



Trade and Environment Law

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Abstract:

Trade and environment law refers to the intersection between international trade rules and environmental protection. It involves the legal frameworks, agreements, and regulations that govern the relationship between trade policies and environmental objectives. The aim is to strike a balance between promoting economic growth through international trade while ensuring the conservation and sustainable use of natural resources.

1. - ECO-LABELING

1.1 – Introduction: Eco-labeling

Environmental-labels are aimed at informing consumers about the product, while also raising the consumers' awareness about the environmental characteristics of a particular product.¹ The overall aim of such labels is to achieve a positive change in both consumers' and producers' behavior, in order to promote environmentally-friendly production, products, technologies and consumption. Environmental-labels tend to take the form of voluntary standards, and may lead to the award of eco-labels.² Eco-labels are therefore symbols which are recognizable, granted by an independent organisation and placed on certified products, aimed at promoting environmentally friendly products and sustainable development.³

¹ Environmental Requirements and Market Access, Labelling for Environmental Purposes
<http://etraining.wto.org/admin/files/Course_288/Module_1443/ModuleDocuments/TE_M5_E.pdf>

² Ibid.

³ Simi T B. (1/2009). Eco-labels: Trade Barriers or Trade Facilitators?. *Assistant Policy Analyst & Researcher (International Trade Law)*.

The need for eco-labels relates to the fact that many of the stakeholders (consumers, producers, and regulators) are now more aware of environmental and health issues⁴. In addition, all of these stakeholders are looking for useful means whereby they can address these issues effectively. As a result, environmental requirements have proliferated, in particular in developed countries. Eco-labels are becoming more complex, “aimed at fulfilling not only environmental objectives but often also other public policy objectives”.⁵

1.2 - History: Eco-labelling

The 1991 Environmental Labelling in the Organisation for Economic Cooperation and Development (OECD) countries study, defined ‘environmental labeling’ as the “voluntary granting of labels by a private or public body in order to inform consumers and...promote...products which are determined to be environmentally more friendly.”⁶ Similar definitions were adopted by the Secretariat of United Nations Conference on Trade and Development (UNCTAD) in 1993, and the General Agreement on Tariffs & Trade (GATT) Secretariat in 1992.⁷ The United Nations Conference on Environment and Development of 1992, through Agenda 21, recommended that governments should promote environmental labeling in order to “facilitate change in consumption patterns and thereby safeguard the environment for sustainable development.”⁸ This led encouraged the establishment of a number of independent national and multi-national eco-labeling programs. By the early 1990s over 15 such

⁴ Above n 1, 3.

⁵ Above n 1, 3.

⁶ Above n 3, 1.

⁷ Above n 1, 3.

⁸ Above n 1, 3.

programs has been established, aimed at safeguarding the environment.

At present, countries in both the developed and developing world have established eco-labeling programs. These programs range from the local, national, regional and international levels.⁹ However, despite the stated aims these requirements have the potential to be used for other purposes, which may, in turn, impact on the ability of certain countries to engage in trade, as well as having a negative impact on the accessibility of certain markets.

1.3 - Types of Eco-labeling

The International Organisation for Standardisation (ISO) 9000 standards were very successful in developing total quality management standards. Subsequently, the ISO developed a new series of standards relating to environmental management systems concerning eco-labeling. The ISO 14020 series categorises eco-labelling into three main types¹⁰:

1. ISO 14024 (Type I)- a license which is authorized to use the labels of the environmental products which shows the superiority of the product within that environment which is based on the voluntary, third party programme based on the multiple criteria. The category of the product is based on the consideration of life cycle;
2. ISO 14021 (Type II) – the claims of informative self-declaration of the environment;
3. ISO 14025 (Type III) – the qualified environmental data

⁹ Above n 1, 3.

¹⁰ ECO-LABELING STANDARDS, GREEN PROCUREMENT AND THE WTO , Prepared by the Center for International Environmental Law Washington, DC Geneva, Switzerland March 2005
<http://www.ciel.org/Publications/Ecolabeling_WTO_Mar05.pdf>.

about eth product which is provide by the voluntary programmers. The third party set the parameters which are based on the assessment of life cycle and also approved by that or any other third party¹¹ which are also qualified. ¹¹

The ISO 14020 standards are recognised internationally as the best practice model, and the internationally accepted approach for delivering environmental labeling and declarations on products and services.¹² Type III (ISO 14025) labels lists information about a product's environmental impacts throughout its life cycle. Categories for Type III labels can be set by industrial sector or by independent bodies. Type III labels, "do not judge products, leaving that task to consumers."¹³ One significant criticism of all labels, in particular Type III labels, is that the information contained on the labels may not be information that is readily understood by the average consumer.¹⁴

2. - ECO-LABELING SCHEMES

2.1 – Introduction: Eco-labeling Schemes

As can be seen from the above categorisation, eco-labels are specific environmental labelling schemes that are generally

¹¹INTRODUCTION TO ECOLABELLING ,GLOBAL ECOLABELLING NETWORK (GEN) SECRETARIAT TERRACHOICE ENVIRONMENTAL SERVICES INC.. (2004).

INTRODUCTION TO ECOLABELLING
<http://www.globalecolabelling.net/docs/documents/intro_to_ecolabelling.pdf.

>, 3.

¹² Ibid

¹³ *Environment and Trade: A Handbook*, Second Edition (2005), United Nations Environment Programme, International Institute for Sustainable Development .61.

¹⁴ Ibid.

based on either a ‘life-cycle’ analysis or ‘cradle-to-grave’ approach. Eco-label criteria are formulated in a way that aims to ensure that only a small percentage of products in a product category (between 5% to 30%) can meet the relevant criteria. The purpose is to selectively identify a sub-set of products that are environmentally preferable to other products in the same category. For example, the German Blue Angel eco-labeling scheme concerns different product groups such as heating systems and paper products, while the Japanese Eco Mark eco-labeling scheme covers over 60 product categories.¹⁵ Other countries such as Brazil and India have developed their own eco-labeling schemes, the Qualidade Ambiental (Brazil) and the Ecomark (India).¹⁶ The Green Choice label has been established in the Philippines; while Korea has developed the Eco-Label.¹⁷

2.2 - Private Sector Voluntary Schemes

The significance and relevance of private sector standards increased dramatically over recent years, particularly in sectors such as food and beverage, and fisheries and forestry. Private standards may often involve specifications that are more stringent than those contained in government technical regulations and are therefore aimed at achieving a greater environmentally-friendly impact. They are also aimed at attracting a sense that the product that has been ‘eco-labeled’ is ‘exclusive’ as it is produced in such a way that the environmentally-friendly nature of the product makes it more attractive to customers. Voluntary standards often turn into commercial imperatives for all stakeholders involved in that particular industry, and must therefore be met. This has a

¹⁵ Above n 1, 22.

¹⁶ Above n 1, 22.

¹⁷ Above n 1, 24.

significant impact on the feasibility and commercial viability of these requirements. This is often the case in relation to certain markets, particularly if the market is integrated into the supply chains. In such cases, there is not a clear separation between ‘mandatory’ and ‘voluntary’ requirements, particularly at the level of the producer and exporter.¹⁸ The lack of clarity can also impact the markets and stakeholders within that market.

3. - ECO-LABELING: WTO COMMITTEES AND AGREEMENTS

3.1 - The Committee on Trade and Environment

The Committee on Trade and Environment (“CTE”) was established in April 1994, in response to the agreement that was reached among those member states participating in the Uruguay Round. Member states were able to agree to the launching of a comprehensive work program concerning trade and environment throughout the World Trade Organization (“WTO”).¹⁹ The CTE’s functions and responsibilities are centered around trade policy and trade-related aspects of environment policies. Ultimately, the WTO is a trade body, and is not specifically concerned with being an environmental body, or with the particular administration of eco-labeling issues. Accordingly, the CTE is tasked with the responsibility of dealing only with issues of trade. In conducting that function, the CTE also functions as a body seeking to liberalise trade and ensure that environmental policies do not result in the unnecessary restriction of trade.²⁰ All CTE operations are geared towards achieving a transparent, equitable and non-discriminatory trading system that also

¹⁸ Above n 1, 3.

¹⁹ M. Rafiqul Islam, *International Trade Law of the WTO* (Oxford University Press, 2006) 522.

²⁰ *Ibid.*

contributes to the protection and conservation of environmental resources, while also achieving a degree of sustainable development.²¹

Many CTE discussions focused on areas such as organic agricultural products, biofuels, as well as private voluntary standards.²² The CTE discussions saw Members raising concerns such as the difficulties faced by producers due to

1. The proliferation of both different government regulations and private voluntary standards;
2. The lack of international standards; and
3. The high cost of multiple inspection, certification and accreditation requirements.

The CTE emphasized the importance of providing the possibility for small holder group certification, as well as a multilateral solution on harmonization, equivalency and mutual recognition was emphasized.²³

3.2 - The CTE, Doha and Other International Organisations

The Committee's role was fundamentally changed by the 2001 Doha Declaration.²⁴ Among the issues that members in Doha charged the Committee with focusing primarily on was "reducing or eliminating barriers to trade in environmental goods and services."²⁵ The CTE was to serve as a negotiating forum, contributing to the Doha agenda results—a role fundamentally different than the discussion forum it had been up to that time, and for which it convenes in special negotiating sessions.²⁶

²¹ Ibid.

²² Above n 1, 13

²³ Above n 1, 13.

²⁴ Above n 13, 29.

²⁵ Ibid.

²⁶ Ibid.

There are two non-binding instruments which are the Agenda 21 and the Rio Declaration, they address environmental labelling scheme relating issues. The clear endorsement of environmental labelling is mentioned in Agenda 21 in the chapter 4(B) (c). On the other hand in Rio Declaration the importance is mentioned in the environmental labelling scheme and assigns principle 10 and 12.

In ecolabelling, there are various International organizations are working in these days which are the International Organization for Standardization (ISO), the United Nations Conference on Trade and Development (UNCTAD), Organization for Economic Co-operation and Development (OECD), the Food and Agriculture Organization of the United Nations (FAO)²⁷ and the International Trade Centre (ITC).

3.3 - The TBT and SPS

The issues of eco-labelling are dealt by these measures the Agreement on sanitary or Phyto-sanitary (SPS) and the Agreement on technical Barrier to trade (TBT). These committees like TBT and SPS are working on the requirements of the environment by debates and notifications on the meetings of committee²⁸.

3.3.1 - The SPS

The Agreement of TBT is related to the SPS Agreement but it works in a limited range to provide measures²⁹. They are related

²⁷ *Eco-packaging; overview of recent work in other International Fora*, Note by Committee on Trade and Environment, WT/CTE/W/75, WTO: Geneva.

²⁸ Above n 1, 16.

²⁹ Downes, David R. 1999. *Integrating Implementation of the Convention on Biological Diversity and the Rules of the World Trade Organisation*, IUCN Environmental Law and Policy Discussion Paper, IUCN: Cambridge.

to work for the measures which the countries are taken to make them sure about the toxins or contaminants, feedstuffs and beverages from additives, safety of foods, or it provides protection to the countries from the diseases or pest. They have adopted SPS measures for the recognition of the rights of members but they must work for the assessment of risk. These measures are applied on to the extent for protecting plant, animal and human health or life and they should not discriminate or unjustified any country where same conditions prevails³⁰.

3.3.2 - The TBT

The disciplines which exist on the technical barriers to trade are not enough for the dealing of environmental labelling, for the both mandatory and voluntary programmes³¹ of labelling TBT Agreement has created proper balance between the rights and obligations. The TBT Agreement has a “Code of Good Practice for the Preparation, Adoption and Application of Standards”³² for the voluntary environmental labelling schemes. Those agencies which develop the labelling requirements they are supporting to accept this Code³³.

3.3.3 - Effectiveness of TBT and PPM’s

Perhaps the most controversial issue in the eco-labeling debate is the use of criteria linked to the PPM of a product. PPMs that leave traces in the final product (for example cotton growth using pesticides, where pesticide residue is left in the cotton

³⁰ Ibid, 17.

³¹ Cathy Roheim Wessells et al. (2001). Product Certification and Ecolabelling for Fisheries Sustainability. *FAO FISHERIES TECHNICAL PAPER*. 63

³² Downes, David R. 1999. *Integrating Implementation of the Convention on Biological Diversity and the Rules of the World Trade Organisation*, IUCN Environmental Law and Policy Discussion Paper, IUCN: Cambridge.

³³ Above n 1, 31.

itself) are considered acceptable.³⁴ Whereas, PPMs that are not product-related and which leave no traces in the final product are unacceptable because they will often result in discrimination between products based on their PPMs. This will, in turn, mean that such discrimination is WTO-inconsistent (consider for example the *Tuna-Dolphin* and *Shrimp-Turtle disputes*).³⁵ This is because certain specified PPM criteria that is based on domestic conditions (and priorities) in importing countries, are not necessarily as necessary or appropriate in exporting countries.³⁶ The TBT Agreement allows and fulfills all the measures related to unincorporated PPM-based and these issues are discussed legally in the WTO. The major effectiveness on the TBT Agreement is the increasingly utilization of process-based, opposed to product based, standards³⁷ and regulations. Sometime eco-labels are based on the combined way out which are related to the performance characteristics and product, non-product-related and product-related PPMs, according to the nature of criteria some members thought that it would not the right way to separate the coverage under the provisions provided by the WTO about the eco-labelling of products. All the criteria which work under eco-label must cover the discipline of WTO. In the TBT Agreement, they are providing enough relaxation and give permission to use non-product –related PPM based eco-labelling, according to their discipline of trade³⁸ to some members. So the other members point out that this agreement did not covers the non-product-related PPMs based standards. They have originating the objection on the CTE work on eco-labelling for

³⁴ Above n 19, 525.

³⁵ Ibid.

³⁶ Above n 29. 64.

³⁷ Above n 1, 26.

³⁸ Above n 1, 26.

the extension of the scope of TBT to give permission for the use of non-product –related PPM based standards.³⁹

3.4 - The CTE - vs. - the TBT

A further significant issue that has arise, is that there is now considerable disagreement over which of the WTO-based committees is most appropriate forum to engaged with the issue of eco-labeling. One argument favors the CTE as the most appropriate forum to work on eco-labeling. This argument is based on the idea that the CTE’s conclusions can then form part of the basis for discussions in the TBT Committee.⁴⁰ The alternative view favors the TVT Committee as being the more appropriate committee to deal with these issues.⁴¹ The TBT Committee in its Second Triennial Review of the TBT Agreement in November 2000 underscored the need for labeling requirements to be WTO-consistent and launched structures discussion on labeling, which are continuing. The Committee also organized a workshop on labeling in October 2003.⁴²

In the committee of CTE and TBT the discussion on eco-labelling has been taking place since 1995. In the CTE work the subject is mentioned and some members like to discuss about co-labelling. The raised issues are more than the TBT committee mandate and avoiding the rules of WTO. For the environmental purpose they give special attention to the labelling requirements, some people have the idea that CTE required to work for the environmental labeling and the main input of the debate is the discussion of the CTE in the TBT committee.⁴³ Majority of the

³⁹ Above, n 1, 26.

⁴⁰ Above n 19, 525.

⁴¹ Ibid.

⁴² Ibid.

⁴³ Downes, David R. 1999. *Integrating Implementation of the Convention on Biological Diversity and the Rules of the World Trade*

members of the TBT committee like to discuss about the impact of eco-labelling. In the discussion it is argued that for the task deliberation WTO rules then TBT is more suited for the task specially labeling and it was already talked about the general labelling which also include environmental labelling. In the TBT committee STCs the environmental labelling have also raised there.⁴⁴ For the examining of WTO rule task, they said that TBT Committee is more suited specially for labeling in general discussion. In the technical barriers they cover the labeling and standards of products which includes environmental labelling which is discussed in the committee of TBT which is mentioned under specific trade concerns. It is unwise for the CTE to duplicate the work and it also preferred to take the results of work which is carried out in the committee discussion before taking any decision related to the CTE course of action.⁴⁵

4 – Eco-Labeling, Market Access and Developing Countries

4.1 – Introduction: Developing Countries and Eco-labeling

The increased use of eco-labeling throughout the global marketplace in recent years, has also led to an increase in the complexity and diversity of eco-labels. These increases give rise to certain difficulties, in particular for developing countries in export markets. In order to understand the consequences and impact of eco-labeling, one must consider the basis of eco-labeling. The rationale of eco-labeling, being an analysis of a

Organisation, IUCN Environmental Law and Policy Discussion Paper, IUCN: Cambridge.

⁴⁴ Ibid.

⁴⁵ *Negotiating History of the Coverage of the Agreement on TBTs with Regard to Labelling Requirements, Voluntary Standards, and PPMs Unrelated to Product Characteristics, WT/CTE/W/10, WTO: Geneva.*

product involving the consideration of its environmental effects from the beginning up to the time of its final disposal⁴⁶, is vitally important. The rationale is based on the idea that if consumers are provided with sufficient information about the particular product, the consumer will make informed decisions in the market place. The informed decisions of these consumers will, in turn, result in a “stimulation of the production and consumption of environment-friendly products.”⁴⁷

Eco-labeling can result in exporters being forced to meet an insurmountable amount of requirements/criteria in order for their product (the same product) to be considered acceptable in different markets. This situation will not only result in an inability by the exporter to have a financially feasible business, but will also result in considerable confusion for consumers, and a restriction on the availability of that product in certain markets.⁴⁸ A further issue that may arise is that the eco-labeling requirements may be used for an unintended/ulterior purpose of protecting domestic markets from viable competitiveness. For these reasons, members of the WTO often have a preference for “voluntary, market-based transparent and non-discriminatory labeling schemes that do not result in unnecessary barriers of disguised restrictions on trade.”⁴⁹

4.2 -Developing Countries: Eco-Labeling, Trade and Market Access

Notwithstanding the increased use of eco-labels by governments, industry and non-governmental organisations, there have been a number of significant concerns that have arisen, both at the

⁴⁶ Above n 19, 252.

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ Ibid.

national and international levels. One major concern was that domestic producers appeared to be better placed than exporters to influence the choice of product groups and the criteria used for awarding the labels within the domestic market. A related problem is that foreign producers are often required to meet criteria that may be an irrelevant consideration in the country of production, often resulting in additional costs. In addition to developing countries, small and medium enterprises (SMEs), are at a significant disadvantage. Developing countries are often vulnerable when it comes to their ability to compete where international standards are considerable stringent. The SME's and developing countries are often operating in technologically-disadvantaged places which lack the required resources to undertake costly testing, verification, plant inspection, and certification procedures in order to comply with the requirements.⁵⁰

Environmental-labels can have a significant impact on developing countries' exports, give that their exports are often concentrated in a small number of products and sectors, such as textiles and clothing, timber, wooden furniture and paper, food and fishery products. These sectors are those in which environmental requirements apply.⁵¹

The demand for the environmental-friendly products in the under develop countries have weak legislation about the domestic environment, it does not permit the producers of developing countries to provide compensation required for the change in the production methods.

The combination of weak domestic legislation and environmentally-friendly demands makes compliance with the stringent environmental requirements in developed country

⁵⁰ Above n 3. 2.

⁵¹ Above n 1, 5.

markets a further difficult that must be addressed.⁵²

Although eco-labelling has certain advantages such as addressing environmental concerns and facilitating trade, there are also disadvantages. Eco-labeling can equally be used as an effective impediment to trade and free market access. This issue is so concerning that the Members and Secretariats of the OECD, UNCTAD and World Trade Organisation (WTO)/GATT have advanced a range of proposals which seek to address the trade effects of eco-labelling schemes.⁵³ Some of the proposals call for the harmonization of eco-labeling, as well as the mutual recognition and greater transparency in the operation of labelling schemes.⁵⁴

4.2.1 - The Different Requirements

Perhaps one of the greatest challenges faced by developing country exporters is the need to both keep up with changing requirements and deal with a wide range of measures in different markets, each of which may require different standards to be met. The costs of complying with the assessment criteria, as well as the loss of economies of scale, can be detrimental to the developing country's exporters. Often, the 'one size fits all' approach to assessment criteria does not factor into its calculations the special circumstances of developing countries.⁵⁵ The lack of any uniform international standard does not assist the situation, and a possible solution would be to develop relevant international standards or to negotiate agreements whereby different countries consent to a type of uniformity in their

⁵² Ibid.

⁵³ Above n3 2.

⁵⁴ Ibid .

⁵⁵ Above n1 6.

requirements.⁵⁶

4.2.2 - Cost of Compliance/Developing Countries

The importing countries' authorities do not recognize the local certification bodies in the developing countries. In these areas there is shortage of proper infrastructure like data and technologies, laboratories and metrology. The working of SMEs is affected due to these situations because they required providing proof of compliance⁵⁷ in different markets in the form of different needs. Anyhow the mutual recognition agreements (MRAs) have given a solution about the various solutions, and they are used in limited form. The MRAs is actually time consuming and also complex.⁵⁸

The TBT Agreement and the WTO Sanitary and Phytosanitary Measures (SPS) Agreement works for the transparency in discipline for the improvement of information flow at various level. The members of WTO are working for the regulations and standards which include requirements for environment, and it gives facilities for the consultations and comments. The dialogue between developed and under developed countries are promoted through UNCTAD's which are the Consultant Task Force on Environmental Requirements and Market Access for the Developing Countries and their aim is to increase the understanding about the needs of environment and adjustment of right policies.⁵⁹

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ Above n 1, 6.

⁵⁹ Ibid, 8.

5 – Eco-labeling and WTO Cases

5.1 – Introduction: Eco-labeling and WTO Cases

A number of GATT/WTO decisions have provided useful information on the WTO's approach to aspects of the labeling of products. Although most decisions do not directly deal with eco-labels, the disputes arising under the GATT system are closely related to the subject of eco-labels. The GATT/WTO disputes that have been decided have also highlighted a significant contradiction between a governments' concern to pursue domestic environmental policies, while at the same time attempting to comply with WTO rules.

5.2 – The Tuna-Dolphin Case

The *Tuna-Dolphin* case of 1991 dealt with US Restrictions on imports of tuna from Mexico. Mexico relied upon the most-favoured nation (MFN) clause of Article I:1 of the GATT when it argues against the mandatory “dolphin-safe” label imposed by the US. Notwithstanding the panel's decision to set aside the claim, the panel made certain observations of in relation to the labelling provisions of the Dolphin Protection Consumer Information Act (DPCIA). The panel noted that the DPCIA did not, in fact, restrict the sale of tuna products, as these tuna products could be sold freely both with and without the “Dolphin Safe” label. The panel also noted that any advantage that could be related to the label was dependent upon the free choice of the consumers in exercising their own discretion to purchase a product with the “Dolphin Safe” label. The Panel, in considering Article IX:1, expressed the view that this Article is intended to regulate marking of origin of imported products and not the marking of products generally, which would have been relevant

for an eco-labeling argument.⁶⁰

5.3 – The Sardines Dispute

The EU regulations just allowed one fish species named ‘sardines’ which is violated by the WTO’s agreement on TBT which the WTO’s Appellate Body held for the Sardines Dispute. This body has pointed out various issues regarding TBT Agreement which are implemented for the eco-labelling and also for the product characteristics. When the member of these countries requires the names used for any product marketing or defines the product characteristics than the obligations of TBT triggered. So there are some technical regulations are involved in the defining and naming of product even if it is based on the main characteristics of the product.⁶¹

6 - Conclusion

Eco-labelling can be used in an effective manner in order to achieve the goal of protecting the environment and achieving sustainable development. However, eco-labeling can also be used in a discriminatory fashion, resulting in a serious inability on the part of developing countries to engage in the market. The harmonization of the different eco-labelling schemes would be a significant step in the right direction. Other measures, such as mutual recognition and technical assistance to developing countries in order to empower them and allow them to engage more effectively with such schemes would also have a positive rather than constraining effect on trade and market access.

In addition, there needs to be an effort to provide detailed

⁶⁰ Above n 3, 5.

⁶¹ Ibid.

information and adequate notice to developing countries before allowing the use of eco-labels by developed countries. There needs to be a uniform approach taken by the different stakeholders, such as the respective national governments, the concerned industries, and the eco-labeling agencies. Technical and monetary assistance to developing countries is also necessary to enable those developing nations to provide their exporting companies with upgraded manufacturing facilities to enable compliance with the increasing variety of environmental standards in different markets. The governments where eco-labeling schemes are implemented should also be responsible for ensuring that the eco-labelling schemes under its jurisdiction are transparent and equitable, and do not unnecessarily discriminate. There should be clear guidelines and punishments for the use of an eco-labeling system in a biased, casual or non-transparent manner.

On the other hand, the implementation of reasonable requirements for all trading partners should not be constrained by the overzealous focus on the potential negative impact of eco-labeling. There needs to be a delicate balance struck between the environmental effectiveness of eco-labeling and the compatibility of such schemes with the overall objectives of the WTO.

Perhaps one of the biggest issues that needs to be addressed is the vexed issue of the ‘appropriate forum’ for eco-labeling to be raised. As discussed above, there is a wide range of views on whether the CTE or the TBT is the appropriate forum. The lack of clarity on these issues is perhaps a contributing factor to the overall problems that are being encountered, particularly by

developing countries. The clarification of this issue would be most helpful in defining the appropriate forum where such issues can be raised, or defining with some precision what responsibilities each committee/body should have in relation to this issue.

The main factors which are involved in the support of the environment are NGOs, media and consumer organizations; they are performing awareness in the countries about the products. They also create awareness in the government that they have taken measures for the environment and provide transparency and implementation of accountability.⁶²

The World Bank is well placed to assist countries, in particular developing countries, as they try and working for the products and services which are environment friendly. In the developing countries World Bank is providing financial support for the environmental friendly products and services. They want to increase import from developing countries, this is mentioned in WTO agreement and GPA and World Bank also committed to sustain development in these countries. It is important for the World Bank to acknowledge the borrowers countries.

The World Bank is particularly well placed to assist developing countries in dealing with the impact of eco-labeling expanding in the developing countries they are using measures to make the product clean, processes, services and the methods used in the production as well as assisting those countries in meeting the

⁶² above n 3,5

costs of testing, conformity assessments, and certification.⁶³

⁶³ above n 10,32

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