

ENERGY AND THE ENVIRONMENT

Energy intersects with the environment at all stages of its life cycle by affecting nature and public health and is subject to government measures concerning low-carbon growth, energy efficiency and conservation, renewable energy and ecologically safe supply of nuclear and other energy resources. This timely book provides a comprehensive analysis of the role of international economic law in regulating such an energy–environment nexus under the regimes of the WTO, the Energy Charter Treaty, regional trade agreements and investment treaties. The author discusses the international environmental and economic law foundations of this nexus and extensively examines the relevant rules, jurisprudence and practices regarding trade restrictions, subsidies, technical standards, investment protection and technology policies. This book highlights the existing gaps and ‘greening’ solutions within the framework of international economic law. Where relevant, it draws comparisons between trade law and investment law to show their similarities, differences and (potential) conflicts at the energy–environment interface.

SHERZOD SHADIKHODJAEV is a Professor at the KDI School of Public Policy and Management and the author of the books *Industrial Policy and the World Trade Organization: Between Legal Constraints and Flexibilities* (2018) and *Retaliation in the WTO Dispute Settlement System* (2009) and articles published in *American Journal of International Law*, *European Journal of International Law*, *Journal of International Economic Law*, *World Trade Review* and others. He is an editorial board member of *Asia Pacific Law Review*.

ENERGY AND THE ENVIRONMENT

Exploring the Nexus under International
Economic Law

SHERZOD SHADIKHODJAEV
KDI School of Public Policy and Management



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To Dinara with many thanks for everything

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<i>Australia – Salmon</i>	Appellate Body Report, <i>Australia – Measures Affecting Importation of Salmon</i> , WT/DS18/AB/R, adopted 6 November 1998, DSR 1998:VIII, p. 3327
<i>Australia – Tobacco Plain Packaging</i>	Panel Reports, <i>Australia – Certain Measures concerning Trademarks, Geographical Indications and Other Plain Packaging Requirements Applicable to Tobacco Products and Packaging</i> , WT/DS435/R, Add.1 and Suppl.1 (<i>Honduras</i>) / WT/DS441/R, Add.1 and Suppl.1 (<i>Dominican Republic</i>) / WT/DS458/R, Add.1 and Suppl.1 (<i>Cuba</i>) / WT/DS467/R, Add.1 and Suppl.1 (<i>Indonesia</i>), WT/DS458/R and WT/DS467/R adopted 27 August 2018, DSR 2018:VIII, p. 3925, and WT/DS435/R and WT/DS441/R adopted 29 June 2020, as upheld by Appellate Body Reports WT/DS435/AB/R / WT/DS441/AB/R, DSR 2018:VIII, p. 3925

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<i>EC – Hormones</i>	Appellate Body Report, <i>European Communities – Measures Concerning Meat and Meat Products (Hormones)</i> , WT/DS26/AB/R, WT/DS48/AB/R, adopted 13 February 1998, DSR 1998:I, p. 135

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US – Export Restraints	Panel Report, <i>United States – Measures Treating Exports Restraints as Subsidies</i> , WT/DS194/R and Corr.2, adopted 23 August 2001, DSR 2001:XI, p. 5767
US – Gambling	Panel Report, <i>United States – Measures Affecting the Cross-Border Supply of Gambling and Betting Services</i> , WT/DS285/R, adopted 20 April 2005, as modified by Appellate Body Report WT/DS285/AB/R, DSR 2005:XII, p. 5797
US – Gasoline	Appellate Body Report, <i>United States – Standards for Reformulated and Conventional Gasoline</i> , WT/DS2/AB/R, adopted 20 May 1996, DSR 1996:I, p. 3
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US – Large Civil Aircraft (2nd complaint)	Appellate Body Report, <i>United States – Measures Affecting Trade in Large Civil Aircraft (Second Complaint)</i> , WT/DS353/AB/R, adopted 23 March 2012, DSR 2012:I, p. 7
US – Large Civil Aircraft (2nd complaint)	Panel Report, <i>United States – Measures Affecting Trade in Large Civil Aircraft (Second Complaint)</i> , WT/DS353/R, adopted 23 March 2012, as modified by Appellate Body Report WT/DS353/AB/R, DSR 2012:II, p. 649

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<i>US – Softwood Lumber VII</i>	Panel Report, <i>United States – Countervailing Measures on Softwood Lumber from Canada</i> , WT/DS533/R and Add.1, circulated to WTO Members 24 August 2020, appealed 28 September 2020
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ABBREVIATIONS

ACCTS	Agreement on Climate Change, Trade and Sustainability
ALOP	appropriate level of SPS protection
APEC	Asia-Pacific Economic Cooperation
ASEAN	Association of Southeast Asian Nations
BCA	border carbon adjustment
BTA	border tax adjustment
BIT	bilateral investment treaty
CBAM	carbon border adjustment mechanism
CETA	Comprehensive and Economic Trade Agreement
CO ₂	carbon dioxide
CPC	Central Product Classification
CPTPP	Comprehensive and Progressive Agreement for Trans-Pacific Partnership
CSR	corporate social responsibility
DDA	Doha Development Agenda
ECT	Energy Charter Treaty
EGA	Environmental Goods Agreement
EPA	Environmental Protection Agency (United States)
ETS	emission trading system
EU	European Union
FDI	foreign direct investment
FET	fair and equitable treatment
FFSR	Fossil Fuel Subsidy Reform
FIT	feed-in tariff
FTA	free trade agreement
G7	Group of Seven
G20	Group of Twenty
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
GHG	greenhouse gas
GPA	Government Procurement Agreement
HS	Harmonized System

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ICSID	International Centre for Settlement of Investment Disputes
IDP	Informal Dialogue on Plastics Pollution and Sustainable Plastics Trade
IAEA	International Atomic Energy Agency
IEA	International Energy Agency
IEC	International Electrotechnical Commission
IIA	international investment agreement
IMF	International Monetary Fund
IRENA	International Renewable Energy Agency
ISDS	investor–State dispute settlement
ISO	International Organization for Standardization
LCR	local content requirement
LDC	least-developed country
MFN	most-favoured nation
NAFTA	North American Free Trade Agreement
NPR-PPMs	non-product-related processes and production methods
OECD	Organization for Economic Co-operation and Development
PCA	Permanent Court of Arbitration
ppm	parts per million
PPMs	processes and production methods
PV	photovoltaic
R&D	research and development
RCEP	Regional Comprehensive Economic Partnership
REN21	Renewable Energy Policy Network for the Twenty-First Century
RTA	regional trade agreement
S&D	special and differential (treatment)
SCC	Stockholm Chamber of Commerce
SCM	subsidies and countervailing measures
SDG	Sustainable Development Goal
SPS	sanitary and phytosanitary (measures)
STC	specific trade concern
TBT	technical barriers to trade
TESSD	Trade and Environmental Sustainability Structured Discussions
TPRB	Trade Policy Review Body
TRIMs	trade-related investment measures
TRIPS	trade-related aspects of intellectual property rights
UAE	United Arab Emirates
UN	United Nations
UNCITRAL	United Nations Commission on International Trade Law
UNCTAD	United Nations Conference on Trade and Development
UNEP	United Nations Environment Programme
UNFCCC	United Nations Framework Convention on Climate Change

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USDOC	United States Department of Commerce
USMCA	United States–Mexico–Canada Agreement
VCLT	Vienna Convention on the Law of Treaties
WP.29	World Forum for Harmonization of Vehicle Regulations
WTO	World Trade Organization