

**North-South Perspectives on the
trade and sustainable
development debate:
Implications for global
governance**

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Frank Biermann argues that to reconcile the objectives of free trade and environmental protection, limited reforms of international trade law are required. There is a need to guarantee, first, that universally accepted international environmental agreements that mandate trade-restrictions remain compatible with international trade law, in particular with the General Agreement on Tariffs and Trade. Second, it is necessary to ensure that the interests of small and vulnerable states are protected against environmental unilateralism of the major trading nations.

This reform agenda could be realized, it is argued, through an authoritative interpretation of international trade law by the Ministerial Conference of the World Trade Organization (WTO). This interpretation should stipulate that environmentally-motivated trade restrictions which are related to processes and production methods, and which are intended to protect environmental goods outside the importing country, be compatible with WTO law, but only if mandated by international environmental agreements that have been previously accepted by the Ministerial Conference. This paper outlines the rationale for such authoritative interpretation and offers a possible legal draft.

This clarification of the relationship between international environmental and international trade law would protect the sovereign right of smaller trading nations, particularly developing countries, to enact their own environmental standards as may be appropriate and feasible according to their specific situation. It would also maintain the supremacy of multilateralism in both international trade and environmental policies, as opposed to unilateral action. The principle of international co-operation and the rule of law would be strengthened, and attempts to use the international trade system for the enforcement of unilaterally decided environmental standards would be precluded.

The presentation is based on the article "The Rising Tide of Green Unilateralism in World Trade Law", *Journal of World Trade* 35(3): 421-448, 2001