



IMPACT ASSESSMENT: Mechanism for improving coherence

Bernard Colas, LL.D.
Colas Moreira Kazandjian Zikovsky, LLP
International Business and Trade Law

Lawyers for Coherence
2010 WTO Public Forum

Outline

1. Call for trade agreement impact assessment
2. International and domestic measures
3. What needs to be done

Call for Impact Assessments

- Global challenges
 - Global warming
 - Biodiversity
 - Food security, etc.
- Impact of trade agreements
- Civil Society, academics, public bodies

Call for Impact Assessments

- Environmental Impact Assessment
- Social Impact Assessment
- Trade Sustainability Impact Assessment
- Human Rights Impact Assessment
- Other

Call for Impact Assessments

- International declarations
 - Rio Declaration on Environment and Development, 1992
 - Doha Ministerial Declaration, 2001
 - Johannesburg Declaration on Sustainable Development, 2002
 - Voluntary Guidelines on Biodiversity-Inclusive Impact Assessment, CBD
- Encourage voluntary use of environmental impact assessments as a national-level tool

Domestic Measures

- European Union
 - Sustainability Impact Assessment for each trade negotiations since 1999
 - Performed transparently by independent consultants
 - Based on documentary studies and expert opinion
 - Negotiators are informed of possible impact of trade negotiations
 - Cover environmental, economic and social impact in Europe and in other WTO countries
 - Completed by case studies
 - Final Overview SIA of the Doha Development Agenda, 2006

Domestic Measures

- United States

- Executive Order committing government to environmental review of trade negotiations, 1999
 - Guidelines, 2000
 - Performed under supervision of USTR and CEQ
 - Assess environmental impact in the US and capacity of government to implement environmental laws
 - Favours intergovernmental and public participation
 - Does not necessarily lead to publication of report
- Request for submission of observations re: Doha Round

Domestic Measures

- Canada
 - Cabinet Directive on the Environmental Assessment of Policy... Proposals, 1999, 2004
 - Framework and Handbook, 2001, 2008
 - Federal ministries and agencies to perform strategic environmental assessments of proposals when environmental risk implementation impact and to discern mitigation or improvement measures
 - Consultation of interested communities
 - Initial EA, Draft EA, Final EA Report
 - Initial Environmental Assessment: Trade negotiations of WTO, 2003

Domestic Measures

- Impact assessment usually
 - Limited to (save EU) :
 - The environment
 - Domestic impact
 - Of specific agreement (disregards cumulative impact)
 - Minimize impact (mitigated by environmental laws)
 - Not in Acts as opposed to Project Environmental Assessment

WHY IS IT VOLUNTARY AND LIMITED ?

Critiques

■ Cons

- ❑ Lacks consistent methodology and rigorous parameters, undermining credibility
- ❑ Must be repeated several times (before, after)
- ❑ Need to be started early as it takes time

Critiques

■ Pros

- ❑ Improves public participation and transparency
- ❑ Takes into account vulnerable groups
- ❑ Enhances coherence with other obligations and effectiveness of trade agreements
 - Assess impact on development
- ❑ Provides means to minimize negative impacts and improves accountability of actors

What needs to be done

- Importance recognized re: global challenges
- Responsibility of all governments
- Impact on environment, social and human rights (domestic and in other WTO Members)
- Internationally accepted methodology
- Independent consultants
- Inclusive transparent process
- Exchange of results and expertise



Thank you.

Bernard Colas, LL.D.
Colas Moreira Kazandjian Zikovsky
International Business and trade Law

2020 University Street, Suite 1920
Montréal, Québec, Canada H3A 2A5
Tel. (514) 288-2726, fax. (514) 813-3211
bcolas@cmkz.ca
www.cmkz.ca