

Trade, Environment and Sovereignty:

**Developing Coherence between WTO Law, International
Environmental Law and General International Law**

PhD Thesis

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Summary

This thesis analyses the consistency of WTO law with international environmental law and general international law in the field of trade and environment. GATT obligations require trade measures to comply with national treatment (Article III) and most-favoured-nation treatment (Article I) and to prohibit import and export restrictions (Article XI). GATT exceptions permit measures to protect human, animal or plant life or health (Article XX(b)) and to conserve exhaustible natural resources (Article XX(g)). This thesis analyses the consistency of unilateral and multilateral environmental measures with these GATT obligations and exceptions. It argues that the Article XX exceptions should be interpreted according to the proximity of interest between the country using trade restrictions and the environmental problem. It argues further that Article XX should be interpreted in accordance with customary international law regarding sovereign equality, non-intervention and the doctrine of necessity. Applying the principle of sovereign equality to WTO rights, this thesis proposes that WTO provisions be designed and interpreted to compensate for the economic inequality of WTO members in order to ensure equal access to WTO rights. Moreover, the principle of non-intervention should be applied in the WTO context to prohibit economic coercion. Unilateral environmental trade restrictions fail both tests. They use economic coercion to intervene in the internal affairs of sovereign States and are available in practice only to countries with significant market power. However, the doctrine of necessity may be invoked to excuse the non-observance of WTO and other international obligations to permit the use of trade restrictions to address urgent environmental problems with which the enacting country has a jurisdictional nexus.

Certificate

This thesis is submitted to Bond University in fulfillment of the requirements for the Degree of Doctor of Philosophy.

This thesis represents my own work and contains no material which has been previously submitted for a degree or diploma at this University or any other institution, except where due acknowledgment is made.

Signature:

Date:

For my family, Kip, Cathy, Brenda, Wayne, Cecil, Jennifer, Adam, Tionne, and Jaiden.

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