



RESEARCH ARTICLE

Environmental Issues According to the Multilateral Agreements and Reality in Vietnam

Le Vuong Long¹, Bùi Thị Đào²

¹Faculty of Law, Nam Can Tho University, Can Tho, Vietnam

² Ha Noi Law University, Ha Noi, Viet Nam

ARTICLE INFO

ABSTRACT

Received: Apr 24, 2024

Accepted: June 13, 2024

Keywords

Trade
Environment
Multilateral agreements

The Agreement establishing the World Trade Organization (WTO) recognized the aspect of adjusting environmental policies related to trade in the preamble of this Agreement "...with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production of and trade in goods and services, while allowing for the optimal use of the world's resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment... in a manner consistent with their respective needs and concerns at different levels of economic development". Vietnam, as an official member of the WTO and has participated in other multilateral agreements, ought to respect and implement in accordance with the country's actual socio-economic conditions.

***Corresponding Author:**

vuonglonghlu@gmail.com

INTRODUCTION

1. Trade and environment are living conditions of human society and are subjects of regulation in multilateral agreements

In modern society, trade and environment are considered two extremely important conditions for human life and development. This shows that multilateral agreements consider them as parallel objects, most of them combine these two elements in the content of adjustment and coordination of implementation. Commerce in a broad sense is a closed process from production, marketing, supply, consumption, maintenance, servicing... of all types of products through market exchange to create profits (Phuong, N. T., Khoe, T. T., & Van, T. T. T. 2024). Today, the measure of economic development is the chart of multilateral trade transactions that a country actually implements. However, the development of trade to form commodity production does not always agree with the development of environmental laws. Many countries have had to pay the price for accelerating economic development in exchange for environmental failure, leading to irreparable disasters and returning to their original state. There is a role for the Government in not recognizing the risk of environmental damage from short-term or long-term economic policies. At the same time, the direct agents of environmental harm are businesses that have disregarded risks and the danger of destroying the natural environment in order to gain profits. The higher the profits, the bigger, faster and more serious the environmental disruption. Therefore, countries that introduce business legal frameworks must promote corporate responsibility for products that are safe for humans and protect a clean, green and beautiful environment to ensure harmony between profits, health and safety. revenue with

growth and sustainable development. On the contrary, when the environment is guaranteed, it will bring the ability to trade goods more smoothly, thereby increasing profits and people's trust in products, and the business environment is strengthened and expanded. Today, humanity's increasing living needs require great response by exploiting natural resources as well as releasing many products that are difficult to destroy. Multilateral international conventions always focus on two aspects: each country moves towards the production of wealth to serve people's satisfaction and the living environment, including the natural environment and the environment. This also requires every country to have the responsibility to ensure trade exchanges associated with the obligation to protect the green environment in the context of complex climate change.

2. Provisions related to trade and environment in multilateral agreements

In the usual meaning, a multilateral agreement is a document that stipulates a system of principles, rules, and international legal standards that participating countries must comply with and enforce in trade relations between countries. The main purpose of multilateral agreements is to create a uniform legal environment, an open "playing ground" for free trade with multi-party consensus and control.

According to the International International Trade Center (ITC), they are divided into three groups:

- Group of agreements aimed at controlling transboundary pollution or protecting the global environment. For example, the Vienna Convention for the Protection of the OZON Layer and the Montreal Protocol on Substances that Deplete the OZON Layer and the Agreement on Environmental Change.
- The group of agreements protecting threatened species includes migratory birds, animals, fish and marine animals. For example, the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).
- Agreement group on management of production and trading of dangerous products and substances. For example, the Basel Agreement on the management of cross-border transport of hazardous waste.

In addition, multilateral and bilateral forums between groups of countries in continents and regions have formed detailed international treaties on related fields to coordinate implementation to suit real conditions. international.

2.1 Environmental issues in GATT and WTO agreements

In reality, before the WTO, a number of countries signed the General Agreement on Tariffs and Trade (GATT) in 1948 (Governments of the Commonwealth of Australia, Kingdom of Belgium, United States of Brazil, Mianmar, Canada, Ceylon, Republic of Chile, Republic of China, Republic of Cuba, Czechoslovak Republic, French Republic, India, Lebanon, Grand Duchy of Lucerne, Kingdom of the Netherlands, New Zealand, Kingdom of Norway, Pakistan, South Rhodesia, Syria, Union of South Africa, United Kingdom of Great Britain and Northern Ireland -len, and the United States of America). The Uruguay Round of negotiations took place from 1986 to 1994 with many documents and agreements signed. through. Accordingly, the most important achievement is the establishment of the WTO by joining GATT into this system. The legal WTO system was formed from the Uruguay Round of negotiations. Up to now, many major long-standing agreements have been implemented, such as: Multilateral Agreement on Trade in Goods includes the General Agreement on Tariffs and Trade GATT 1994 and its accompanying agreements, the General Agreement on Trade in Services (GATS), the Agreement on Trade in Rights intellectual property (TRIPS).

In the content of those agreements, there are provisions related to the environment and human life security brought about by production and business activities (although GATT does not directly refer to the subject of regulation as the environment). school). Accordingly, GATT has contained nothing in the agreement that could be construed as preventing any contracting party from implementing or applying measures: a) Necessary to protect public morality; b) Necessary to protect the life and health of humans, animals or plants..., d) Related to the conservation of exhaustible resources, if such measures are also Restrictions

apply to both domestic production and consumption (Article XX (a) (g) of GATT). However, the GATT and WTO free trade regulations also have mutual support in resolving environmental legal situations in practice. Specifically, in an interpretation of a dispute accepted by the WTO related to GATT provisions, the appellate body explained the connotation of the term “Depletable resources” as stated in Article XX(g) of GATT are not understood to mean only mineral or non-living natural resources but also include renewable resources and “non-living” natural resources. live” like sea turtles (Center for International Trade: Business Guide to the World Trading System, p. 399). In addition, some provisions of the WTO agreements also raise the mutually governing relationship between trade, commerce and the environment, such as the provisions on SCM and agriculture.

a) Terms on environmental labeling

Due to diverse commercial conditions and businesses wanting to expand their market share, they often advertise products that are not true. Therefore, WTO agreements provide regulations on environmental labels to emphasize their environmental attributes and characteristics. Environmental labels can be mandatory or voluntary according to regulations. Those regulations are intended to warn consumers about the toxic nature of products to the environment. Voluntary environmental labels are used as a marketing technique to promote goods in the market, they are divided into two types:

The first type includes marketing labels for environmental safety. That is the type where manufacturers and retailers want to promote products bearing that label that have special attributes or qualities for the environment. In those cases, to ensure product integrity and value for consumers, the state requires a product certificate.

The second type is a license to use a trademark sponsored by state agencies when the manufacturer or supplier satisfies the standards and conditions for licensing. Brands of this type are called “eco-brands”. Currently, developed countries are funded by the Government, so the commercial value has a global scope, reputation and customer reliability is very high. Currently, governments in many countries aim to form a sector-based ecosystem for a green, quality-assured environment that is being formed and spread through recognition in multilateral agreements. or agreements between groups or regions of related countries.

b) Regulations on penalties for causing environmental pollution

WTO regulations do not provide fines for environmental pollution because that depends on the reality of each country and specific legal facts. They only introduce the principle that the polluter must pay the fee (PPP), the user must bear the fee for the object of protection and use, which is the environment.

It can be affirmed that, over the past two decades, the close relationship and interaction between trade and the environment has truly been an important issue in the international trade forum. Reality poses a need for every country to quickly solve the problem of environmental protection, promote sustainable development and ensure human social security. The governments of some countries have soon formed environmental policies according to the multilateral cooperation roadmap using both legal and economic tools. Accordingly, each tool has a certain value and different role in practice and of course it also affects policies and methods of practical application in countries in different periods. In general, in theory and in practice, economic tools have their strength from their inherent advantages such as: being more cost effective, being an incentive to reduce pollution and being a source of state revenue. Furthermore, when other subjects are applied to economic measures, their benefits and income are limited, so that is the problem that all subjects care about first. As for economic tools, these include taxes on products that are toxic or harmful to human health and life, fees on waste products, and measures based on price and quality. environmental subsidies. However, legal tools also have legal value, persuasive power and control over specific angles such as:

- Product standards that goods circulated on the market must comply with:

- Regulations imposing production and processing methods (PPM) and pollution standards (PPM: Parts Per Million is a unit of measurement up to parts per million used to measure extremely low specific mass and volume densities. Because the measurement unit of ppm is very small, the main function is to measure noble gases or metals. A concentration of a substance of only 1 ppm corresponding to 1 mg/l of solution is considered an extremely dilute substance):

- Prohibit the export or import of items that are toxic or harmful to health
- Restrict exports to protect and sustainably develop natural resources
- Requirements for packaging and product labels.

In fact, countries use a combination of economic and legal tools to manage and promote economic and environmental impacts. Using what tools ultimately depends on the political and legal institutions, the effectiveness of the national administrative structure and the economic conditions and basis at each stage. Clearly, the economic and environmental policies put forward by the Government are aimed at human values and meet WTO standards on green and clean trade of origin.

2.2 Environmental issues under the EVFTA Agreement

The EVFTA Agreement (European-Vietnam Free Trade Agreement) The EVFTA Agreement is a free trade agreement between Vietnam and 27 EU member countries. Environmental issues do not have specific regulations in this agreement, so it requires the Government of each country to determine details associated with each field to ensure product quality, origin and safety, commitment that the product does not harm the environment in all aspects. Accordingly, environmental and sustainable development issues are focused on in Chapter 13, including a number of principled regulations: The parties affirm their commitment to promote the development of international trade in the direction of contributing contribute to the goal of sustainable development, for the benefit of people in the present and the future. Specifically:

- Sustainable development goals will be integrated into relationships bilateral trade of the parties. The two parties affirm that their commitment to pursuing sustainable development, including economic development, social development and environmental protection, is interdependent and mutually reinforcing.

- The two parties emphasized the benefits of cooperation on trade-related labor and environmental issues as part of a global strategy for trade and sustainable development.

- The Agreement requires the parties to ensure the implementation of multilateral treaties related to climate change, including: the 1992 United Nations Framework Convention on Climate Change (UNFCCC), the related Kyoto Protocol to the 1997 UNFCCC Convention, the 2015 Paris Agreement and actively cooperate to promote the transition to a low-emission, climate-resilient economy, in accordance with the Paris Agreement (Article 13.6.1 EVFTA). Commitments and obligations related to the environment are established in the EVFTA to enhance the reciprocity between trade and environmental policies, ensuring that trade and investment activities will not have any impact or influence. negatively affect environmental protection requirements.

- Article 13.2. Chapter 13 provides for regulatory rights and the level of protection provided: The EU and Vietnam will recognize the respective rights, including establishing an appropriate level of domestic protection, in particular encouraging the level of protection in the field of environment and society to enhance the effectiveness of environmental protection and ensure sustainable development. However, the commitment of these regulations only stops at the level of "encouragement" and "effort", allowing Parties to establish their own policies and enforce regulations on environmental protection.

This is also the basis for stipulating mandatory contents to ensure environmental protection requirements in a close relationship with the benefits of socio-economic development, thereby allowing investors can protect their legitimate rights and interests by suing when they believe that the costs of implementing

environmental protection activities in the host country do not ensure a balance with the costs of economic development.

- The parties acknowledge the role and importance of biodiversity conservation according to core multilateral international treaties on this issue including: International Convention on the Conservation of Biological Diversity 1992 (Convention CBD Convention 1992), Strategic Plan on Biodiversity 2011-2020, Aichi Biodiversity Target 2010, Convention on International Trade in Endangered Species of Wild Fauna and Flora 1973 (CITES Convention) and other international documents to which we are members.
- Article 13.17.2 of the EVFTA agreement stipulates that the parties will endeavor to facilitate access to genetic resources for the right purposes and will not apply restrictions contrary to the objectives of the 1992 CBD Convention. ; At the same time, encourage the sustainable use and conservation of biodiversity, including access and sharing of benefits from accessing genetic resources, minimizing illegal trade in wild animals.
- Article 13.8.1 of the EVFTA agreement stipulates that the Parties recognize the importance of ensuring the conservation and sustainable management of forest resources that will benefit economic, environmental and social goals. society. Therefore, the Parties agree to promote sustainable forest resource management and trade in forest products, and resolutely cooperate to fight against illegal exploitation and trade in wood.
- Article 13.3 Maintaining the level of protection: The Parties emphasize that weakening the level of environmental and labor protection is detrimental to the objectives of this Chapter and the promotion of trade and investment through weakening the level of legal protection. Domestic environmental and labor laws are inappropriate; A party shall not permit or permit the dilution or exemption of environmental and labor legal decisions in a manner that affects trade and investment between the parties; A party shall not be permitted, through a series of sustained or recurring actions, to deny effective enforcement of environmental and labor laws as a means of encouraging trade and investment; A party may not apply environmental and labor laws in a manner that causes arbitrary and unreasonable discrimination between the Parties or is used as a disguised trade restriction method.

3. Implement Vietnam's international commitments in recent times

Although not really considered a country with a fully developed market economy, as an official member of the WTO and participating in many other multilateral agreements, Vietnam has deeply integrated into economic and trade life. global trade. Simultaneous with that process, there is the issue of internalizing WTO regulations and the content of agreements for responsible implementation with countries around the world and the region. In particular, Vietnam has taken positive actions to protect the environment in the context of climate change and rising sea levels in mangrove areas, greening bare hills, and protecting biosphere for precious and rare species.

Some of the trade and environmental results that Vietnam has implemented have yielded real results:

- Gradually build and perfect legal institutions for a market economy in the direction of integration and sustainable development without sacrificing the speed of economic transformation with the destruction of the natural environment.

20 years ago, the Strategic Orientation for Sustainable Development (Sustainable Development) in Vietnam was issued under Decision No. 153/2004/QĐ-TTg, dated August 17, 2004 of the Prime Minister, identifying 05 business areas. Economy needs to be prioritized for sustainable development; 05 social areas that need priority for sustainable development; The areas of natural resource use and environmental protection need priority; Organize the implementation of the Sustainable Development Strategy. Accordingly, the 2020 Law on Environmental Resources Protection and detailed decrees and guiding circulars have been issued, as well as editing and supplementing other relevant laws to ensure synchronization and unity of laws.

- Up to now, Vietnam has participated in many important international conventions on the environment including: Convention on wetlands of special international importance as waterfowl habitat (RAMSAR) ,

1971; Convention on Trade in Endangered Species of Wild Fauna and Flora (CITES), 1973; Convention on the Protection of the Ozone Layer (VIENA), 1985; ; International Convention for the Prevention of Pollution from Ships (MARPOL), 1991; United Nations Declaration on Environment and Development, 1992; United Nations Framework Convention on Climate Change (UNFCCC), 1992; Convention on the Protection of the World's Cultural and Natural Heritage; Protocol on Substances that Deplete the Ozone Layer (MONTREAL), 1987; Convention on Biological Diversity (CBD), 1992; Biosafety Protocol (CARTAGENA), 2000; Vienna Convention on the Protection of the Ozone Layer (VIENA), 1994...

- Vietnam is consistently and determined to respond to climate change, build a green economy, a circular economy, and an environmentally friendly digital economy. This is demonstrated through the Government's strong commitment to net zero emissions by 2050 (Net Zero) at COP26, and the decision to join the Just Energy Transition Partnership (JETP) agreement with a number of G7 countries and other international partners. These commitments will serve domestic socio-economic development, while also contributing to the international community in responding to climate change.

In fact, the Government of Vietnam also has Resolution No. 120/NQ-CP dated November 17, 2017 of the Government: On sustainable development of the Mekong Delta adapting to climate change. Currently, the synchronous implementation of economic, trade, investment and environmental development for this area has been paid attention to in many aspects such as preventing saltwater intrusion into rice growing areas, investing Investing in dredging canals, developing wind power, solar power, liquefied gas power, etc...

Recently, at the COP 26 Conference (where all 197 countries participating in the United Nations Framework Convention on Climate Change have passed the Glasgow Climate Treaty), the Prime Minister of Vietnam said that "It is one of the The country is the heaviest affected by climate change and is making every effort "to adapt to climate change while developing the economy to thrive, ensuring an increasingly better life for its people". Accordingly, there are three tasks that need attention:

Firstly, responding to climate change and restoring nature must become the highest priority in all development policies, and the highest ethical standards of all levels, all industries, all businesses and people. Science must come first to lead and financial resources must be the lever, promoting the transformation of the development model towards a green, circular economy. All actions must be based on nature and people-centered, leaving no one behind (Van, T. T. T., & Phuong, N. T. 2024).

Secondly, together all countries need to make a strong commitment to reduce greenhouse gas emissions on the basis of the principle of common but differentiated responsibility, based on the circumstances and capacities of each country (Nguyen, M. C., & Nguyen, T. P. 2024).. This is an inevitable requirement to limit the increase in Earth's temperature. Despite being a developing country that has only begun to industrialize over the past three decades, Vietnam will develop and implement even stronger greenhouse gas emission reduction measures using its own resources, with the cooperation and support of the international community, both in finance and technology transfer, including implementation of mechanisms under the Paris Agreement, to achieve net zero emissions by 2050 (Phuong, N. T., Nhien, N. T. K., Khoe, T. T., Dat, T. H. T., & Khoa, 2024).

Third, climate finance, technology transfer and capacity building play a very important role in the successful implementation of the Paris Agreement (Prime Minister Pham Minh Chinh at the COP-26 Conference on solutions to combat climate change at COP26 taking place in Glasgow, Scotland, UK on November 1, 2023). Currently, to ensure the commitment roadmap, Vietnam has established the National Council for Sustainable Development. This is an interdisciplinary coordination organization with the function of advising and advising the Prime Minister in directing and coordinating between relevant parties to implement sustainable development in Vietnam. This Council is responsible for researching, consulting, recommending and proposing to the Prime Minister in formulating and organizing the implementation of guidelines, strategies, mechanisms and policies to implement sustainable development on a national scale. family; Deploying global commitments on sustainable development in Vietnam. Accordingly, including effective implementation of the National Action Plan to implement the 2030 Agenda for sustainable

development; Evaluate and summarize the results of sustainable development implementation on a national scale and periodically organize national conferences on sustainable development.

In conclusion, the living environment of humanity today is a global issue and every country must have a responsibility to work together to achieve specific goals of reducing air pollution, water resources, and water pollution. The greenhouse effect increases temperatures, protecting and regenerating forests, including flora and fauna. Of course, that is an important foundational premise for countries to implement socio-economic policies, develop trade and investment, and effectively implement multilateral agreements in a globalized environment.

LIST OF ABBREVIATIONS

- 1.WTO: World Trade Organization
- 2.GATT: General Agreement on Tariffs and Trade
3. EVFTA: EU -Vietnam Free Trade Agreement
4. UNFCCC: United Nations Framework Convention on Climate Change
5. CITES: Convention on International Trade in Endangered Species of Wild Fauna and Flora
6. SLM: Service Level Management
7. PPP: Public - Private Partnership
8. PPM: Production Planning and Management Software
9. TBT: Technical Barriers to Trade

REFERENCES

1. Office of the National Assembly: Research report on the legislative work plan to implement the Vietnam-US Bilateral Trade Agreement, National Publishing House, 2003
10. Phuong, N. T., Khoe, T. T., & Van, T. T. T. (2024). Legal Framework on Noise Pollution Management on SDG: Aqualitative Case Study in Vietnam. *Journal of Lifestyle and SDGs Review*, 4(1), e02006. <https://doi.org/10.47172/2965-730X.SDGsReview.v4.n00.pe02006>
11. Vân, T. T. T., & Phương, N. T. (2024). Hoàn thiện pháp luật về kiểm soát, xử lý ô nhiễm môi trường nước tại các khu công nghiệp trong bối cảnh thích ứng với biến đổi khí hậu. *Tạp Chí Khoa học Và Kinh Tế phát triển*, (29), 120–127. Truy vấn từ <https://jsde.nctu.edu.vn/index.php/jsde/article/view/400>, Van, T. T. T., & Phuong, N. T. (2024). Improve the law on controlling and treating water pollution in industrial parks in the context of adapting to climate change. *Journal of Science and Development Economics*, (29), 120–127. Query from <https://jsde.nctu.edu.vn/index.php/jsde/article/view/400>
12. Central Institute for Management Research: Institutions - Institutional reform and development (Reference book), Statistics Publishing House, Hanoi, 2002
13. Vietnam - France Economic Forum: Towards building a state with the role of strategic planner and guarantor of common interests (Reference book), National Political Publishing House, H, 2000
2. Ho Chi Minh National Political Academy: Environmental Economics textbook, National Political Publishing House, 2014
3. Central Institute for Economic Management Research: Institutions - Institutional reform and development, Statistics Publishing House, H, 2002
4. International Trade Center: World Trade System, National Publishing House, H, 2001
5. Ministry of Justice: Modern theoretical issues about the state and law (Proceedings of the ministerial-level conference), 2020
6. (Raymond Mallon, Le Duy Binh, *Effectively implement the impact assessment and forecasting process in Vietnam* (Raymond Mallon, Lê Duy Bình), H, 2007
7. Committee to empower everyone: Law for the poor, Justice Publishing House, Volume 2, 2008.

8. Phuong, N. T., Nhen, N. T. K., Khoe, T. T., Dat, T. H. T., & Khoa, T. V. Sustainable agricultural economic development in response to climate change: experiences from selected countries and lessons learned for vietnam.
9. Nguyễn, M. C., & Nguyễn, T. P. (2024). Pháp luật về bảo vệ môi trường tại các làng nghề ở Việt Nam-Thực trạng và hướng hoàn thiện, Nguyen, M. C., & Nguyen, T. P. (2024). Laws on environmental protection in craft villages in Vietnam - Current status and direction for improvement.
10. Yolla Margaretha, Popo Suryana, (2023). The Effect of Market Orientation, Entrepreneurial Orientation, and Learning Orientation on Marketing Innovations and their Implications on the Marketing Performance of Micro Actors in Bandung Metropolitan Area. *Pakistan Journal of Life and Social Sciences*. E-ISSN: 2221-7630; P-ISSN: 1727-4915, Pak. j. life soc. Sci. (2023), 21(1): 478-498. <https://www.pjlss.edu.pk/pdf files/2023 1/478-498.pdf>