

Multilateral Governance of the Sustainable Development and the Contribution of the EU[#]

*Eva Cihelková – Jakub Krč**

The Earth Summit in Rio de Janeiro¹ could be seen as the first serious attempt of the international community to overcome the fragmented environmental governance and to face the global environmental and social impacts of the economic globalization at the multilateral level. The participants of the summit agreed on the Agenda 21 (UN, 1992a), the set of ambitious goals for the upcoming years, as well as on many treaties enhancing the protection of the environment². Five years later, the review of the United Nations Conference on Environment and Development concluded that the unsustainable trends in global development continued and the environment degradation was even faster than in 1992 (UN, 1997b). The main reason, why the negative trends could not be inverted, was pointed out in the United Nations Development Program's report in 1999 as the unprecedented growth in world consumption (UNEP, 1999). The insufficient results of actions introduced by the international community at the multilateral level led many countries to work on the solutions on their own in the framework of the regional integration. The leading role was recently taken over by the European Union (EU).

The European Union became the key player at the attempt to face the global climate change and to introduce the mechanisms that tend to the more sustainable management of the natural resources. The major official document of the EU that tried to promote those principles was the Sustainable Development Strategy (SD Strategy) of 2001 (EU, 2001a), but the first significant international success of the EU policy was probably achieved when the Kyoto Protocol (1997) was promised to be ratified by Russia in 2004³. While the European Union is the second largest green house gases emitter, second only to the United States (EPA, 2002), it is well understandable that the EU introduced the first emission trading system and tries to hold a high climate policy profile. As the reflection of an even enhanced global competition, continuing deterioration of the environment as well as the serious disorders of the developing countries, the EU amended its first strategy and introduced the Renewed Sustainable Development Strategy (Renewed Strategy) in June 2006 (EU, 2006). Further step was concluded in March 2007, when the European Council committed to redu-

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1 The United Nations Conference on Environment and Development held in Rio de Janeiro in June 1992.

2 Rio Declaration on Environment and Development and the Statement of Principles for the Sustainable Management of Forests belong among the most important.

3 Russia ratified the Protocol on 18th of November.

ce the carbon emissions by 20% by 2020 compared to 1990 and to use 20% of the renewable energy sources by the same year (EU, 2007). The achievement of these ambitious goals could not be evaluated as a significant contribution to the solution of the global climate change problem, if the other members of the international community do not spend the effort to work together in attempt to reverse the negative trends in the global environment. The need for a common action was acknowledged by many international organizations, especially the United Nations (UN), the World Bank Group and World Trade Organization (WTO), but the structure of the multilateral environmental governance is still insufficient.

The aim of this paper is to outline the institutional structures of the multilateral governance of the sustainable development, particularly in the field of global environmental. It analyzes the contribution of existing international organizations and in more detailed way the approaches of the World Trade Organization. It also describes reasons for its involvement and its relationship to the Multilateral Environmental Agreements, especially due to its dispute settlement mechanism. Consequently, it tries to characterize the participation of the European Union on the environmental governance as defined in its strategies with respect to the specific situation within new member states.

1. What is the participation of multilateral organizations in the field of the sustainable development and the environmental protection?

As stated above, the first serious attempt to answer the challenges of the sustainable development was represented by the Earth Summit in 1992. On the other hand, it was certainly not the first multilateral body that tried to solve the global environmental issues. The multilateral management of these problems began at the United Nations Conference on the Human Environment in Stockholm in 1972. As the result of the Conference, the United Nations Environmental Program (UNEP) was established that has become the major UN instrument in the field of the global environment (UNEP, 1972).

The main and almost the crucial doubt that can be addressed towards the functioning of UNEP is that it lacks the relevant tools to force the participating countries to respect the agreed rules. It has become visible that the key role at the introduction of any binding multilateral rules will be carried on by other international institutions. The international community did not pay enough attention to the issues of the sustainable development except of the actions taken by the United Nations. It creates the problem of the adequate multilateral environmental governance. The UN agencies act as important initiating bodies of the multilateral sustainable development policies, but the enforcing role will be probably played by others. The World Bank Group could certainly be one of them. In 1999 the World Bank agreed on the establishment of so called Prototype Carbon Fund that was meant as a contribution to the solution of global climate change problems. It introduced an interesting opportunity, how to involve the private companies through the PPPs (Private Public Partnerships), but it does not represent the complex coverage of the global environmental governance issue (IBRD, 2000).

During the previous decades, the environmental problems also became a vital part of the discussions held within the framework of General Agreement on Tariffs and Trade and later World Trade Organization. The issues that could be mentioned include the establishment of the Commission on Trade and Environment in 1994 (WTO, 1994a) and introduction of its Report concluded in 1996 at the Singapore Ministerial Conference or adoption of negotiation mandate on WTO relationship to the later Multilateral Environ-

mental Agreements at Doha Ministerial Conference in 2001 (WTO, 2001). The reason, why the WTO had focused on the environmental problems is based on the statement of the Preamble of the Agreement establishing the WTO, where the sustainable development and the protection of the environment were mentioned as its objectives. However, the legal text of the Agreement does not answer the question, why the WTO ought to deal with the problems of the environment, if there certainly are more suitable existing institutions in charge of it. The answer can be found in the nature of the sustainable development. As introduced above, the concept of the sustainable development includes the necessary regulation of the environment and economy at the national as well as global level. The environmental regulation is further closely related to the international trade, particularly due to the potential danger of the race to the bottom hypothesis or eco-dumping theory.

The race to the bottom hypothesis deals with the problem of a different environmental law in two or more nations (Nordström, Vaughan, 1999). The freedom in setting up the national environmental law can lead to the competition in offering the most favorable conditions for the manufactures, which therefore mean the least favorable for the environment. The common action by the trading partners is the way, how to eliminate the potential danger of race to the bottom hypothesis. If the international community decides to adopt the common environmental standards, the relocation of the polluting industries will lose its sense. The environmental standards are closely related to the WTO agenda and the need for the common approach makes it clear, why the WTO should be involved.

The relationship between trade and environment is dealt within the WTO at two different levels. First of them is represented by the political negotiations that are supposed to lead to the agreement on the common environmental rules. It is important to stress that due to the difficult procedure, how the WTO rules can be amended, the achievement of the common agreement is not probable. The second level could be seen within the WTO jurisprudence and therefore by establishing the environment related cases through the dispute settlement procedure. Due to the required unanimous agreement on any amendments of WTO rules, the negotiation process is quite slow and complex. In regard to the decaying state of nature, the first level is not sufficient enough. On the other hand, the unique system of compulsory jurisprudence, right of appeal, legally binding results and the possibility of sanctions in the case of noncompliance makes the WTO very powerful and influential at the environment protection issues.

In recent years, many countries have preferred the so called Multilateral Environmental Agreements (MEAs) to the negotiations within the framework of WTO, due to the slow process and reasons mentioned above. MEAs could be described as the legally binding agreements between the governments dealing with the common environmental issues. They became the centerpiece of the environmental governance and as they developed around themselves different groups of actors and institutions, the different regimes were therefore created in regard to the environmental protection. However basically all MEAs respect certain common principles, the danger of the fragmentation is the legal multilateral framework is very strong. Therefore, we can conclude that the international environmental governance is very fragmented and the competencies are shared among too many institutions within different regimes (UNEP, 2001).

There was no MEAs related dispute brought to the WTO dispute settlement mechanism so far, but the possibility of that is certainly influencing the further creation of those regimes. The judicial organ of the WTO would be the ideal body to clarify the compliance of these regimes with the provisions of the GATT. The problems in defining the relationship between the WTO and MEAs under the Commission on Trade and Environment led also to two different results. First, the developing countries are

strengthening their opposition towards the common environmental rules in the framework of WTO due to the fear of the eco-protectionism. Second, the developed countries, in particular the EU members, have introduced even more ambitious aims and strict legally binding rules and therefore have enlarged the existing gap in between the two groups of countries, due to which the common agreement has become more complicated.

To finally describe the current state of the relationships between the MEAs and the World Trade Organization, we have to stress two remarks. The complicated negotiation system under the WTO rules led to the creation of many agreed environmental regimes that are concluded outside of the WTO framework. The Doha Round of negotiations does not show the signs of the upcoming change of this state. Second, the existence of different regimes can lead to the conflicts with the common trade rules. The possibility of conflicts ought to press the WTO members to come to the conclusion on the environmental rules. Otherwise, the multilateral environmental governance will continue to lack the tools to enforce the effective rules that would contribute to the solution of the climate change and other global environmental problems.

The cooperative solution to common environmental problems in the world can be highly recommended not only because of its efficiency in achieving of the global environmental goals, but also due to the avoiding of the distortion of the international trade involved in the eco-dumping or race to the bottom hypothesis. The World Trade Organization offers the suitable background for the attempt to get closer to the common international standards in environment. The natural disposition does not mean that the WTO will actually act as suggested. On the other hand, important contributions to the sustainable development agenda were already made in the framework of the Doha Development Agenda (DDA). This will be described further.

The Doha Round of the multilateral trade negotiations is the process that started at the WTO fourth Ministerial Conference in Doha in November 2001. The decisions that were made included the launching of the new round of trade negotiations, which would deal with further trade liberalization as well as with the strengthening of the assistance to developing countries. The countries considered as developing had been experiencing long term problems with the implementation of the existing trade agreements and the DDA made an attempt to help them facilitate that problem.

The far-reaching goals that were agreed on in Doha may introduce a new role for the WTO itself. The organization will surely play more important role in poverty reduction, enhancement of economic growth and better international governance. The position of WTO has therefore moved from the international trade focused agency towards the role of a global player in the field of the sustainable development of the planet.

The Doha Development Agenda continues to evolve with an important progress made at the sixth Ministerial Conference in Hong Kong in December 2005 (WTO, 2005) and with the negotiations going on during 2007. The Agenda includes broad range of subjects, for instance agriculture, services or intellectual property as well as the relationship between the trade and the environment. This is strongly related to the MEAs.

Multilateral Environmental Agreements, the international treaties dealing with the environmental issues, are basically agreed on outside of the framework of the WTO, but due to their nature, some of them bear strong influence on the international trade. It is in the interest of all the members of the international community that these are in accordance with the general rules on trade provided by the WTO. The intensified coordination of both is a key condition for the smooth functioning of the international trade. On the other hand, there was so far no disharmony in the conditions set up by the MEAs and the WTO rules.

In spite of that, their consonance is highly desired and can be achieved by the stronger communication and coordination of all the relevant members of the international community.

Despite of many obstacles and delays that the Doha Development Agenda is facing, the negotiations continue during 2007 and the progress already achieved is promising successful conclusions of the current round in the future.

2. What is the contribution of the EU to the global sustainable development?

The European Union adopted its first Strategy for Sustainable Development in June 2001 as the respond to the serious challenges that the EU was facing. The global environment seemed to be decaying even faster than in the years before, the structure of the global economy was changing and the EU had to adjust broad range of its policies to the ongoing process of globalization. However, the environmental problems of the planet were officially accepted many years before.

In 1987, the so-called Brundtland Report (UN, 1987) was published as a result of the five years effort of the World Commission on Environment and Development to improve well-being in the short-term without threatening the local and global environment in the long term. The report introduced the definition of a sustainable development in the form that was later adopted by the European Union and therefore is being used in its strategies. As the follow-up, the first Earth Summit was held in June of 1992 in Rio de Janeiro, where the global Agenda 21 was agreed on. The international effort was accompanied by a growing activity of the European institutions that culminated at the European Council Summit in Göteborg (EU, 2001b), where the first SD Strategy was adopted, in June 2001.

The need for stronger international cooperation as an integral part of the EU policy was acknowledged in 2002, when the SD Strategy was supplemented with its external dimension by the European Council Summit in Barcelona (EU, 2002). Although the intensive effort of the EU continued, the deterioration of the world environment had not stopped. Probably the most visible signs of a deficient activity could have been recognized in the field of the climate change and the energy resources availability. These negative trends found their exposures also in the development of a European society, especially in its aging and demographic pressure. The urgent action was required and the EU responded shortly. The European Commission reflected all these negative challenges and rising risks (EU, 2005). The activity of the Commission led to the Renewed Sustainable Development Strategy for an enlarged EU that was agreed on in June 2006.

The Renewed Strategy presents the essential and therefore the most important EU document in the field of the sustainable development and the complex environmental protection and it is wise to introduce its key elements in a more detailed way. On one hand, it is meaningful to mention that it is basically built up on the SD Strategy as implemented in Göteborg in 2001. This has to be understood as another step in the continuous process of the complex environmental protection in the framework of a broad international effort to minimize the negative results of the human activity. It forms a part of an EU strategic respond to the challenges of the globalization and the structural changes of economy that it bears. On the other hand, it brings an important connection to a Lisbon Strategy (EU, 2000) and also more efficient approach towards the achievement of its ambitious targets.

The Renewed Strategy is aimed to be a single and coherent document that will set up the road to meet the long term objectives of the European Union in the dynamic and changing world. It repeats the key definition of the sustainable development mentioned above. In accordance with the UN approach⁴, the European Union understands the sustainable development as the state when the needs of the present generation „*should be met without compromising the ability of future generations to meet their own needs*“⁵. To achieve this long standing goal, the strategy stresses the importance of an international cooperation with the partners outside of the EU, especially with the dynamic developing countries whose impact on the global environment may have been underestimated.

The four key objectives that are set in the EU document include the environmental one as well as the social and economic ones. The growing threat to the global nature and environment is linked to the economic development and these two sides of the human activity cannot be solved separately. The very important objective is the one that emphasizes the need for meeting the international responsibilities. All EU policies, including external ones, should be consistent with the overlapping aim of the promotion of the sustainable development not only within the EU borders, but worldwide.

The four basic objectives introduced the background for the principles that will guide the policy making in the EU. The principles include very wide spectrum of rules, from the specific ones as the polluters pay principle to the very broad ones as the higher involvement of citizens and social partners. The significant importance of the Renewed Strategy can be seen in the attempt to find and strengthen the synergies between the sustainable development and the Lisbon Strategy for Growth and Jobs (Lisbon Strategy). Although the Renewed Strategy is considered as the ultimate and overarching one, the Lisbon Strategy brings an important contribution towards the ability of the EU to adjust its policies to the pressure of a changing world economy and therefore enable to achieve the objectives of the Renewed Strategy more efficiently.

One of the most significant acknowledgments in the recent Renewed Strategy can be found in the acceptance of the fact that the economic and environmental objectives do not stand against each other but can be achieved together. Both strategies call for the necessary structural changes of the European economies that will reflect the globalization and the importance of the global trade for the economic and social development.

The new development of its implementation and even quite a different approach to the essential understanding of the sustainable development itself can be recognized within the new member states. Their participation on the practical adoption of the Renewed Strategy may move its original ideas on a new level. As the national strategies of the sustainable development in new member states show, the Renewed Strategy is implemented in a pattern that is focused on the economic goals. For instance, the Czech Republic defines its goals in the framework of the sustainable development as six basic groups with the economic ones on the first and basically the most important place (MŽP, 2006). The sustainable development is understood as an approach that leads to a long term and steady economic growth. This is not only the aim on its own but also the tool, how to achieve the other goals, mainly the environmental ones. The strong growth of the GDP will allow the allocation of more resources in the environmental protection and therefore help to improve its conditions. The basic goal is to get closer to the standard of living of the original member states and the environmental situation is an important but not the only part of that process.

4 How stated in the Rio Declaration on Environment and Development from 1992.

5 The official and respected definition of the sustainable development as can be found in the EU Strategies.

This approach can bring many doubts but one significant advantage is clear. The policy of the new member states links together the goals of the strategy with the Lisbon Strategy ones. The other addition is that the Renewed Strategy is evaluated according to the fulfillment of the set of measurable indicators. The linkage to the economic sphere makes it easier and more efficient.

However, the new member states can face the similar problems as the Czech Republic. The economic part of its implementation of the sustainable development policy is showing the signs of major improvement but the environmental one stagnates. One way, how this can be explained is just due to the strong emphasis on the economic growth that brings another incentive for the deterioration of the environment. The innovative approach of the new member states has to be viewed very carefully and its final evaluation will need certainly more time. The essential merit is however clear and could be adopted by the EU as the whole.

The challenges that EU is facing cannot be addressed without stronger and more efficient international cooperation. For instance the problems of the climate change or global poverty can be solved only with a great and significant effort of all nations and the involvement of the existing international agencies is highly useful. The successful attempt to conclude an international action is represented by the famous Kyoto Protocol and its commitments. However, this cannot be considered as the sufficient effort of the international community in a struggle to find the responds to threats the world undergoes. The existing international organizations should be more involved in this process as the common action is highly required.

As already mentioned, not only United Nations and its specific agencies, but also other organization could constitute the needed framework for the world wide action. Particularly, the World Trade Organization represents the body that could be used as an area to negotiate and find the compromises in a wide range of topics related to the sustainable development. There is no surprise that even the Renewed Strategy mentions the WTO and the negotiations in its framework as the right place to promote the sustainable development. This aim is in accordance with the preamble of the Marrakech Agreement⁶, where there is the sustainable development mentioned as the WTO objective as well (WTO, 1994b).

The European Union proposed already in 1996 two alternative ways, how to amend the GATT Article XX, in regard to its general opinion on the issue of the relationship between the WTO rules and the provisions of the Multilateral Environmental Agreements. The topic was analyzed above, but it is important to mention that the EU played, from the early beginning, the key role in attempt to amend the trade rules in the framework of WTO in respect to the MEAs.

The move towards stronger international cooperation as an integral part of the Renewed Strategy can be also seen within the plan of actions that should be undertaken by the EU institutions. The Commission and the member states are encouraged to increase the effort to include the international trade and investments as the tool to fulfill the sustainable development objectives. This approach is suggested not only within the multilateral or regional context, but also in the bilateral level of negotiation. The aim to transform the United Nation Environmental Program into a UN agency is raising several doubts. It is a question of an approach if the number of the international organizations is not already considered as sufficient enough to cope with the global environmental and economic problems. It may not be the lack of the agencies, but the lack of its willingness to address

6 The agreement of 123 countries from April 1994 establishing the World Trade Organization.

the global challenges and to cooperate with the other bodies of the international community to enhance the synergies of the common action.

The current activities of the enlarged European Union in the field of stronger international cooperation to prevent the negative aspects of human activity can be generally observed at three different levels. The first level is represented by the EU policies within the framework of the United Nations. All the projects that can be submitted to this category are related to a broad and long-term goal of fighting and diminishing the global poverty. Projects undertaken of purpose to get closer in the achievement of this goal are numerous and only the most important can be mentioned. The EU has decided to play an active role in the fulfillment of the Millennium Development Goals⁷ and since 2006 every member state is supposed to allocate at least 0.33% of its GNI as official development assistance. Other activities include an EU participation in the UN Commission for Sustainable Development. The new 2008/2009 implementation cycle will focus on rural development, agriculture, desertification and Africa. The second level is constituted by the bilateral and regional trade agreements, probably most significantly with the African, Caribbean and Pacific countries⁸. The third and for the purpose of our paper the most important level is the World Trade Organization and the activities of the EU within the global trade framework.

Conclusion

The multilateral environmental governance structures are still very limited. Although the United Nations and its agencies play an important role, they lack the tools to enforce the rules that were agreed. The other suitable organization is the WTO. The complicated negotiation system makes it very difficult to come to any binding conclusions. The significant number of countries prefers to agree on the common environmental rules outside of its framework and concludes the Multilateral Environmental Agreements. They bear many potential problems in regards to the possible collision with the common trade rules of the WTO.

The further international cooperation is crucial for the smooth and efficient promotion of the sustainable development worldwide. Although the WTO is probably the most appropriate institution to combine the economic and environmental issues together, the current development does not promise any upcoming multilateral agreement dealing with those problems. As for now, the activities of the European Union ought to be evaluated as the most detailed and complex approach to the problems of the global environment and it seems that its leading role will continue further.

The nature of the global problems and the time pressure together with the new atmosphere in the WTO after the adoption of Doha Development Agenda led the European Union towards the stronger support of the broader international action. The main goals of the EU policy within the WTO are focused on four main subjects.

Firstly, the EU continues to press on the easier market access for industrial goods. The basic instrument is the tariff reduction and therefore it does not represent any new approach related to the prospect of the sustainable development. Secondly, the EU wants to enhance the market opportunities by negotiations on services. It is supposed to lead to the higher consumer utility, but as Commission itself admits, the liberalization has got its own limits where the principles of public interest are at stake. The third area of the EU interest is the

7 The Millennium Development Goals is the set of goals that were agreed on at the Millennium Summit of the United Nation leaders in 2000. The aim is to achieve them by 2015.

8 In the form of the Economic Partnership Agreements.

agricultural goods, where the problems of national subsidies form the main topic for negotiations. As the previous ones, this goal is not important for our paper. Finally, the fourth one is related to our topic, the sustainable development.

The EU basic goal is to increase the coherence among the actions undertaken by WTO and others international agencies. Its own effort to implement the Renewed Strategy could be accompanied by the similar actions of its partners and therefore the achievement of its goals would be easier and more efficient.

The long standing devotion of the EU towards the developing countries could be seen at the offer that was made in October 2005 before the Hong Kong Ministerial Meeting. The EU has suggested the 70% reduction in trade distorting agriculture subsidies as well as total reduction of export subsidies. In spite of the failure of the meeting, it shows the approach the EU holds towards the developing countries within the negotiation of the WTO.

The Doha Development Agenda is a process that seems to bear the right characteristics as a right place for a stronger international coordination of the subjects related to the sustainable development. The EU is one of the key players of the WTO and with its own strategy for sustainable development it would be no surprise if the WTO becomes even more important base for the EU's move towards the society with the sustainable growth and development.

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Mnohostranná governance udržitelného rozvoje a přínos Evropské unie

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Abstrakt

Přijetí Strategie udržitelného rozvoje v roce 2001 představovalo nový pokus o řešení výzev, kterým Evropská unie čelí. Zhoršování životního prostředí, klimatická změna, jakož i strukturální změny světové ekonomiky vytvářejí nový rámec, který by měl být následně ošetřen mnohostrannými strukturami tzv. environmentální governance. Jednou z důležitých součástí tohoto systému je rovněž WTO a tzv. Rozvojová agenda z Dohy. Tato stat' nastiňuje důsledky politiky udržitelného rozvoje pro oblast multilaterální governance. Vychází z charakteristiky politiky udržitelného rozvoje Evropské unie a příspěvků WTO a s ní spojených mnohostranných dohod o životním prostředí k řešení globálních problémů životního prostředí.

Klíčová slova: rozvoj; udržitelný rozvoj; WTO; EU; mnohostranné dohody o životním prostředí; Rozvojová agenda z Dohy.

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Abstract

The adoption of the Sustainable Development Strategy in 2001 represented a new attempt to address the challenges that the EU was facing. The deterioration of the environment, the climate change as well as structural changes of world economy represent the new framework that ought to be carried on by the multilateral environmental governance structures. One of the important parts of that system is the WTO and its Doha Development Agenda. This paper outlines the consequences of the Sustainable Development Policy for the multilateral governance. It is based on the characteristic of the EU's sustainable development policy and the contribution of the WTO and related Multilateral Environmental Agreements to the solution of the global environmental problems.

Key words: development; sustainable development; WTO; EU; multilateral environmental agreements; Doha Development Agenda.

JEL classification: O13, O19, Q01