticize the theory since it disregards from all other motives to trade and it lets the environmental regulations alone determine the patterns of trade.

### 3.3 The Implication for Future Regimes

What do the above results mean for the discussion about how the future environmental and trading regimes should look like?

It has been argued that there exist a relationship between trade and the environment. Furthermore, it appears to be clear that there does not seem to be any automatic amelioration of the environment when the per capita GDP reaches a certain level. This breaking point is also quite high at \$8,000 in 1985 U.S. dollars, which in 2004 were more than \$14,000 calculated on Consumer Price Index (<http://eh.net/hmit/compare>). Only 40 out of 177 comparable countries reached that level in 2003, according to UNDP statistics (<http://hdr.undp.org/statistics>). Not even some members of the European Union, like Poland, Estonia and Lithuania, reach it. Should the implication then be that they should not deal with the environment? This does not seem to be a sustainable and viable solution. Hence, since free trade increases economic growth, the above can be claimed to be evidence that the WTO not only is an organization with responsibilities towards a liberalized trading system but it is also an organization that needs to work with environmental standards in one way or another.

On the other hand, it can be argued that the case for environmental standards within the WTO is weak since there is no clear evidence that EKC and PHH are true. Empirical tests even seem to tell us that at least the PHH is false.

#### 3.3.1 Should Environmental Matters be Included in the WTO?

What the above exposition of earlier research does not answer is *how* the international trading and environmental systems should look like. It just tells us that it needs to look like something. According to Busse (2004) and Maskus (2000), economists normally consider four fundamental economic principles when contemplating if a set of multilateral standards should or should not be included in the agenda of the WTO;

1. whether or not the issue is clearly trade related and whether it distorts trade flows,
2. whether or not there are international externalities, such as environmental spillovers, involved that limit the attainment of global optimality, and multilateral rules are an appropriate way to internalize those externalities,
3. whether or not, in the case of no multilateral rules, national governments would choose sub-optimal policies that result in insufficient regulations or a “race to the bottom” on regulations, and,
4. whether or not any damages from countries not complying with international regulations can be assessed in financial terms and, thus, allow the dispute settlement to function (Busse 2004:18ff and Maskus 2000:141ff).

Based on these four principles, the case for WTO involvement in environmental standards is not convincing. The WTO is only directly involved in the first principle. Some pollutants have been found to have a negative linkage between regulations and trade flows. However, this linkage has not been established among most pollutants, which makes an unimpressive support (Busse (2004:18).

The second principle is more straightforward. There is no doubt that there exist international spillovers in environmental matters. Such spillovers include global warming and acid rains and stress the importance of international cooperation of some sort (Suranovic 2004:234).

According to Busse (2004:18f), there is only a very limited amount of evidence that supports the notion about a “race to the bottom” in environmental regulation due to international competition, which is the third principle. On the contrary, the increase in environmental regulation stringency in high-income countries has been coupled with the relative decline of some of the most polluting sectors.

### 3.3.2 The Conflict Resolution Mechanism of the WTO

The fourth and last principle involves the conflict resolution mechanism within the WTO. The people who want WTO involvement in environmental matters see this principle as the most important. Trade policy retaliation is regarded by these people as an ideal way of enforcement. Most of the MEAs do not have a conflict resolution mechanism. Among the very few that have one<sup>6</sup>, it is only in the United Nations Convention on the Law of the Sea (UNCLOS) it has been used. The United Nations Framework Convention on Climate Change (UNFCCC) and the UN Convention on Biological Diversity (CBD) both refer all conflicts between the parties explicitly to the International Court of Justice (ICJ) in The Hague. The ICJ has a special environmental chamber but it has never been put into practice (Eksjö 2004:27).

If environmental concerns are included in the WTO framework, it would be possible to take a country, who fails comply with the agreements, before the Dispute Settlement Body. The possibility of sanctions may lead to better compliance in environmental standard agreements (Suranovic 2004:241).

However, Busse (2004:19) and Maskus (2000:147f) follow a line of reasoning concerning the difficulties to implement environmental standards in the trade dispute settlement. The difficulties consist, according to them, of the complex nature of the environment. In monetary terms it is very hard to assess environmental damages when it comes to, for example, acid rains from other countries. Who exactly is affected, by whom and by how much? Has the victim

---

<sup>6</sup> The treaties with a conflict resolution mechanism are the United Nations Convention on the Law of the Sea (UNCLOS), the Rotterdam Convention and the Montreal Protocol (Eklöf 2004:27)

been contributing to acid rains in the past? The list of practical questions can go on.

The rulings in the WTO panels have been more protective over free trade principles during the years. The appellate body, on the other hand, has since a decade ago ruled in a more environmental friendly direction (Ebbesson 2000:220).

Nonetheless, it stands clear that the dispute settlement of today has, in environmental conflicts, a biased view. Their mandate and scope of interpretation are limited and mainly based on the WTO agreements. These agreements have so far been unable to solve the conflicts between environmental and trade principles. Irrespective of this, the biased dispute settlement body rulings have consequences for the environmental protection as well because of the priority of the free trade principles over environmental principles (Ebbesson 2000:221).

To conclude, environmental matters should not be included within the WTO framework considering the four principles. The principles two and three need multilateral attention but the conclusion is that this should be handled through the MEAs or possibly a new World Environmental Organization (WEO) and not through the WTO. (Busse 2004 Maskus 2000).

### 3.3.3 The Need for Joint Policy Responses

Irrespective of the above conclusions, it stands clear that there is a need for joint policy responses. The biased rulings in the WTO dispute settlement body confirm that.

Economic theory sets out the direction on sequential and joint reforms. Trade liberalization undertaken when optimal environmental protection already is in place will lead to an increase in welfare and the cost of pollution will then be internalized (Beghin 2000:8). To simultaneously deal with both trade and environmental distortions will also lead to an increase in welfare through the same mechanism of internalization (Copeland 1994:63f). The second best principle, that is to reduce one of the two distortions, may worsen the other distortion and, thus lead to a net welfare loss.

Copeland (1994:64) also claims that joint reforms are even more crucial when capital and other factors of production are mobile across borders since this may increase a country's specialization in dirty industries. This has, however, been denied in several studies on the pollution haven hypothesis (Grossman and Kreuger 1994, Jaffe et al 1995, Frankel 2003 and Taylor 2004).

Nevertheless, there is a strong economic motive to address economic integration and environmental protection at the same time in the context of a growth strategy. This also includes a legitimization of environmental side agreements in trade agreements. This is a matter of fact in the North American Free Trade Agreement (NAFTA), which is based on a reciprocal recognition of each others' environmental regulation and is not a harmonization of their environmental standards (Beghin 2000:8).

As seen in chapter 2.4, it is possible that WTO members will enjoy a competitive advantage if they do not ratify any MEAs. It is therefore important that all members have the same environmental obligations. Otherwise, the incentive to participate in the international environmental cooperation is undermined. The need for joint policy responses is consequently important for the legitimacy of the WTO.

However, the need for joint policy responses does not automatically require one joint organization dealing with both trade and the environment. It could just as well be two organizations, one dealing with trade and the other with the environment. But they need to make a joint effort and they need to understand each others' right of existence.

Furthermore, there is a clear need for a dispute settlement body that is more neutral and that considers both the trade agreements *and* the MEAs.

# 4 A Defense of the Prevailing Economic Order from an Environmental Ethics Perspective

As analyzed in the previous chapter, there are no economic sustainable arguments to include environmental concerns in the WTO. However, the discussion reveals a flaw in the environmental system of today and a lack of both policy coordination and a dispute settlement body. This chapter will look at environmental ethics and it will show that economic arguments and values do not necessarily have to be in conflict with environmental ethics. The ethical values of sustainable development will be criticized. It will be claimed that because of the prevailing environmental ethics, it will be impossible to achieve a sustainable development.

## 4.1 Environmental Ethics

Especially humans but also animals have been in focus for our moral apprehension for most of our philosophical history. Many moral doctrines have a very anthropocentric view, as egoism and deontology. The only challenger to these views has been the utilitarianism, who has expanded the list of beings we have to show moral respect to, to also include at least sensible animals. Some say that this is to go too far but others do not want to stop there. The latter claim that nature as such has a value in itself well worth to protect (Tännsjö 2000:121ff).

It is possible to distinguish four different environmental ethical traditions. They are: the anthropocentric tradition, the zoocentric tradition, the biocentric tradition and the ecocentric tradition. The difference between them is primarily who and what they see as having a fundamental value and for each tradition, another piece of the environment is added (Page 2005:31 and 43).

According to the anthropocentric tradition, it is only humans that have a fundamental value. Everything else in the environment only has a value if they contribute to the human good. The zoocentric tradition expands this view to also include some sensible animals. These two traditions have in common that the environmental obligations are always indirect. In other words, man can only have obligations towards each other or to other animals but never to nature as such. The two remaining traditions are different. The biocentric tradition expands the list of beings with a value to include all living creatures. However, this does not necessarily mean that all creatures have equal value. The ecocentric tradition goes the furthest and includes everything from humans and animals to environmental



objects as mountains and rivers and all biological and physical systems that create the environment. (Page 2005:32f).

Page (2005:32) claims that the regular interpretation of sustainable development has very little to do with the biocentric tradition and ecocentric tradition. Both the Brundtland report from 1988 and the Rio declaration from 1992 stress the importance of both the living and the future generations but it does not ascribe a fundamental value to anything but humans. This line of reasoning will be expanded later in this chapter.

## 4.2 The Character of Public Goods

One of the theoretical problems with the before mentioned Environmental Kuznet's Curve (EKC) has to do with a very basic economic theory –the theory about the production and ownership of public goods. Public goods are defined as such goods that one person can consume without affecting another person's consumption. Several public goods can be found in the environment, for example air quality and a nice view. The size of the problem is determined by what kind of allocation of resources that is used. An unregulated market economy will, according to basic economic theories fail to produce public goods because it is impossible to determine the ownership of them. This will lead to an overuse of the good (Kriström 1999:305).

Brack (1995:497) claims that the objectives of trade liberalization and environmental protection can be completely compatible. Optimization of the efficient use of resources is the overall aim of both disciplines even if their perspectives differ. However, it does not mean that their ethical foundations are the same even if their objectives are compatible,

In accordance with an initial assumption that the WTO is a body that only exists to uphold the minimum set of regulations that are needed in order to create a free market economy with free trade, this leads to the notion that it is impossible with an anthropocentric view of sustainable development. This is because a free market economy, according to economic theory, will overuse our public goods due to a lack of ownership. Thus, it is incompatible with an anthropocentric view of the environment in terms of sustainable development. As long as people do not give anything in the environment a fundamental value in its own right, the public environmental goods will be overused in a free market economy and thereby undermine a sustainable development.

To be able to obtain a sustainable development in a free market economy, man has to reevaluate its relationship towards the environment and give it a fundamental ethical value. The Brundtland report shares the basic belief that there exists a need to reevaluate man's relation to the environment. Unfortunately, it stops there and even if it does not explicitly say what the result of this reevaluation should look like, it still implies an anthropocentric view. The same line of reasoning can be found in the Rio declaration (Stenmark 2000:28f).

What is new from the Brundtland report in this discussion of values is the idea of an intragenerational attitude. This means that coming generations, not living at the same time as the current, was given a fundamental value. How far this expansion goes has not been specified. It was merely an expansion of the list of who's development it is all about and nature is still merely seen as a resource for man to use, although not exploit (Stenmark 2000:30ff).

To conclude, there seems to be two ways to go. Either, we have to abolish the strive for a free and liberalized market economy or we have to fundamentally change people's way of valuing the environment.

### 4.3 The Implication for Future Regimes

Does this ethical problem really have anything to do with the question about integration of the two regimes or not? By the first look it does not seem like it. But it does.

What the previous analysis tells us is that sustainable development coupled with a liberalized market economy is impossible given the prevailing environmental ethics of today. Hence, it will not make any difference to integrate environmental concerns with the WTO or not. On the contrary, it might once again be harmful because of the asymmetry that exists between the two regimes. The risk that trade concerns will continue to overshadow environmental concerns is impending. Thus, it is another argument to keep the regimes separated.

An uncontroversial statement is that all people want to live in prosperity. No one wants to be poor and starve. One of the assumptions in this thesis is that a free market economy with liberalized international trade is the best way of achieving prosperity. Thereby, the only thing left is the work to fundamentally change people's view of the environment.

The liberal environmentalism claims that the international economic order is compatible with environmental protection (Bernstein 2001:213). Sustainable development as defined in this thesis, is claimed to be impossible or at least very hard to obtain because of the nature of environmental ethics. It has nothing to do with the liberal economic order. If the general understanding of environmental ethics would be less anthropocentric, they would be entirely compatible.

The WTO is often said to enjoy a very low public confidence. One reason for this is the limited organizational capability of the WTO. The WTO is not formally responsible for the environment or for many other matters of international concerns. Rather, the WTO is merely an arena where members can negotiate on several matters relating to trade (Charnovitz 2005:176). To give an institution, which enjoys a very low public confidence, the mission to work for ethical change would be useless. Especially since the environmental ethics have very little relation to trade. This means that it is highly unsuitable to include environmental concerns in the WTO before these matters are dealt with.

In addition, Bernstein (2001:226) points out that economists are not a promoter of specific environmental values nor are they an independent force for

social change towards a more ecological based social system. That said, it does not mean that no economists are interested in the environment and that they do not want to study environmental issues because many of them do. The problem is that their values stem from their economic training and that their value systems are because of that different.

To conclude, working with changing people's attitudes would require much more attention than a trade-environmental organization can provide. It is assumed that international norms are transmitted to the domestic level and across a wide range of actors (Bernstein 2001:228). It is thereby of importance that the work for ethical change is done on the international level as well. Because of the above description of economists it would be completely wrong to do this in an economic organization as WTO. This is a task for an independent environmental institution.

According to the new institutionalism, this is a process that will take time and might be difficult to achieve. The ideas and norms that are institutionalized in a society are hard to break down and replace with new ones. To solve global problems, it is vital that all parties are on board. This is not unproblematic because of the free rider problem since it is relatively easy to be anonymous and/or refer to other's responsibilities. The more voluntariness included in the process of change, a development of a *substantial* change of values and norms is increasingly important. International agreements do not per se mean that they will be followed. As argued earlier it is therefore important to establish binding regulation that can be enforced through a conflict resolution mechanism of some kind.

New ideas established on a political level have to be confronted by the old ideas if they are going to have influence also on other political levels (Zannakis 2005:199). These prerequisites are both met in the needed work for ethical change and it, thus, gives some hope that the problems of free riding and path dependency will be possible to overcome.

Another way of looking at the possibilities is what Bernstein (2001:216ff) calls social structure. He claims that new ideas have to be confronted by a set of institutionalized ideas. The new ideas should most preferably be in line with the institutionalized ones to be able to achieve success. In other words, if they are too deviant from the ones already established in the society they will have a hard time achieving a broad impact.

The idea about sustainable development can not be seen as too deviant from the existing social structure. The issues discussed in this chapter have been *how* we could live in a world with sustainable development while preserving the prevailing economic order. This is an idea clearly in line with the already institutionalized ideas of today. The task is to give the term sustainable development a definition that will hold in the established economic order.

## 5 Needed Reforms of the WTO

We have in previous chapters seen that an integration of the trading and environmental regimes is not desirable and that there is a need to create a World Environment Organization of some kind. But these conclusions do not mean that the WTO does not have any responsibilities. Several agreements within both regimes have passages about mutual supportiveness. Previous chapters have also shown that there is a need for joint policy responses.

It has been argued that there exist an asymmetry and unbalance between the two regimes and that the environmental regime is in an inferior position. It has also been argued that there exist an unbalance within the environmental regime and that there is a need for reform, perhaps in the direction of some kind of WEO.

But this does not mean that the WTO stands clear of responsibilities nor does it mean that the WTO is a perfect regime. The current system of international trade is also unbalanced to a degree that it threatens the environment and, ultimately, the trading system itself. To reach the goals of sustainable development as currently defined and mutual supportiveness, reform is needed (Brack 1995:514).

Charnovitz (2005:175) claims that the WTO considers trade law superior to the law of other treaties. This claim adds to the asymmetry between the environmental and trading regimes and to the claim for separation. It is however, from a sustainable development perspective, important to solve this problem. According to Charnovitz, this could be reduced if the WTO treaty had provided for more deference to other regimes. The provisions for deference are unfortunately limited.

The objectives between trade liberalization and environmental protection may sometimes collide. It does not always have to be this way. The basic need of change consists of a creation of a presumption of compatibility between the GATT and MEAs containing trade measures. In addition, the establishment of clear criteria when trade measures can be taken to minimize environmental damage due to process and production methods and the consideration of specific and non-discriminatory measures, if concerns over the impact of environmental policy on international competitiveness should become significant, could provide a balance between the two regimes (Brack 1995).

Another way of reducing the problem could be to pursue a more open and extensive cooperation with other international regimes, the environmental regime included. The WTO has, according to many observers, a negative impact on regimes in construction. As the tools of international cooperation often include standardizations, subsidies, regulations, taxes and trade control they can be obstructed by trade rules (Charnovitz 2005:175f). Thus, WTO rules make it harder to solve global problems. For example many policies aimed at countries

with bad environmental policies be discriminating according to trade rules of the WTO.

During the ongoing Doha round there is a limited mandate for negotiations about a few environmental issues (see WTO 2001). Unfortunately, they are negotiated “without prejudging their outcome” (WTO 2001). Because of that several commentators do not believe that the negotiations will lead to any progress (Eklöf 2004:46f).

## 6 Conclusions

There is a consensus among many scholars that there is a need for change in how the relationship between the environmental system and the trade system is dealt with to be able to achieve a sustainable development. There is also a consensus that the incompatibilities between two parallel structures are likely to cause more conflicts in the future. These conflicts stem from the large asymmetry in strength, power and possibilities for enforcement that exists between the two systems. Some debaters believe that the best way of solving this problem is by incorporating the environmental system within the framework of WTO.

In this thesis, it has been argued that this is not the optimal way the problems should be solved. Rather, there is a need to keep them separated, to strengthen the environmental system, to work with changing environmental ethical values and to work for mutual supportiveness through joint policy responses. This needs to be done to achieve a sustainable development.

Four different fundamental economic principles were identified as important when deciding whether or not environmental standards should be incorporated in the framework of the WTO. These have to do with whether or not it is trade related and distorts trade flows, whether or not there are international externalities, whether or not there is a race to the bottom and whether or not environmental damages can be assessed in financial terms. The case for environmental standards within the WTO is not convincing considering these principles. It is only the first principle that can be said to directly involve the WTO. There do exist international spillovers and they do need multilateral attention but not within the WTO. There is no empirical evidence about a race to the bottom which makes it possible to dismiss that the third principle. The same is true with the fourth principle. There is a clear need of a neutral conflict resolution mechanism. On the other hand there are too many practical problems associated with a financial assessment of the problems so environmental standards can not be associated with this. An inclusion of environmental standards is not convincing according to these principles. On the contrary, the conclusion has to be that the environment should not be included in the WTO.

Moreover, there is an inherent flaw in the definition of sustainable development. The environmental ethics that the definition is based on is anthropocentric. This makes a sustainable development impossible considering the prevailing economic order. A free and liberalized market economy will, according to economic theory, fail to produce public goods. Many things in the environment can be characterized as a public good. Since it is impossible to determine the ownership of public goods, the goods will be overused. It is assumed that the current economic order is the best way of achieving prosperity. Therefore not the economic system that needs to be changed, it is the

environmental ethics that needs to be less anthropocentric. This work should be done in a free standing environmental organization and not in a WTO. This is due to the fears that trade issues will overshadow the environmental issues if incorporated.

To incorporate the environment in WTO in its present state could lead to the trade system being prioritized over the much weaker environmental system. This can be derived from the emphasis of institutionalized norms of the new institutionalism. This is especially due to the very strong and ingrained opinions and institutionalized values of the WTO. This means that the path dependency would also be very strong and thereby risk that the political change will take even longer time.

The states of the world have failed to implement a functional and institutional order to deal with environmental protection. There are serious structural problems that need to be taken care of. Reform within the environmental system is a must. The system needs to be more efficient, more coordinated, have a stronger authority, develop a conflict resolution mechanism and be a counterweight and counterpart to the WTO.

There exist no real problems with the theory of path dependency in this case. The norms and values are already in place and need not change. Some changes in awareness have already taken place and are still developing.

The changes needed within the environmental system will probably be influenced by the path dependency. As already stated, there has already been a change in the form of an increased awareness of environmental issues. The norms and values of the MEAs should stay the same. It is rather the means of implementation that needs to change and it can therefore be claimed that the path dependency is not of equally large importance.

If a member country can take advantage of all the benefits the right to trade gives them while not having the obligation to protect the environment this can lead to an unwillingness to ratify MEAs. To achieve a mutual supportiveness it is vital for the WTO to get rid of these possibilities. This can be done through two courses of actions; either they make sure that all members enjoy the environmental obligations or they need to work out a mechanism that will compensate the countries if they take on environmental responsibilities.

Another way of making the two systems mutually supportive is through joint policy responses. There is a strong economic motive to address economic integration and environmental protection at the same time. If trade liberalization is done at the same time as an introduction of more stringent environmental regulations will lead to an increase in welfare. If this could be achieved, it would be a big step towards mutual supportiveness.

To conclude, this thesis has clearly shown that the environmental system would not in any way benefit from an incorporation of their standards in the WTO. Instead, the best solution to ensure a sustainable development is to keep them separated, strengthen the environmental system in some kind of World Environment Organization. In addition, there is a need to work for ethical change so that an optimal sustainable development can be achieved.

## 7 References

- Arrow, Kenneth – Bolin, Bert – Costanza, Robert – Dasgupta, Partha – Folke, Carl – Holling, C.S. – Jansson, Bengt-Owe – Levin, Simon – Mäler, Karl-Göran – Perrings, Charles – Pimentel, David, 1995. "Economic growth, carrying capacity, and the environment" in *Ecological Economics*, Vol. 15, pp. 91-95
- Behgin, John C., 2000. *Environment and Trade in Developing Economies: A Primer for the World Bank's Global Economic Prospects 2001*. Working Paper 00-WP 247, September 2000
- Berlin, Daniel – Möller, Ulrika, 2005. "Hållbar utveckling och internationellt samarbete" i Jagers, Sverker C. (ed), 2005. *Hållbar utveckling som politik. Om miljöpolitikens grundproblem*. Malmö: Liber.
- Beukel, Erik, 1996. *Miljö og handel. En introduktion til samspillet mellem miljøpolitik og handelpolitik*. Politologiske Skrifter fra Institut for Offentlig Organisation og Politik nr. 1/1996. Odense Universitet.
- Bernstein, Steven, 2001. *The Compromise of Liberal Environmentalism*. New York: Columbia University Press.
- Brack, Duncan, 1995. "Balancing Trade and the Environment" in *International Affairs*. Vol 71, No 3, Ethics, the Environment and the Changing International Order, Jul. 1995. pp. 497-514.
- Charnovitz, Steve, 2005. "The World Trade Organization in 2020" in *Journal of International Law and International Relations*. Vol 1, Issue 1-2, December 2005, pp. 167-190.
- Copeland, Brian R. 1994. "International Trade and the Environment: Policy Reform in a Polluted Small Open Economy" in *Journal of Environmental Economics and Management*. No. 26, pp. 44-65.
- Ebbesson, Jonas, 2000. *Internationell miljö rätt*. Göteborg: Iustus Förlag
- Eklöf, Göran, 2004. Miljön på undantag – de internationella miljöavtalen och WTO. Globala studier, nr 21, 2004
- Esaiasson, Peter – Gilljam, Mikael – Oscarsson, Henrik – Wängnerud, Lena, 2004. *Metodpraktikan. Konsten att studera samhälle, individ och marknad*. (2nd ed.) Stockholm: Norstedts Juridik.
- Esty, Daniel C., 2001. "Bridging the trade-environment divide" i *Journal of Economic Perspectives*, Vol. 15, Number 3, Summer 2001, p. 113-130.
- Frankel, Jeffrey A., 2003. *The Environment and Globalization*. National Bureau of Economic Research Working Paper Series, Working Paper 10090. <http://www.nber.org/papers/w10090> (nedladdad 06-03-13)
- Galeotti, Marzio, 2003. *Economic Development and Environmental Protection*. Nota di Lavoro 89.2003, september 2003. [www.feem.it](http://www.feem.it) (nedladdad 06-03-29)



- Grossman, Gene M. and Kreuger, Alan B., 1994. *Economic Growth and the Environment*. National Bureau of Economic Research Working Paper Series, Working Paper 4634. <http://www.nber.org/papers/w4634> (nedladdad 06-03-13)
- Grossman, Gene M. – Kreuger, Alan B., 1991. *Environmental Impacts of a North American Free Trade Agreement*. National Bureau of Economic Research Working Paper Series, Working Paper 3914. <http://www.nber.org/papers/w3914> (nedladdad 06-03-23)
- Hermele, Kenneth, 1995. *Ekonomerna, tillväxten och miljön*. Stockholm: Carlsson Bokförlag.
- Hunter, David – Salzman, James – Zaelke Durwood, 2002. *International Environmental Law and Policy*. 2<sup>nd</sup> ed. New York: Foundation Press
- Jaffe, Adam, B – Peterson, Peter R. – Portney, Paul R. – Stavins, Robert N. 1995. “Environmental Regulation and the Competitiveness of U.S. Manufacturing: What Does the Evidence Tell Us?” i *Journal of Economic Literature* Vol. 18, March 1995, pp. 132–163.
- Kriström, Bengt, 1999. “Tillväxt, sysselsättning och miljö” in Calmfors, Lars & Persson, Mats (eds.), 1999. *Tillväxt och ekonomisk politik*. Lund: Studentlitteratur
- Lundquist, Lennart, 1993. *Det vetenskapliga studiet av politik*. Lund: Studentlitteratur.
- Maskus, Keith E. 2000. “Regulatory Standards in the WTO: Comparing Intellectual Property Rights with Competition Policy, Environmental Protection, and Core Labor Standards” in *World Trade Review*, Vol. 1, No. 2, pp. 135-152.
- Meadows, Donella - Randers, Jorgen - Meadows Dennis – Behrens, William, 1972. *The Limits to Growth: a Report for the Club of Rome's Project on the Predicament of Mankind*. London: Earth Island Limited.
- Page, Edward, 2005. “Miljöetik” i Jagers, Sverker C. (ed), 2005. *Hållbar utveckling som politik. Om miljöpolitikens grundproblem*. Malmö: Liber.
- Shafik, Nemat och Bandyopadhyas, Sushenjit, 1992. *Economic growth and environmental quality: time series and cross-country evidence*. Background Paper for the World Development Report 1992, Washington, DC. The World Bank.
- SIDA, 1998. *Utredning. Handel, miljö och utvecklingssamarbete*. Stockholm, april 1998. [www.sida.se](http://www.sida.se) (nedladdad 2006-03-14)
- Sjölin, Mats, 2004. *Politisk etik*. Lund: Studentlitteratur.
- Stenmark, Mikael, 2000. *Miljöetik och miljövard. Miljöfrågornas värderingmässiga dimension*. Lund: Studentlitteratur.
- Sternner, Thomas, 2000. *Tillväxt och miljö*. Sida, februari 2000.
- Suranovic, Steven, 2002. “International Labour and Environmental Standards Agreements: Is This Fair trade?” in *The World Economy*, Vol. 25, No. 2, pp. 231-245.
- Taylor, Scott, 2004. “Unbundling the Pollution Haven Hypothesis” i *Advances in Economic Analysis & Policy*, Volume 4, Issue 2 2004 Article 8
- Tännsjö, Torbjörn, 2000. *Grundbok i normativ etik*. Stockholm: Tales

- United Nations Conference on Environment and Development, the, 1992. *Rio Declaration on Environment and Development*. Rio de Janeiro 3-14 juni 1992. [www.unep.org](http://www.unep.org) (nedladdad 2006-05-10)
- United Nations Environment Programme and the International Institute for Sustainable Development, 2005. *Environment and Trade: a handbook 2<sup>nd</sup> Ed* [www.iisd.org](http://www.iisd.org) (nedladdad 2006-04-19)
- World Commission on Environment and Development, 1987. *Our common future*. [http://www.are.admin.ch/imperia/md/content/are/nachhaltigeentwicklung/brundtland\\_bericht.pdf](http://www.are.admin.ch/imperia/md/content/are/nachhaltigeentwicklung/brundtland_bericht.pdf) (nedladdad 2006-04-19)
- World Trade Organization, 2001. *Ministerial Declaration*. [www.wto.org](http://www.wto.org) (nedladdad 2006-05-11)
- World Trade Organization, 1998. *Dispute DS58 United States — Import Prohibition of Certain Shrimp and Shrimp Products*. [www.wto.org](http://www.wto.org) (nedladdad 2006-05-12)
- World Trade Organization, 1994. *Marrakesh Agreement Establishing the World Trade Organization*. [www.wto.org](http://www.wto.org) (nedladdad 2006-05-11).
- Zannakis, Mathias, 2005. "Hållbar utveckling och genomförande av internationella miljöavtal" i Jagers, Sverker C. (ed), 2005. *Hållbar utveckling som politik. Om miljöpolitikens grundproblem*. Malmö: Liber.