

ENVIRONMENTAL PROTECTION THROUGH FTAS: PARADIGM SHIFTING FROM MULTILATERAL TO MULTI-BILATERAL APPROACH

*Chang-fa Lo**

ABSTRACT

Multilateral fora, including multilateral environmental treaties (MEAs) and multilateral trading systems such as the WTO, are heavily-relied approaches of coping with issues of environmental protection and sustainable development in the international community. Nevertheless, there are still problems with the multilateral approaches such as weak enforceability of the MEAs and lack of substantive obligations in the WTO on its Members to adopt or enact environmental protection policies or laws. However, the free trade agreements (FTAs) have changed the situation in that they can accommodate substantive environmental provisions and can include provisions to implement multilateral environmental agreements. This paper will elaborate on the origin and reasons of FTA dealing with environmental protection, the extent of prevalence of having FTAs to contain environmental protections, different ways of incorporating environmental provisions in FTAs, and some key contents of environmental protection in FTAs. The paper is to evaluate the paradigm shift from the previous practice of using multilateral approach to the recent use of FTAs, mostly of bilateral natures, as the vehicle to carry the goal of environmental protection by some countries. Due to the proliferation of FTAs, there exists the potential of developing a multi-bilateral framework

* Chair Professor/Lifetime Distinguished Professor, National Taiwan University College of Law.
The author can be reached at lohaung@ntu.edu.tw.

contributing to make effective enactment and implementation of the substantive contents for environmental protection.

KEYWORDS: *free trade agreements (FTA), multi-bilateral FTA, multilateral environmental agreement (MEA), North American Free Trade Agreement (NAFTA), environmental cooperation, environment protection*