

## **STACKING THE DECK: COMPLIANCE AND DISPUTE SETTLEMENT IN INTERNATIONAL ENVIRONMENTAL AGREEMENTS**

### **Executive Summary**

This Paper explores what is arguably the critical interface between international environmental agreements (IEAs) and their trade counterparts. The Paper recognizes that there is increasing pressure to incorporate trade measures into more IEAs as a primary means of making environmental commitments operational and to provide discipline on signatories and non-signatories alike. A strong case can be made about the importance of disciplining States whose activity might otherwise undermine the efforts of the international community to deal effectively with environmental issues affecting the global commons.

Yet the Paper suggests that it is important for Canadian policy makers responsible for international environmental and trade issues to stand back and take stock together. Much of Canada's prosperity and many of our jobs depend on trade. The use of trade measures to achieve environmental ends must be carefully weighed in the balance of overall Canadian interests.

In this regard, the Paper reviews the obligations of several key international environmental agreements and finds that they are characterized by a considerable degree of ambiguity and/or potential loopholes. This is not surprising given the relatively recent acceptance internationally that the environment is an area of critical importance requiring a much more extensive network of obligations and commitments than previously recognized. This policy area is currently very much on a learning curve, both in terms of developing an international consensus on how best to proceed and on working out the detailed language required to reflect accurately that consensus. Much progress has been made in recent years, but clearly much work still lies ahead to provide the desired degree of precision.

The Paper goes on to explore the scope of the mechanisms incorporated in IEAs for resolving disputes, an important feature given the possibility of disagreements over the substantive obligations of the environmental agreements. More than one-third of existing IEAs contain dispute settlement provisions. Such mechanisms are, appropriately, becoming a normal part of IEAs. Yet the analysis in this Paper suggests that the dispute settlement provisions in IEAs remain very underdeveloped compared to the counterpart provisions found in trade agreements.