

Trade and Biodiversity

HOW DO WE ENSURE CONCERNS FOR BIODIVERSITY CONSERVATION ARE
BUILT INTO TRADE POLICIES AND AGREEMENTS?

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OBJECTIVE: MAP THE ISSUES

- **MAPPING THE RELATIONSHIP BETWEEN TRADE AND BIODIVERSITY**
 - **PHYSICAL AND ECONOMIC**
 - Product effects – when traded products have an impact on biodiversity
 - Scale effects – when trade liberalization drives economic activity
 - Structural effects – when trade liberalization changes composition of an economy
 - Direct effects – when the act of trading impacts biodiversity (e.g. alien invasive species)
 - **INSTITUTIONAL**
 - Information and data
 - Enforcement and compliance
 - **LEGAL AND POLICY**

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LEGAL AND POLICY

TWO BODIES OF LAW: ENVIRONMENT AND TRADE

- ENVIRONMENT

- Global/Regional Agreements
 - Over 200 Multilateral Environmental Agreements exist
- National Laws and Policies

- TRADE

- Global (GATT/World Trade Organization)
- Bilateral and Regional Trade and Investment Agreements
- National Laws and Policies

LEGAL AND POLICY - ENVIRONMENT

GLOBAL: SEVEN MEAs PARTICULARLY IMPORTANT FOR TRADE

- Convention on International Trade in Endangered Species (1973)
 - Vienna Convention/Montreal Protocol (*ozone layer*) (1985/1987)
 - Basel Convention (*trade in hazardous waste*) (1992)
 - Convention on Biological Diversity (1992)
 - UNFCCC (*climate change*) (1992)
 - Rotterdam Convention (*hazardous chemicals and pesticides*) (1998)
 - Stockholm Convention on Persistent Organic Pollutants (*PCBs*) (2001)
 - Minimata Convention on Mercury (2013)
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- NATIONAL
 - Laws and regulations
 - Labelling and standards

LEGAL AND POLICY - TRADE

GLOBAL: GATT (1947) AND WTO (1995)

- Core principle of *non-discrimination*
 - National treatment – goods and services of WTO members treated same as own country
 - Most-favored nation – goods and services of all WTO members treated the same
- Other relevant agreements
 - Agreement on Agriculture
 - TRIPS (*intellectual property agreement*)
 - SCM (*subsidies*)
- Article XX exceptions
 - Exceptions to *basic principles* for measures:
 - necessary to protect human, animal or plant life and health
 - relating to the conservation of exhaustible natural resources

LEGAL AND POLICY - TRADE

REGIONAL

- More than 500 bilateral and regional trade agreements and thousands of investment treaties currently exist
- Around 180 trade agreements contain “progressive” environmental provisions
 - Vary widely
 - Form
 - Environmental provisions chapters
 - Environmental side agreements
 - Substance
 - Article XX-like exceptions
 - MEAs prevail in case of conflict
 - Mandatory compliance with MEAs

National

- Laws and regulations
- Labelling and standards

BRAINSTORMING

Core Question: How do we ensure concerns for biodiversity conservation are built into trade policies and agreements?

Related Questions:

- What could be done regarding the impact of trade in general or in specific sectors?
- How could the impact of products over their full life-cycle be integrated more systematically to trade decisions?
- How do we overcome the political stalemate in the World Trade Organization?
- Even if policies exist they depend on how governments implement them – what is the role of monitoring, reporting and review?
- Is a legal and policy solution found exclusively in trade? Are there other legal and policy solutions?