

Special attention is given to sanctions as a central part of an effective dispute settlement system. The Paper identifies several preconditions that should be met when developing a credible sanctions mechanism, the most critical of which are the avoidance of unilateralism and the importance of attracting the broadest possible international support. The inclusion of trade sanctions in environmental agreements as the "weapon of choice" is questioned. In fact, the menu of possible sanctions is quite extensive. Other options include aid conditionality, financial assistance, the payment of fines, technology transfer commitments, and the suspension of specific rights and obligations under a particular IEA.

With regard to IEAs, the combination of trade sanctions, loosely drafted obligations, and, in particular, the lack of effective dispute settlement mechanisms would create an environment in which the economic power of the few could prevail over a rules-based system, the latter being the bed-rock of Canadian foreign policy. The "power" approach stacks the deck against Canadian interests. To the extent that trade sanctions are envisaged, it does not appear appropriate for Canada to exchange the reasonably well developed and effective dispute settlement mechanisms found in modern trade agreements for the lesser discipline of their environmental counterparts until such time as the latter become more sophisticated and effective.

Thus, the Paper concludes that, if the provisions of a specific IEA are to override those of the GATT and other trade agreements, Canada should seek the emergence of an international consensus based on several criteria. A "trumping" IEA should be open to all countries on equal terms and should enjoy the support of a substantial qualified majority of the world's economies. Furthermore, the obligations of the agreement should be well-defined and no less onerous on Parties in practice than the standard expected of non-Parties. Most critically, such an IEA must feature a well-constructed dispute settlement mechanism. Finally, a trumping IEA should provide for a range of sanctions, with a strong Canadian preference for including trade sanctions as an instrument of last resort with the right to opt for a different but equally effective tool.