BOOK REVIEW:

FREER TRADE, PROTECTED ENVIRONMENT: BALANCING TRADE LIBERALIZATION AND ENVIRONMENTAL INTERESTS
BY CARLISLE FORD RUNGE WITH FRANÇOIS ORTALO-MAGNE AND PHILIP VANDE KAMP

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The book *Freer Trade, Protected Environment: Balancing Trade Liberalization and Environmental Interests*,[1] written by Carlisle Ford Runge with François Ortalo-Magne and Philip Vande Kamp, explores the relationship between trade and the environment. It draws a comparison between trade rules and environmental standards and examines cases to provide policy recommendations for the international community at large and the United States in particular. There have been many developments in how the international community protects the environment while pursuing trade in the three decades since the book was written. These include multilateral environmental agreements, such as the Kyoto Protocol and the Paris Agreement, which acknowledge that trade must be conducted keeping environmental considerations in mind while aiming to reduce greenhouse gas emissions and keep the global temperature rise to a minimum.

The book addresses key issues emerging from eight meetings of a 140-person 'Study Group on Trade and the Environment'.[2] The Study Group featured policy experts who, from mid-1992 to 1993, met under the Council on

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[1] C. Ford Runge, François Ortalo-Magne and Philip Vande Kamp, *Freer Trade, Protected Environment: Balancing Trade Liberalization and Environmental Interests* (Council on Foreign Relations Press, 1994)
[2] ibid xi.

Foreign Relations. They aimed to bridge the gap between environmental and trade disciplines and educate each other about the nexus between the two. In the book, C. Ford Runge, a professor in the Department of Agricultural and Applied Economics at the University of Minnesota and an expert on trade reform and environmental policy, discusses his perspectives on the issues arising from the meetings and proposes possible solutions. His analysis is meant for the 'informed layperson'[3] and is not intended to be a specialised or technical account.

Runge's book is divided into three main parts. In the first part, he provides a framework for the reader to familiarise themselves with the topics of his book. The first chapter in this section serves as an introduction and gives context to the tussle between trade and the environment. The second chapter delves deeper into legal, environmental, and economic frameworks through which to understand this tussle. The second part of the book introduces and examines specific trade and environmental protection cases. In this part, the third chapter explores the issue of trade liberalisation prompting increased levels of environmental damage. Chapter 4 discusses 'disguised protectionism'[4] and centres around differentiating between those measures that help the environment, disrupting trade in the process, and those that disrupt trade but do little for the environment. Chapter 5 cites the Montreal Protocol as an example to highlight the relationship between trade and international environmental agreements. In Chapter 6, the final section of the book, Runge proposes solutions to the problems he highlights in the preceding parts. He lists recommendations for the international community and policymakers in the U.S.

The book focuses on questioning whether trade liberalisation is likely to harm the environment or if trade is part of the solution. Another focal point of the book is the role that agreements such as the General Agreement on Tariffs and Trade (GATT) and the North American Free Trade Agreement (NAFTA) play in this struggle. Runge discusses the reluctance of trade groups to allow hindrance of their deals on environmental grounds. Environmental groups, on the other hand, have realised that trade can be used to strengthen

[3] ibid xii.
[4] ibid 71.

environmental standards. He explains these issues using three separate frameworks: legal, economic, and environmental.

While discussing the legal framework, Runge uses examples, including NAFTA and the Environmental Impact Statement (EIS) procedure under the 1969 Environmental Policy Act, to showcase the intersection of trade and the environment. When an EIS for NAFTA was allowed by the U.S. District Court on 30 June 1993, the Clinton administration instantly revealed its intention to appeal against the decision, arguing that NAFTA was 'primarily a presidential action with the Trade Representative playing only an advisory function'.[5] It was, therefore, not covered under the requirements of the 1969 Act. Since EISs for complex trade measures are general rather than specific, they are not very useful tools in creating required environmental safeguards. This example highlights the inherent challenges of reconciling broad trade agreements like NAFTA with effective environmental oversight, emphasising the need for more robust mechanisms to address environmental concerns without stalling international trade.

Runge discusses four legal tests applied to environmental measures in the context of trade agreements like GATT. If an environmental measure imposes a burden on trade, these legal tests or criteria can be used to assess whether it is justified. The first is the necessity test, which means that the 'goal cannot be realistically accomplished by means that are less burdensome to trade'.[6] The second is the 'primarily aimed at test',[7] which assesses whether the measure in question was primarily aimed at conservation or some other objective. The third test, derived from the 1979 Standards Code, is that of proportionality. This seeks to strike a balance between 'the benefits of environmental measure and its costs in terms of trade restriction'.[8] The fourth test is disguised restriction – this 'simply restates whether a measure is protectionism in disguise'.[9] All four of these tests emphasise that when feasible alternatives exist that are less disruptive to trade while still achieving

[5] ibid 13.
[6] ibid 18.
[7] ibid 19.
[8] ibid.
[9] ibid.

environmental protection, those alternatives should be considered in place of existing measures.

Runge uses two case studies to illustrate the intricate legal, scientific, and institutional challenges involved in distinguishing between protectionist measures and legitimate environmental policies. These include a dispute between the US and Canada over the regulation of fisheries and the *Tuna-Dolphin* dispute between the United States and Mexico.

In 1989, a dispute arose between the United States and Canada regarding the imposition of landing requirements for salmon and herring, a regulation aimed at conserving these shared fishery resources. Salmon, being a migratory species, traverse the territorial waters of both nations, making cooperative conservation efforts critical. Governments are required to restrict fishing rights to conserve resources such as salmon so that the harvest of endangered stocks is reduced as much as possible. Canada imposed a requirement that salmon and herring caught in its waters off the west coast of Canada had to be landed at Canadian counting stations. The US challenged this policy under the GATT. They argued that it was a 'disguised restriction'[10] on international trade. The panel constituted to hear the case applied the legal tests mentioned above to resolve the dispute. The landing requirements were found to impose a burden on trade – US buyers had to pay additional costs for complying with them, which was a violation of the GATT. In the next step, the panel determined whether this burden was justified. Canada was required to show that the landing requirements were *primarily aimed at* the conservation of exhaustible natural resources. If not, then it would be considered a disguised restriction on international trade. The panel allowed a wide range of economic and non-economic interests to be considered in the determination. Its decision was eventually given in favour of the US, as Canada was not able to demonstrate that the landing requirements were *primarily aimed at* conservation.

In the *Tuna-Dolphin* dispute, Mexico challenged certain provisions of the US Marine Mammal Protection Act, 1972 (MMPA). The MMPA 1972 required, among other things, trade embargoes of yellowfish tuna from any country

[10] ibid 81.

whose average catch of dolphin incidental to tuna harvesting exceeded a provided limit. This law was passed to protect dolphins that followed schools of tuna and, in the process, got caught in purse seine nets used to harvest tuna. A GATT dispute resolution panel ruled in 1991 that the US's ban on importing tuna was a violation of GATT rules. The embargo was deemed not 'necessary' to 'protect human, animal, or plant life or health'.[11] The panel noted that GATT allows for domestic measures to be taken to protect the environment, not extraterritorial ones (since the environmental policies of the importer may differ from those of the export country). This case illustrates how a 'green disguise'[12] may be created for imposing trade barriers, although the use of this disguise was unsuccessful in this case. Hence, striking a balance between protectionism and legitimate environmental policies becomes tricky.

While discussing economic perspectives, Runge proposes four principles of harmonised trade and environmental policies. These principles emphasise aligning trade instruments with trade objectives and environmental instruments with ecological conservation targets, ensuring neither compromises the other. First, 'trade targets should be matched with trade instruments and environmental targets with environmental instruments'.[13] Second, trade policies should 'aim to reduce trade barriers while remaining environmentally neutral'.[14] Third, 'environmental policies should aim to conserve natural resources and improve the quality of the ecosystem while remaining trade-neutral'.[15] The fourth and final policy he proposes is that 'national governments should be encouraged to pursue similar trade and environmental policy objectives'.[16]

Runge's environmental perspective further states the need for changes in the current trading system and institutions that promote a balance between trade and the environment. According to Runge, this balance would create a 'synthesis of legal, economic, and environmental perspectives'.[17] With the rise of transnational and global externalities, national trade and environmental

[11] ibid 72.
[12] ibid 78.
[13] ibid 29.
[14] ibid.
[15] ibid 30.
[16] ibid.
[17] ibid 31.

policies now require stronger coordination to be effective across borders. Thus, Runge suggests that multilateral organisations like the General Agreement on Tariffs and Trade (organisation)[18] and trade agreements such as those within the European Union (EU) should work to build consensus on the overarching goals of trade and environmental policy.

Runge suggests that a combination of trade and environmental policies will be most effective in attaining trade and environmental targets. Since both are *complimentary,* a trade policy can only be effective, for example, if a corresponding environmental action is taken. He further states that the United States, due to its prominence in environmental and economic matters, must take the lead in the promotion of the 'areas of complementarity'[19] that exist between environmental quality and unrestrained trade. He identifies three necessary elements to be met if the US is to help create a global balance between trade and the environment. The first is improving and enforcing US environmental standards locally as well as for US companies operating internationally. The second component involves negotiating agreements with other developed economies in the North, such as Canada, to foster stronger linkages between trade and environmental policies. The third element involves negotiating an agreement with countries in the Global South, such as Mexico, where market access is granted in exchange for commitments to improve and enforce environmental standards.

Runge's book is clear and concise, with a methodical progression of well-organised chapters that discuss trade and environmental issues in detail. While Runge attempts to speak to the 'informed layperson',[20] some of his words get lost in translation to non-economists or those unfamiliar with international environmental law. For example, while he uses figures and graphs to explain environmental and trade implications in the second chapter, it may still be confusing for someone who does not have a background in economics. His discussion of GATT and the legal disputes that arise as a result of the imposition of environmental policies, such as in the *US-Canada Fisheries*

[18] The GATT functioned de facto as an organisation, conducting eight rounds of talks addressing various trade issues and resolving international trade disputes
[19] *Freer Trade, Protected Environment* 31
[20] ibid xii.

Landing case, may also be hard to follow if one does not have basic knowledge of the law.

Further, while the use of examples such as the *Tuna-Dolphin* dispute between Mexico and the USA and the *USA-Canada Fisheries Landing Case* is helpful, he does not include other valuable case studies, especially those that do not involve the USA. Nevertheless, the two cases he uses are helpful in understanding the legal tests discussed and how protectionism may be disguised within environmental policies. While this book helps readers understand the issue, it is perhaps most useful to economists, environmental lawyers, and policymakers who are already aware of the tension between trade and environmental policies and are trying to harmonise the two. The crux of the book is still clearly articulated – that freer trade and environmental protection can go hand in hand.

Although this book was published in 1994, it is still relevant today. Since the 1990s, the global urgency surrounding climate change has increased, and the need for Runge's proposed solutions has grown stronger. The integration of both trade and environmental policies is essential for creating mutually beneficial frameworks that effectively address global challenges such as climate change while sustaining economic growth. While environmental provisions have become much more common in trade agreements since then, such as the United States-Mexico-Canada Agreement (USMCA), they have not necessarily been effective as environmental issues such as global warming remain on the rise. Runge's arguments for taking both trade and the environment hand in hand hence still resonate with current debates on the matter. Further, the United States remains prominent in environmental and economic matters, so if it takes the necessary steps that Runge suggests, it can set a positive example for the rest of the international community to follow. The United Nations' Sustainable Development Goals (SDGs) relating to climate action and environmental sustainability also reflect Runge's view that environmental objectives must be a key part of global economic systems to strike this necessary balance.

BOOK REVIEW:

QUR'ANIC COVENANTS: AN INTRODUCTION BY AHMER BILAL SOOFI

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Ahmer Bilal Soofi's *Qur'anic Covenants: An Introduction* offers an exploration of the Qur'an through the lens of legal and contractual obligations, presenting an intricate relationship between the divine and humans. Soofi, a distinguished international lawyer, takes an innovative approach by presenting the Qur'an not just as a religious text but also as a legal document establishing covenants between Allah and His creation. The covenant framework, as outlined in the book, is a model that highlights how compliance with legal and moral duties can be encouraged at various levels—personal, societal, and international. The essence of this framework is to remind individuals and the State that their legal duties, whether at the local or international level, are coupled with moral and religious obligations, which are deeply ingrained in the Qur'anic teachings. This moral duty permeates through multiple facets of society, as the Qur'an consistently emphasises upholding covenants. This framework bridges the gap between religious obligations and legal duties, providing a fresh perspective on how believers and societies should govern themselves.

Agreements and contracts normatively govern the relationship at the individual, State, societal and global levels. The concept of the 'covenant' ensures bilateralism where both parties wilfully agree to certain actions or inactions, thus creating an enabling environment of voluntariness in good faith. There is an extensive body of literature and a rich tradition of scholarship available on the Old and New Testaments discussing Christian covenant theology, but very little literature addressing the concept of