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The Study of Environmental Cases in World Trade Organization

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ABSTRACT

Background: For the last decades, following an increase in environmental crises, the protection of the environment has been one of the greatest concerns for human beings. Despite the primary objective of the World Trade Organization (WTO) being the promotion of free trade, the severe destruction of the environment due to business activities has forced us to put forward this case in the WTO. As the most significant and influential international organization, the WTO plays a great role in international trade. Sustainable development and protection and preservation of the environment are fundamental goals of the WTO. These objectives, enshrined in the Marrakesh Agreement that established the WTO, complement the WTO's mission to reduce trade barriers and eliminate discriminatory treatment in international trade relations. While the WTO lacks a specific agreement dealing with environmental issues, its members can adopt trade-related measures aimed at protecting the environment, subject to fulfilling specific conditions to avoid the misuse of such measures for protection purposes. The WTO contributes to the protection and preservation of the environment through its objective of ensuring sustainable development, its rules and mechanism for enforcement, and its work in different WTO bodies.

Methods: The present study employed approach was to use related articles in Google Scholar and Magiran and records and agreements in WTO to examine environmental cases.

Results: The cases analyzed in this study were the following: the gas case with the old and new formula (the US-Gas), the case of the European Union (fireproof cotton), and the case of the turtles and shrimp fishing.

Conclusion: The results showed that although the WTO has achieved some environmental milestones, it has not been sufficiently effective in resolving the environmental challenges caused by energy trade.

1. Introduction

The establishment of WTO in the last decade of the twentieth century has been one of the most significant events of the century. Around 50 years after the first proposal for its formation, the WTO finally came into existence. The failure of this proposal in the years after World War II led to the establishment of informal organizations, such as the General Agreement on Tariff and Trade (GATT), among 23 negotiating countries at that time. It seemed that about 60 years were required for this system to mature and evolve into the WTO, fulfilling a long-standing aspiration (Dabiri et al., 2013). The WTO was founded through a series of trade negotiations, the last one of which lasted for 8 years. In 1994, these long and exhausting global negotiations bore fruit, and the organization officially started its activities on January 1, 1995. The outcome of these negotiations was a thousand pages of enforceable legal documents, including a declaration manifesto, 60 agreements and annexes, decisions, and a memorandum of understanding which

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imposed a variety of obligations on the signatory governments. One of the most important documents was a comprehensive agreement under the title of the WTO and the other three main agreements on three vast modules of trade, namely the Commodity Trade, the Service Trade, and the Trade-Related Aspects of Intellectual Property Rights. These agreements play a crucial role in shaping and regulating international trade across various sectors. The adoption of these documents marked a shift in the legal nature of GATT, transforming it into a fully-fledged international organization with the power to enforce rights and specific obligations for its members. Following its establishment, recognition of the different aspects of this organization and the analysis of the rights and obligations stated in the scientific, academic, economic, and judiciary institutions, lead to noteworthy achievements. Presently, the WTO boasts 153 members, with approximately 30 countries awaiting authorization to join this prominent global economic institution as supervising members. Nowadays, about 95% of international trade is done through the organization. Therefore, the study of its legal system is considered one of the most significant legal subjects in the contemporary era (Kamijani, 1996). Among the factors instrumental in production, management, and technology, namely nature, labor, and investment capital, nature, or the environment, represents an irreplaceable asset that belongs not only to the present generation but also to future generations (Baraghi Eskooyi, 2013). Its existence relies on the rational utilization by the present generation. However, since the Industrial Revolution in the 18th century, the environment has suffered from the excessive greed of humans. The environment's unrestrained exploitation, causing various sorts of pollution, has endangered numerous plant and animal species and even threatened human lives. It was not until the mid-20th century that international restrictions on environmental degradation began to emerge (Al-Yasin, 2014). Through various scientific studies and the establishment of the Stockholm Conference in 1972, the Rio Conference in 1992, as well as the developments of regional and global documents, sustainable development became a balance point between the utilization and protection of the environment and social welfare for the present and next generations. (Stockholm and Rio Declarations) (Handl, 2012; Thomas, 1992). Similar to political relationships, peacemaking, and international security, the stability of economic exchanges is of great significance (Hartwich & Peet, 2013). Therefore, the founders of the United Nations Charter brought it into consideration from the very beginning. The GATT was designed to facilitate the gradual reduction and elimination of charges and customs tariffs and the realization of free trade exchanges among countries. In practice, for about half a century, GATT regulated all the trade relationships among countries together with other international institutions (Barlow, 2012). On the verge of entering the third millennium, new plans and aspects regarding international trade arose, accompanied by shortcomings in the dispute settlement system in GATT. The countries were forced to strive to eradicate the shortcomings in their multilateral trade negotiations under the Uruguay Framework. After the negotiations, the decision was made to establish the WTO, formally and practically replacing GATT. Unlike GATT, which lacked rules and regulations on environmental issues (as environmental protection was not a relevant concern at the time of its establishment in 1947) the WTO acknowledged the importance of environmental protection. Needless to mention the term 'environmental protection' was first raised in Tokyo negotiations. In contrast, in WTO concerning the International Law of the Environment at the Stockholm Conference in 1972, the global attention to the environment culminated in the Rio Conference in 1992, coinciding with the establishment of the WTO during the Uruguay round of negotiations (Sutherland et al., 2011).

2. Materials and Methods

In order to investigate the environmental issues, the main source was the official website of the WTO at WWW.WTO.COM. Furthermore, a detailed investigation of environmental records and agreements was conducted on the WTO website. In addition, authoritative scientific books and articles from Google Scholar and Magiran. Notably, some problems were encountered during the research process, including incomplete judicial procedures in some cases and occasional difficulties due to internet speed, which impeded the retrieval of crucial information. Since the establishment of the GATT in 1947 until today, 12 environmental cases have been proposed in the WTO and GATT agreements. These cases include the following disputes: 1) The US-Canada dispute in regards to Tuna fish, 2) The US-Canada dispute in regards to Salmon, 3) The US-Thailand dispute in regards to cigarettes, 4) Mexico-US dispute in regards to Tuna fish, 5) Europe and the Netherlands dispute against the US in regards to tuna fish, 6) Europe's dispute against the US in regards to car taxes, 7) Brazil and Venezuela's dispute against the US in regards to Gas, 8) The US-Canada dispute against Europe regarding meat, 9) Canada's dispute against Europe and France concerning fireproof cotton, 10) Canada's dispute against Australia in regards to Salmon, 11) The US-Japan dispute in regards to agricultural products, and 12) The US dispute in regards to shrimps. During the GATT period in 1947, the interpretations of the dispute settlement panels were not successful enough in terms of environmental protection. Only in the Tuna case dispute between Europe and the US, did the panel accept the extraterritorial actions taken by various member countries to protect non-renewable natural resources.

3. Results and Discussion

The present study examined three environmental cases: the gas case with the old and new formula (the US-Gas), the case of the European Union case (fireproof cotton), and the case of the turtles and shrimp fishing. The results showed that although the WTO has achieved some environmental

advancements, it has not been capable of playing an effective role in resolving the environmental problems caused by energy trade.

3.1 A look at environmental cases issues in the WTO

In this section, some environmental cases within the dispute settlement mechanism of the WTO are dealt with:

3.1.1 The Gas case with old and new formula (The US-Gas)

3.1.1.1 Subject description

In 1970, an act was passed in the US under the title of 'Clean Air Act', to control and prevent air pollution (CAA). Concerning the serious environmental problems arising from toxic pollutants from factories and motor vehicles, Congress issued a law amendment bill in 1990 (Salmanpour Zanooz, 2002). Therefore, the Environmental Protection Agency was entrusted with a mission to issue new laws aimed at decreasing the release of toxic pollutants and volatile organic compounds from gas and its compounds. In order to enforce the amended law of 'The Clean Air Act', the agency issued the rules of fuel specifications and fuel additives, known as the Gas standards with old and new formulas, named Gas Rule. Based on this rule, domestic gas refiners determined their quality threshold for gas, while overseas refiners were obliged to comply with the quality threshold prescribed by the US Environmental Protection Agency. This imbalance in determining the quality threshold caused a dispute between Brazil and Venezuela against the US since the prescribed threshold was significantly strict. After unsuccessful consultations with the US, Venezuela and Brazil, demanded the formation of an investigation panel on March 25, 1995. They argued that the Gas Rule issued by the US Environmental Protection Agency was in contradiction with Article 1 ("Article" denotes the individual clauses used within the GATT to regulate and establish regulations related to international trade and environmental issues) (Most Favored Nations) and Article 3 (National Treatment) of GATT (1994) (WTO, 2012). Additionally, they contended that the Gas Rule did not fall under any of the general exceptions outlined in Article 20 of GATT and was in conflict with the Agreement on Technical Barriers to Trade. Further, Venezuela and Brazil sought a declaration from the panel that their interests were damaged and lost under Article 23 of GATT. Subsequently, Venezuela and Brazil requested the panel to advise the US to take all the measures to ensure that the Gas Rule complied with its obligations under the GATT Agreement and the Agreement on Technical Barriers to Trade. Venezuela specifically urged the panel to advise that the US amend the Gas Rule and apply the same treatments to imported gas as it did for domestically produced gas. In contrast, the US demanded that the committee advise that the Gas Rule was following Articles 1 and 3 of GATT. Besides, the Gas Rule was included within Paragraph B (Necessary Actions to Preserve Life and Human, Animal, and Plants Health), Paragraph D (Avoidance of Reciprocal Procedures), and Article 20-g of GATT (Action to Conserve Exhaustible Natural Resources). This Gas Rule is in agreement with the Agreement on Technical Barriers to Trade. Australia, Canada, European Countries, and Norway reserved their rights to participate in the proceedings as third parties (Cho, 1998).

3.1.1.2 The statements of the third countries

Among the third countries, The European Union and Norway made declarations, expressing their concerns and interests in relation to the Gas Rule. As significant Gas exporters to the US, the European Union emphasized the importance of adhering to the principle of National Treatment outlined in Article 3 (of the GATT Agreement) (WTO, 2012). According to the European Union, this principle requires WTO members to abide by indiscrimination or lack of policy to support domestic products. To achieve these objectives, the European Union argues that the US should consider amending its existing regulations or implementing new ones. The European Union further contended that the actions taken by the US, constituted a hidden restriction on trade, even if it did not meet the threshold of arbitrary discrimination (WTO, 1996).

3.1.1.3 The Arbitral Tribunal's findings

According to Article 3-4 of GATT, (WTO, 2012) which prohibits the application of more unfavorable treatment to the products of another WTO member, Venezuela, and Brazil emphasized that the Gas Rule violated the principle of non-discrimination concerning products from another country. They acknowledged the US right to pass laws and strict environmental standards for the improvement of air quality in the framework of its territory but insisted that these standards and regulations should treat imported goods in the same manner as domestic goods. They argued that by denying foreign refiners the ability to determine the quality threshold, the Gas Rule resulted in discriminatory treatment of imported gas compared to domestic gas (Shenk, 1996). The Arbitral Tribunal realized that the imported and domestic gas with the same chemical nature had the same physical features, final consumption, and similar Tariff classification and both could be entirely interchangeable. Thus, the Tribunal acknowledged these two types of gas would be considered as similar products. Furthermore, Americans did not present any arguments on the difference between these two types of gas. Afterward, the Tribunal delved into the issue of whether the Gas Rule had the same treatment towards both domestic and imported gas or not. The Tribunal considered that the domestic gas benefitted from the reality that the seller or the refiner set a quality threshold for itself, which serves as the basis for their actions. Whereas, imported gas did not benefit from the same advantage. This would lead to unfavorable and discriminatory treatment towards imported gas compared to domestic gas (Majnounian, 2013). Brazil and Venezuela argued that discriminatory obligations of determining the quality threshold in the Gas Rule violated Article 3-4 (non-discrimination against the products of other member countries) and Article 3-1 (lack of support for domestic

products regarding effective obligations on the sale of a product) (WTO, 2012). They believed that these obligations, by distorting the competing conditions for imported gas, were biased toward supporting domestic products. Meanwhile, they pointed out that the provisions of the first clause Article 3 (lack of support of domestic products regarding the effective obligations on sale) are more general than the fourth paragraph of the same article. If the Tribunal declared the Gas Rule was incompatible with Article 3-4, they would not insist on the Tribunal's declaration regarding the first paragraph of the same Article. The panel declared that although failure to comply with p Article 3-4 (non-discrimination against the products of another country member) has been confirmed, it was not necessary to investigate the adherence to the first paragraph of this Article which had more comprehensive content. Another issue was whether the aspect of the quality threshold methods in the Gas Rule, which was not compatible with Article 3-4 (non-discrimination against the products of another country member), could be justified as argued by the US within the framework of Article 20-B (necessary obligations to preserve life or health of human, animals, and plants). The US argued that since about half of the pollution was due to motor vehicles, and the Gas Rule had decreased this pollution, it fell under the ambit of the supreme political goal which was explained in clause B Article 20. Venezuela and Brazil did not disagree with this view. The investigation panel admitted that the policy to diminish air pollution from gas consumption was within the policies of protection of human, animal, or plant life and health, including in Article 20-B (general exceptions). Subsequently, the investigation panel explored whether the actions taken by the US might be in line with the GATT Agreement. The panel confirmed this question and declared the methods for determining the quality threshold could be done in a manner compatible with the GATT Agreement, ensuring fair treatment of imported gas. Finally, the panel announced that the aspect of determining the quality threshold which was incompatible with Article 3-4 (non-discrimination against the products of another country member) was not necessary under Article 20-B (protection of human, animal, or plant life and health). Another concern raised by the US was the necessity of the system for determining the quality threshold in the Gas Rule to prevent the degradation of air quality. These obligations were deemed essential to ensure that the gas sold in the United States would not worsen the air quality as it was in 1990. These obligations aligned with GATT's interests. The panel pointed out that even if we admit that there was no incompatibility, the discrimination applied in determining the quality threshold methods between the domestic and imported gas regarding the violation of Article 3-4 (non-discrimination against the products of another country member) did not prove adherence to the system of determining the quality threshold. These methods are rules for determining the quality threshold of gas and are not planned actions in Article 20-D (Avoiding reciprocal action). The protection of renewable natural resources is among the predicted exceptions under Article 20. These measures should be accompanied by restrictions on domestic consumption or production. The US argued that clean air was a renewable natural resource in Article 20-F (action in conserving exhaustible natural resources) since the clean air might decline due to pollutants from gas consumption. From the panel's point of view, clean air was a natural resource that could exacerbate. Hence, the panel agreed that the policy taken to prevent clean air deterioration was a policy to preserve a natural resource, as mentioned in Article 20-F (measures for the conservation of exhaustible natural resources). The panel later investigated whether the methods for determining the quality threshold of gas conflicted with Article 3-4 (non-discrimination against the products of another country member) (WTO). The panel investigated whether the aspects of the Gas Rule which violated Article 3, that is the methods for determining the quality threshold of gas which had negative outcomes for competition conditions for imported gas, had the primary purpose of preserving natural resources. They found no direct relationship between the discriminatory treatment towards imported gas, which was chemically similar to domestic gas, and the US purpose to improve the air quality in the US. The panel also paid attention to Venezuela's claim that its interests, within Article 23-B under the general agreement, had been damaged owing to the implementation of the Gas Rule. Having found that the Gas Rule violated Article 3-4 (non-discrimination against the products of another county member), the panel concluded that it was necessary to investigate this extra claim.

3.1.1.4 The Summary of the Report

It was concluded that the methods for determining the quality threshold of gas in the Gas Rule were incompatible with Article 3-4 (non-discrimination against the products of another county member) and could not be justified under Article 20-B. D.F The investigation panel advised that the US be requested to adjust this section in the Gas Rule to align with its commitments under the GATT Agreement.

3.1.1.5 The US request for appeal and the Appellate Body Proceedings

The US asked for an appeal on some parts of the panel's report. The European Union and Norway took part in the investigation as the third party. In its defenses, the US claimed that first the panel's announcement about the quality threshold of gas based on Article 20-F of the GATT Agreement was not justified. Second, the panel made a mistake in its interpretation of Article 20. Additionally, the US claimed that the panel misinterpreted Article 20, as it believed that the verdict on the claim that the methods employed for determining the quality threshold, under the framework of Article 20-F (measures for conservation of exhaustible natural resources), were incorrect.

3.1.1.6 Appellate Body Report

After investigation, the appellate body announced that the regulations for determining the quality of gas in effect caused

unjustified discrimination and were considered as hidden restrictions on trade. The body added that the rules and regulations for determining the quality lay in Article 20-F However, they failed to meet the requirements of this article. Hence, it is recommended that the US be requested to adjust the rules and revaluations of the quality threshold of gas to its commitments under the GATT Agreement (Cho, 1998). It was also announced that the summary of the appeal did not mean that all Organization members were incapable of implementing measures to control air pollution or preserve the environment. All the members were to some extent free to determine their policies regarding the environment, environmental goals, and approval and implementation of environmental laws. However, this freedom is limited due to obligations and the WTO Agreements. One important point is the identification of clean air as a renewable natural source. In addition, regarding the necessity element in this case, while the panel's investigation reported that the US measure was discriminatory, the appellate body returned the verdict and pointed out that the action itself should be investigated and not its discriminatory aspect. In other words, the possibility of applying the necessity element was facilitated (Gerstetter, 2014).

3.2 The European Case - Fireproof Cotton

3.2.1 Description of the Subject

On May 28, 1998, Canada inquired about consultation with the European Union on Article 12 of GATT 1994, Article 11 Sanitary Agreement, and Article 14 of the Agreement on Technical Barriers to Trade. These consultations were due to France's imposition of a prohibition on fireproof cotton and related products. France issued a decree (No. 96-1133), on December 24, 1996, in accordance with labor and consumer protection laws, which established the ban on fireproof cotton and its products. The main items in the decree were as follows: Article 1: The ban on fireproof cotton aims to protect workers, production, processing, supplying in the domestic market, and transferring of fireproof cotton under any title, regardless of its application in various products or instruments. In order to protect the consumers, the production, import, local marketing, export, ownership for sale, supply, selling, and transferring of fireproof cotton or its products are prohibited. Article 2: There are exceptions to the mentioned ban. Temporary exceptions to the prohibition of Article 1 may apply to some products or instruments made from fireproof cotton if there is not a feasible alternative with less risk to workers, and all the safety technical guarantees have been observed. (WTO,1994). Based on Article 3 of this decree, the exceptions forwarded by the French government are listed and are annually reviewed. The utilization of such exceptions must be done with prior notification to the head of the trade institute, the importer, or the local marketing executor. Article 4 was related to labeling and marking obligations, whereas Article 5 was about the penalty for violating the decree. On October 8, 1998, Canada requested an investigation panel. Based on an agreement between both sides, the scope of work of the panel was determined in the framework of the relevant regulations of the agreements, to which Canada referred in its correspondences. Brazil, the US, and Zimbabwe participated as third parties in this case. The Canadian request was as follows: A) The French Government's decree command was contrary to the Agreement of Technical Barriers to Trade because it imposes unnecessary barriers to trade and contradicts Article 2 (WTO) of the Agreement. B) This decree was not compatible with Article 11-1 and Article 3-4 of the GATT Agreement, as it was a restriction on the import of products made of fireproof cotton and served the interest of the French industry. Canada also requested confirmation of the violation of this decree under Section A, Article 23-A of GATT (loss and damage to the interests of a member due to an action contrary to the agreement). Canada also requested the panel to recommend to France to adjust the mentioned command to its obligations under the Agreement of Technical Barriers to Trade. In contrast, the European Union requested the panel to confirm that based on GATT regulations, France's decree must not be investigated in relation to Article 11 of GATT (Elimination of all Quantitative Restrictions). In addition, the panel must confirm that the more unfavorable treatments towards the imported products compared to identical domestic ones, as outlined in Article 3-4 of GATT, were not addressed. France argued that their actions were necessary for the protection of human health within Article 20- B of GATT (protection of human, animal, or plant life and health). Furthermore, the EU sought information that this decree was within the scope of the Agreement of Technical Barriers to Trade and also approved that Article 23 (Destroying and harming interests) was not applicable in this case. As Canada mentioned, the action of France was based on the report of the National Institute for Health and Medical Research. Most experts who investigated the report criticized the methods taken by the researchers of this institute. They believed that the report did not provide a credible basis to justify a complete ban on fireproof cotton fibers under the pretense of protecting human health (WTO).

3.2.2 The Findings of the Panel

A) The panel concluded that one part of France's decree related to the white fireproof cotton ban is not within the scope of the Agreement of Technical Barriers to Trade. However, another part of the decree deals with exceptions and, whereas Canada has stated no objections to the compliance of the above-mentioned part with the Agreement of Technical Barriers to Trade, the investigation panel avoided drawing any conclusions in this regard. B) The panel determined that the fibers of white fireproof cotton and those fibers that can be used as substitutes for them are similar products within Article 3-4 of GATT (non-application of more unfavorable treatment to the products of another member country). C) Regarding similar products, France's decree has violated Article 3-4 (non-application of more unfavorable treatment to the products of another member country). D) Despite France's violation of Article 3-4 (non-

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application of more unfavorable treatment to the products of another member country), the decree of France is justified under Article 20-B. (WTO, 2012). E) Canada failed to prove its claim that its interests had been lost or damaged within part B C Article 20-1 of GATT (loss or damage of interests).

3.2.3 Canada's Request for Appeal

Canada asked for an appeal for some legal aspects and interpretations in the report. Brazil and the US were chosen as the third party in the appellate process.

3.2.4 The Findings of the Appellate Body

The appellate body declared the results of its investigation as follows: A) The prohibition on the import of fireproof cotton and related products does not conform to the Agreement on Technical Barriers to Trade as it fails to meet the requirements specified in Article 1 of the first Annex of the Agreement. B) Any similarity between white fireproof cotton fibers and polyvinyl alcohol, cellulose, and glass fibers was invalid. C) The results invalidated the incompatibility of the action with Article 3-4. D) The results confirmed the justification of the action under Article 20-B. E) The summary of the panel confirmed the rejection of Canada's claim due to Section B Article 231. In conclusion, the Appellate Body finds that Canada has failed to prove the incompatibility of the action with the European Union's obligations under WTO regulations and therefore does not recommend any resolutions for the disputing parties (Enb et al., 2009).

3.3 The Turtle and shrimp Fishing case

The US invented a machine to prevent accidental turtle bycatch during fishing shrimp activities due to the turtle's extinction and the need for increased international restrictions. First, the US Congress forbade the import of shrimp from countries that did not use this machine. The US started negotiations with Caribbean and West Atlantic countries to persuade them to use the machine. However, the US Trade Court applied prohibitions on shrimp imports from non-compliant countries to help protect turtles from extinction. Countries such as India, Malaysia, Thailand, and Pakistan filed a lawsuit against the US. In its defense, the US cited the protection of natural resources that were in danger of extinction. (Article 20 of GATT) The panel did not admit the US arguments and stated: Under Article 20, arbitrary and unilateral actions should not be done and clear trade restrictions should not be imposed. The US objected, and the Appellate Body issued its verdict based on the Rio Declaration regarding the environment. It declared that no actions must be unilaterally done and must be done based on a consensus on the environment. The panel reasoned that the US had not negotiated with all the countries to use the specialized machine to prevent turtle catching (WTO, 1998). Consequently, the US took that measure unilaterally and unfairly and its action was discriminatory. The Appellate Body declared that the US action to save the species that were in danger of extinction was acceptable but the way to implement it according to Article 20 of GATT, which states actions should not be unfair, arbitrary, and discriminatory was ignored Thus the Us action was not acceptable. The lack of negotiations with all the countries is evidence of discrimination in the US action. Another point is that a country that is a member of the WTO, in its international trades, should not impose economic sanctions on other country members merely to coordinate other members with its programs. The panel also announced that it had not concluded that the members of the Organization could take action against organization approvals to save the animals in danger of extinction. There must be negotiations to reach an international agreement on such cases (Panahi, 2012).

4. Conclusion

Trade and environment are intricately intertwined to a large extent since all economic activities are based on the environment and the environment supplies the raw materials for economic activities. If economic agencies exploit the environment without caring about environmental protection, they will face the depletion of resources and they will go bankrupt. On the other hand, the waste from economic activities will remain in the environment which in turn will damage the economic resources in the long run. That's why trade is affected by environmental concerns since the exporters need to respond to market demands for green products and services. Since trade activities are mingled with natural resources, the interaction between trade and the environment is inevitable. Thus paying attention to both entities is a necessity. The interconnection of these two areas goes back to several developments, namely, the raising of environmental interest or awareness, the interdependence of ecosystems, and economic interdependence. The convergence process or the interaction of trade and the environment with numerous measures has started in the right direction. Incorporation of the environmental protection regulations into treaties is considered a significant step in more synergy between the WTO and most international environmental conventions. On the other hand, appropriate coordination, at the national level, between trade and environment authorities can pave the way for resolving the policy disputes between trade and environment at the international level. Lack of coordination in the past is one of the reasons why the agreements made in both scopes of trade and environment had potential conflicts. Multilateral cooperation in environmental negotiations is an appropriate approach to remove cross-border environmental concerns. Multilateral environmental agreements could be considered as a protection against unilateral actions in dealing with environmental problems. The unilateral solutions are often discriminatory and they often include extraterritorial implementation of environmental standards. In contrast, multilateral environmental solutions, based on cooperation among members, will diminish the danger of arbitrary discrimination and hidden protective policies. On the other hand, trade agreements are proper frameworks via which common interests such as environmental protection can be

highlighted. Free trade brings about the development of common criteria of environmental protection which all governments must obey, even those not interested in environmental protection. In sum, it must be said that the WTO is not an environmental organization and the laws of the dispute settlement body and its judiciary procedure do not play a significant role in environmental principles. The aim of this organization is the development of free and non-discriminatory trade throughout the world. Needless to mention through the improvement of the status of the environment and the increase of public opinion on the significance of the environment, the WTO has also faced public pressure to consider environmental concerns when making trade decisions. Thus, we have witnessed steps taken by the organization in this regard. To fulfill these steps, the dispute settlement mechanism of the Organization requires amendments. Transparency in the proceedings involving the NGOs in the investigation, employing environmental experts in the investigations, and setting up a special branch for investigating environmental cases in the dispute settlement system are among the actions that if fulfilled can improve the effectiveness of the dispute settlement body.

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Bagher Mirabbassi, Fariba Zanjani, Mohsen Diyanat: Investigation; Writing-original draft; Writing-review & editing. The authors read and approved the final version.

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The authors declare that they have no conflict of interest.

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