

# ADDRESSING GLOBAL ENVIRONMENTAL CHALLENGES: WHAT TO EXPECT FROM FUTURE WTO DISPUTE SETTLEMENT PANELS?

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**Friends of  
the Earth  
Europe**

## Opening Address

**Charly Poppe | Friends of the Earth Europe**

Ladies and Gentlemen,

Dear participants,

Welcome to this session on Global Environmental Challenges and Dispute Settlement Panels, which is organized by Friends of the Earth Europe and the Center for International Environmental Law.

As exemplified by the opening session of this forum, which was devoted to climate change, environment seems to have become a primary concern for trade policy-makers around the world – I'd actually be tempted to say: it has FINALLY come to the fore of our collective attention.

This is a good thing, if one understands this concern as the humble realization that there are superior political values and superior social imperatives than trade expansion and market access.

This is a bad thing, if the challenges we are facing are yet again viewed through the narrow and ideological free trade-biased lens of “non-trade concerns”, where environmental regulations are primarily suspected to be a potential impediment to trade.

Unfortunately, this second view has so far been predominant among trade policy makers around the globe. This is obvious when one looks at the history of dispute settlement at the WTO, where cases brought against environmental measures have been numerous. The outcomes of the various panels are mixed – as Pascal Lamy pointed out yesterday, lawyers tend to say: “it depends” – but the few cases where health or environmental measures were found to be justified – like asbestos, shrimp-turtle, retreated tyres – have not really reassured people like me who care about our environment, our future and our survival on this planet.

Now, take the case of Europe. Despite widespread popular opposition, we Europeans are still under heavy pressure by American biotech lobbies to grow GMOs, to eat hormone beef, or to relax our recently established legislation on registration and control of chemicals.

In these cases, like many others, WTO rules and WTO law do not help us. So, what I call the “mutual supportiveness” agenda of the WTO (between the trade and environment regimes) has to move away from its current ambivalent and sterile character and take a firm direction which starts by recognising the primacy of environmental goals over trade interests. As suggested by WTO DG Pascal Lamy yesterday and on other occasions in the context of climate change, WTO rules can adjust to new emerging concerns and priorities of the world community. We in Friends of the Earth believe these rules must change, and very rapidly, because, really, trade

expansion can wait another round, but protecting our environment, saving our climate, preserving our planet's biodiversity, these are challenges that CANNOT wait.

So, I'd like to say to trade lawyers and delegates here: whenever you are confronted with these issues, which seem sometimes quite remote from our individual lives, because they are so complex and technical, never forget that there are REAL people behind these cases, people whose livelihoods and whose future is being affected by your decisions, people who have probably never heard of the WTO, but who feel the consequences of trade liberalization when it leads to increased pressure on our ecosystems; to the extinction of fish species and fish stocks due to unregulated catch, trade and massive governmental subsidies, to increased deforestation due to the elimination of tariff and non-tariff barriers on timber trade in the NAMA negotiations; to biodiversity loss and food insecurity as a result of unsustainable liberalisation of agriculture products; to rapid land conversion and hunger due to the market expansion of agrofuels; to biopiracy due to the enforcement of the TRIPs agreement on access to traditional plants and seeds; to increased exploitation of raw materials and natural resources through the elimination of export duties and export restrictions, and the list goes on!

I have just come back from the European Social Forum where all these issues have been on the agenda. Let me just say this: citizens, small-scale farmers, forest dwellers, artisanal fisherfolk, ethical consumers, environmentalists, people, communities and movements in Europe and around the globe, have never stopped caring about the WTO process. They might not be here in Geneva today, but they are listening carefully and watching very closely, both the negotiations and the disputes going on.

As a citizen I must say I find it particularly inappropriate when rules that are supposed to govern our societies are designed by lawyers who are not democratically accountable. But in the absence of clear texts – because of lack of political will – this is what is currently happening at the WTO, where rulings of the Appellate Body become case law and therefore acquire a significant importance alongside the texts of the WTO agreements themselves.

So, this is what we have, and even if we don't like it – and we DON'T like it – we have to deal with it. We have to deal with it even more because there is no such enforcement mechanism like the WTO DSM in any Multilateral Environmental Agreement, not even in the Kyoto Protocol.

So, clearly, as a citizen and as an environmental justice activist, my attention towards WTO dispute settlement panels is as great as ever.

With these few introductory observations I would like to leave you.

I thank you for being here and hope you'll find today discussion as interesting as I surely will.

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**More information about this event:**

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