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[Review of the Book *Environmental Regulations and Corporate Strategy: A NAFTA Perspective*]

Abstract

[Excerpt] What can proponents of liberalized international trade do about barriers to trade erected in the name of environmental protection? What can corporate strategists do to expand their firms' trade opportunities in new institutional frameworks linking trade and environmental protection? The Canadian authors of *Environmental Regulations and Corporate Strategy* address these questions from backgrounds in management studies, economics, political science, international relations, and law. Drawing on each discipline, they set out an ambitious goal: "a new and unified model" for corporate strategy and public policy that reconciles trade promotion and environmental concerns.

Keywords

environment, labor market, globalization, labor movement, activism, trade, public policy

Disciplines

Business Administration, Management, and Operations | Environmental Law | Labor Relations

Comments

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Environmental Regulations and Corporate Strategy: A NAFTA Perspective.

Alan Rugman, John Kirton, and Julie Soloway. New York: Oxford University Press, 1999. 258 pp. \$75.00.

What can proponents of liberalized international trade do about barriers to trade erected in the name of environmental protection? What can corporate strategists do to expand their firms' trade opportunities in new institutional frameworks linking trade and environmental protection? The Canadian authors of *Environmental Regulations and Corporate Strategy* address these questions from backgrounds in management studies, economics, political science, international relations, and law. Drawing on each discipline, they set out an ambitious goal: "a new and unified model" for corporate strategy and public policy that reconciles trade promotion and environmental concerns.

Part 1 sets an analytic context relating corporate strategy, legal rules, and political science perspectives, recounting several case histories, including beer, fish, and softwood lumber disputes between the United States and Canada. Part 2 is devoted to firms' strategic responses to "regulatory protectionism" through their use of new institutions and instruments created by the North American Free Trade Agreement (NAFTA) and its environmental side agreement, the North American Agreement on Environmental Cooperation (NAAEC). Part 3 treats three case studies in depth, including a look at the critically important North American auto industry. The book's conclusions urge corporate strategists and public policymakers to see opportunities, not obstacles, in new "conditions of complex institutional responsiveness" under NAFTA (p. 3).

The authors might have overreached. It is not clear what is new or unified about a firm, a government, or any interest group assessing a complicated set of options and choosing what appears to be the best course of action to achieve its goals. NAFTA adds a new institutional layer, but, as the authors point out, other international mechanisms like the General Agreement on Tariffs and Trade (GATT) and earlier bilateral trade agreements already existed alongside domestic rules and regulations affecting trade and the environment. Whether the authors succeed fully in articulating a new grand scheme, however, the richness of their case studies and the thoroughness of their analyses make *Environmental Regulations and Corporate Strategy* a valuable guide to action in the new world of trade and environmental linkages. This book is intended for trade-law specialists, corporate managers, government officials, and policy experts in international organizations involved in the dynamics of regional and global economic integration. But in addition to these, the book should also

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be read by environmental, human rights, and labor rights advocates for its insights into the relationship between trade and social standards.

Rugman, Kirton, and Soloway examine trade disputes based on environmental claims that arose among the United States, Canada, and Mexico in the first four years of NAFTA. They also treat earlier disputes between the United States and Canada under those countries' Free Trade Agreement (FTA) and occasionally look comparatively at trade conflicts between North America and Europe. Most of the disputes involve agriculture, but in a key chapter, the authors give special attention to a conflict that arose when Canada banned importation of the fuel additive MMT on environmental grounds. The ban prompted a challenge under NAFTA from the U.S.-based manufacturer of the product that exported it to Canada. This case of conflicting environmental claims, conflicting scientific evidence, and conflicting corporate interests among chemical producers, oil companies, and auto manufacturers (who supported the ban on MMT, arguing that the additive harmed catalytic converters) lays bare the tension between trade liberalization and environmental protection.

Where environmentalists' goals coincide with the interest of domestic companies in excluding foreign products, the authors deem it a "green and greedy" coalition. They also liken it to a "Baptist-bootlegger" coalition, in which one group supported prohibition because it made alcohol sales illegal while the other supported prohibition because it made its illicit alcohol sales super profitable. Such characterizations are too dismissive, suggesting that environmentalists and domestic companies create a protectionist conspiracy to keep out foreign products. While from time to time such groups may arrive at the same policy conclusions, the suggestion of evil intent implicit in the authors' casting of such coalitions is unwarranted without evidence of the alleged conspiracy.

An important and valuable chapter is devoted to the environmental commission set up under a side agreement to NAFTA, the North American Agreement on Environmental Cooperation (NAAEC). With its labor counterpart, the North American Agreement on Labor Cooperation (NAALC), the side agreements came under intense criticism when they were adopted along with NAFTA. "Toothless" and "fig leaves" were among the milder characterizations applied by NAFTA critics to this new international agreement, in which governments pledged to effectively enforce their national environmental laws. At the same time, they opened themselves up to critical reviews of their environmental law enforcement record by each other and by independent, non-governmental investigative bodies. As the authors concede in their comprehensive account of this new body, results are mixed. International oversight cannot swiftly eliminate environmental hazards any more than domestic law enforcement has been able to do so. The authors' balanced accounting of the NAAEC commission's record in its early years provides valuable lessons on the challenges, accomplishments, and shortfalls of this new institution—a story that is still unfolding. After the period studied here, the NAAEC commission suffered

severe internal turmoil. The environmental ministers of the three NAAEC countries ultimately fired the commission's executive director to underscore their intent that the ministers tell the commission what to do, not vice versa.

NAFTA and the NAAEC created new instruments, institutions, and procedures linking trade and the environment in North America. Reliance on domestic political influence is still necessary, but awareness and exploitation of the new international mechanisms have become essential strategic concerns both for firms and environmental protection advocates. Rugman, Kirton, and Soloway have provided an essential road map to the new avenues of recourse available to economic and social actors in North America. Their analysis is applicable to the broader context of trade in the Americas (Free Trade Agreement of the Americas), across the Pacific (Asia-Pacific Economic Cooperation), and globally (WTO/GATT).

One caution, however: the book addresses events that took place mostly during the mid-1990s, before a powerful new reaction to the global free trade agenda gathered force. For example, the proposed Multilateral Agreement on Investment (MAI), patterned after NAFTA's investor provisions, was dropped by the Organization for Economic Cooperation and Development in 1998 in the face of widespread resistance from environmental, labor, consumer, and citizen activists.

The MMT case under NAFTA—the lead case study in this book—was a “poster child” for anti-MAI groups. It seemed to confirm environmentalists' worst fears: that NAFTA gives private companies enormous new weapons to overwhelm national governments' capacity to regulate health and safety conditions for their citizens. NAFTA's investor-state provision allows companies to sue for economic losses due to regulations on the grounds that the regulations are really a form of disguised protectionism. In this case, the U.S. company received millions of dollars in compensation from the Canadian government, and the government dropped its ban on MMT in the face of the NAFTA challenge. In sum, said MAI opponents, Canadian citizens were forced to give up an environmental protection standard and to compensate a U.S. multinational company with taxpayers' money. For them, and for many citizens in North America and around the world, the question posed at the start of this review could just as well be rephrased: What can proponents of environmental protection do about national health and safety standards set by citizens' elected representatives that are struck down by international bureaucrats in the name of free trade?

The World Trade Organization's ministerial meeting in Seattle, Washington in 1999 ended in disarray as tens of thousands of protesters challenged the WTO's plan to extend trade liberalization to new sectors. WTO's rulings against U.S. laws meant to protect sea turtles and against European laws forbidding hormone-treated beef were centerpieces of anti-WTO rhetoric. The authors' assured tone, purporting to provide a “new and unified” strategy for firms to bypass “green and greedy” coalitions as they navigate international trade channels under NAFTA, may not be warranted in the new

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political context. Nonetheless, the book provides a unique overview of trade disputes based on environmental considerations, a valuable analytical framework for understanding such disputes, and useful advice for corporate strategists, government officials, and international organizations. Trade supporters and trade critics should set aside their ideologies and passions long enough to read *Environmental Regulation and Corporate Strategy* and to benefit from its lessons and insights.

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