

*The Grounds of Interconnection between International
Environmental and International Economic Law in the Context
of Russian Concept of International Law*

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THE GROUNDS OF INTERCONNECTION BETWEEN INTERNATIONAL ENVIRONMENTAL AND INTERNATIONAL ECONOMIC LAW IN THE CONTEXT OF RUSSIAN CONCEPT OF INTERNATIONAL LAW

By Dr. Daria Boklan

Abstract

Today under the conditions of still continuing global economic crisis, many States are trying to protect their economic sovereignty. Rather often they firstly sacrifice environmental interests. Interconnection between international environmental and international economic law (as elements of the international legal system) is essential both for the law-making and for the law-enforcement process. Natural resources are one of the main economic values of any State. Illegal offence against natural resources of the State should be qualified as a violation of the territorial integrity of that State. Adverse impact upon any State's environment should be considered as the offence against its sovereignty. On the other hand, all States have equal rights to their own economic development.

The problem at issue is particularly topical for Russia. On the one hand, natural resource sectors of the Russian economy still remain to be the most attractive for foreign investors. On the other hand, the ecosystems themselves, located in the territory of Russia are of a great value both for Russia and for the global community. The concept of sustainable development is in the focus of interconnection between international environmental and international economic law, which influences international legal regulation of international trade, investment, and financial relations.

In particular, multilateral environmental agreements (hereinafter MEA) and multilateral agreements of World Trade Organization (hereinafter WTO) often regulate similar relations, between one and the same subjects. Norms of certain multilateral agreements within the WTO stipulate environmental measures. At the same time, nearly 20 MEA contain provisions, which influence international trade and investment issues. This argument is evidenced by the decisions of the Dispute Settlement Body of the WTO.

From the economic point of view, the more efficient activity is such, which is not bound with the risk to cause transboundary environmental harm or at least bound with less environmental harm. States are obliged to guarantee that the economic activity under their jurisdiction and control should be executed with due consideration of other States' interests and those of the global community on issues of environmental protection and prevention of transboundary harm. The problem of environmental protection of transboundary harm, caused by economic activity, which is not prohibited by international law, is a global problem. Most of the States executing international economic relations cause transboundary environmental harm to other States and suffer transboundary pollution themselves.

With the help of the interconnection between international environmental and international economic law, the regulation of international relations arising from causing transboundary environmental harm by economic activity and also its minimizing and most importantly its prevention, should become more efficient.

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**Environmental protection is not only
social, but also an economic objective**

- ▶ World volume of illegal trade of endangered
spices exceeds 6 billion US dollars per year
(Official CITES site: <http://www.cites.org/eng/tour/home.php>)
- ▶ Volume of fish consumption is 17 kilos for
one person per year (Official FAO site: <http://www.fao.org/fishery/country/288632>)
- ▶ Population decline of blue-finned and red
tuna since 1970 is 80%
- ▶ 630 million tons of hazardous wastes is
produced every year (Official site of Basel Convention <http://www.basel.int>)

International legal regulation is one of the most efficient
means to overcome a problem of exhaustion of natural
resources

- ▶ **International legal regulation
system is most integral system of
regulation of global connections.**
- ▶ **International legal regulation is
more stable and less dependent on
political disturbances.**
- ▶ **International legal regulation has
clear content and binding force.**

According to Russian legal doctrine the elements of the international legal mechanism are:

- ▶ **Legal rule**
- ▶ **Legal relation**
- ▶ **Enforcement of legal rule**

▶

According to Russian concepts special parts of International law include:

- ▶ International law of human rights
- ▶ Law of international organizations
- ▶ Law of foreign relations
- ▶ Law of international treaties
- ▶ International marine law
- ▶ International law of the air
- ▶ International law of outer space
- ▶ International environmental law
- ▶ International economic law
- ▶ Law of peaceful setting of international disputes
- ▶ Law of international security
- ▶ International humanitarian law
- ▶ Law of international responsibility
- ▶ International criminal law

▶

Rule-making of international environmental law and international economic law should be primary aimed at:

- ▶ **Environmental protection**
- ▶ **Economic development**

▶

Principle of state sovereignty over national resources is a special principle of international environmental and international economic law

- ▶ All states have a right to free and independent development of the economy and exploitation of natural resources.
- ▶ This freedom is limited by obligation not to cause harm to the environment and economic development of other states.
- ▶ Third countries can have right of resource development under condition of consent of the state under sovereignty of which these natural resources are subjected.



There are 17 millions square km of virgin ecosystems (tundra, forest-tundra, boreal forest, peat bogs) on the territory of Russia.



<http://www.greenpeace.org>



Russia has the biggest fresh water capacity in the world (20%)



<http://nature.baikal.ru>



Concept of sustainable development is the basic element of interaction of international environmental law and international economic law

- ▶ Population decline of sturgeon in the Caspian Sea is from 114,7 million (1983) to 42,1 million (2012)



WTO and sustainable development

- ▶ Marrakesh Agreement establishing WTO
- ▶ General Agreement on Tariffs and Trade
- ▶ Agreement on Technical Barriers to Trade
- ▶ Agreement on Sanitary and Phytosanitary Measures
- ▶ Agreement on Agriculture
- ▶ Agreement on Subsidies and Countervailing Measures
- ▶ Agreement on Trade Related Aspects of Intellectual Property Rights, Including Trade in Counterfeit Goods
- ▶ General Agreement on Trade in Services

Settlement of Disputes in WTO

- ▶ United States – import prohibition of certain shrimp and shrimp products



<http://www.saveplanet.su>

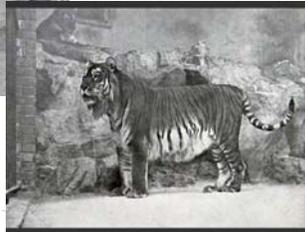
Multilateral environmental agreements, containing trade restrictions

- ▶ [Convention for the Conservation of Antarctic Marine Living Resources \(CCAMLR\)](#), Canberra, 1980.
- ▶ [Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal](#), Basel, 1989.
- ▶ [Convention on the International Trade in Endangered Species of Wild Flora and Fauna \(CITES\)](#)
- ▶ [Convention on Biological Diversity \(CBD\)](#), Nairobi, 1992.
- ▶ [Convention on the International Trade in Endangered Species of Wild Flora and Fauna, \(CITES\)](#), Washington DC, 1973
- ▶ [Framework Convention on Climate Change \(UNFCCC\)](#), New York, 1992.
- ▶ [International Convention for the Conservation of Atlantic Tunas \(ICCAT\)](#), Rio de Janeiro, 1966.
- ▶ [Montreal Protocol on Substances That Deplete the Ozone Layer](#), Montreal, 1989.
- ▶ [Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade](#), Rotterdam, 1998.
- ▶ [Stockholm Convention on Persistent Organic Pollutants](#) Stockholm, 2001.

[Convention on Biological Diversity \(CBD\)](#), Nairobi, 1992.



<http://animalworld.com.ua/>



<http://animalspace.net>

[Convention on the International Trade in Endangered Species of Wild Flora and Fauna \(CITES\)](#)



<http://www.liveinternet.ru>



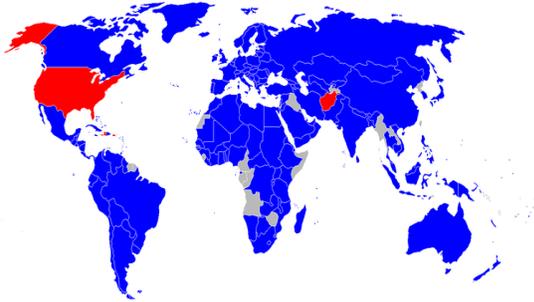
<http://felbert.livejournal.com/1566864.html>

International Convention for the Conservation of Atlantic Tunas
(ICCAT), Rio de Janeiro, 1966.



<http://edo-tokyo.livejournal.com>

Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, Basel, 1989



Regional level:
Framework Convention for the Protection of its Marine Environment of the Caspian Sea (2003)



<http://azh.kz/ru/news/view/>

Bilateral level (USA-Russia)

- ▶ Agreement between the government of the United States and the Government of the Russian Federation on Cooperation in the Field of Protection of the Environment and Natural Resources (1994)
- ▶ Agreement between the government of the United States of America and the government of the Russian Federation on the conservation and management of the Alaska-Chukotka Polar bear population (2000)
- ▶ Agreement on trade relations between USSR and USA (1990)



Liability for transboundary harm is stipulated by international treaties

- ▶ Convention on Third Party Liability in the Field of Nuclear Energy of 29th July (1960)
- ▶ Vienna Convention on Civil Liability for Nuclear Damage (1963)
- ▶ International Convention on Civil Liability for Oil Pollution Damage (1969)
- ▶ Convention on the Transboundary Effects of Industrial Accidents (1992)



Prevention of transboundary harm, caused by economic activity is a global problem



<http://pda.shakhty.su/world/news/2005/12/16/amur/>



<http://fototelegraf.ru/?p=5953>



Conclusions

- ▶ In terms of interaction of international environmental law and international economy law the main goal is to develop economic relations on the one hand and to protect the environment on the other hand.
- ▶ Interaction of international environmental law and international economy law not only creates conflict, but helps more efficient and comprehensive regulation of international relations.
- ▶ Interaction of international environmental law and international economy law as elements of international law system is necessary for law-making and law-enforcement process.

▶

Conclusions

- ▶ We can see the lack of theoretical and practical experience of states in the sphere of enforcement of international legal mechanisms for the prevention of transboundary harm caused by economic activity and liability for such harm.
- ▶ International legal mechanisms can be efficient enough on the condition of conclusion of a universal multilateral international treaty based on the principle of prevention of transboundary harm caused by economic activity.
- ▶ International legal liability for transboundary harm caused by economic activity is one of the most advanced instruments for protection of environment and economic development at one and the same time.

▶
