

GATT, the WTO and Sustainable Development

*positioning
the work program
on trade and
environment*



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PREFACE

IISD believes the transition to sustainable development will be facilitated by bringing the trade, environment and development communities together in a mutually supportive context. A starting set of interlinked principles will enable the communities to understand each other better and find common ground. This could lead them to develop new rules and agreements that enhance the relationship of environment and economy. IISD published *Trade and Sustainable Development Principles* in February, 1994. We now believe this work should be followed by specific analysis related to regional agreements and to GATT.

Now that the Uruguay Round has been signed off in Marrakech, the serious work of determining how GATT and the WTO should address these issues can truly begin. We recognize that trade and sustainable development matters are now just too big and pervasive to be within the mandate and competence of any one international institution. But it is essential for a clear vision to be developed at this historical crossroads for the global trade framework.

This vision must not be limited to the modest gains of the past, nor can it isolate environment from the mainstream of economic considerations and wealth creation. From our discussions within policy communities, among negotiators and international institutions, we believe there is common ground but also still much dissent on how GATT/WTO might move forward on agendas incorporating environment and development. We believe this first year after the Uruguay Round is a time to narrow differences, especially between nations of the North and South.

IISD's discussion paper is intended to stimulate consideration of an appropriate agenda that would truly link trade and sustainable development at the global level.

Arthur J. Hanson
President and CEO

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SUMMARY

On April 15 1994, over 100 of the world's trade ministers met in Morocco to sign off on the Uruguay Round of Multilateral Trade Negotiations. At that time they also approved a programme of future work for the proposed World Trade Organization (WTO) that included a general framework for approaching issues of trade and the environment. This paper explores how the unfolding of that work program and the related work of other organizations, might help facilitate a global transition to sustainable development.

Sustainable development should be the starting point, the key objective, with the work on trade and environment constituting a de facto trade and sustainable development program. In addition to the proposed WTO, several other major international institutions should be active in various aspects of promoting trade and sustainable development. Our recommendations are linked to and grounded in Agenda 21 of the 1992 United Nations Conference on Environment and Development (UNCED) and to IISD's Trade and Sustainable Development Principles.

To set the context of the trade and environment work program, and the pressures which will bear on its implementation, it is useful to begin by summarizing the perspectives of non-industrialized countries, business and environmentalists. It should be noted by way of background that the overarching agenda has been driven largely by the concerns of the U.S. and the E.U., which are responding to a potent combination of pressures from domestic environmental and business lobbies.

Many non-industrialized countries view the results of Uruguay Round and related future work proposals as betrayal of Agenda 21, the GATT principle of non-discrimination in trade, and the IISD Principles. They are angry that they may be forced to alter their spending priorities to deal with environmental problems, many caused by consumption of the rich, when they have even scarcer resources to look after immediate basic needs. They point out that most of the measures called for in Agenda 21, designed to help them build capacity to address problems of environmental integrity, have not been forthcoming. The non-industrialized countries, therefore, want to develop a range of disciplines to govern the use of environmental and environment-related trade measures. They are also seeking more market access, technology, funding and various forms of assistance within a more democratic and just governance of the World Bank, the International Monetary Fund and the proposed WTO.

Business sees growth, induced by liberalized trade, as necessary for improving environmental protection, providing the financial means to make such protection possible. It wants greater certainty through clarification of certain trade rules, and of their relationships to multilateral environmental agreements. Like non-industrialized countries, business is concerned about abuse of environmental and environment-related trade measures and opts for specific disciplines to ensure greater objectivity and certainty.

Environmentalists have been frustrated by a common failure to integrate environment and economy in decision-making at all levels, including trade policy. They worry that their successes in raising domestic environmental standards will be undermined by the inability to keep out imports from countries not following similar standards. They therefore seek to “green” the world trading system, calling for a permanent WTO Trade and Environment Committee and a body outside the trade regime to liaise with other relevant organizations — a sort of intergovernmental panel on trade and the environment. In terms of specific policy changes, they hope the work of the Committee can result in: *a priori* general exception to existing rules for multilateral environmental agreements with enforcing trade measures; discussion of unilateral use of trade measures against those who use objectionable production and process methods; more open GATT procedures; and attention to some of the concerns of developing and “transition” economies.

We suggest a principled approach to deal with such differing perspectives, based on considerations of efficiency, equity and environmental integrity. A two-stage approach is advocated. The first stage moves forward the issues recently discussed in the GATT Working Group on Environmental Measures and International Trade, and deals with the institutional questions of where, how and with whom to address other issues. The second stage then covers such issues as process and production methods, clarification of other trade rules, environmental subsidies, export of domestically prohibited products, technology transfer, payments for environmental services rendered for the common good, and trade in services. We note with regret that the Working Group and the GATT Committee on Trade and Development, whose agendas have an important degree of overlap, have not been integrated by the establishment of a single Trade, Environment and Development Committee. At a minimum, the relationship between the two separate Committees needs to be clarified.

A number of necessary initiatives will not be the exclusive jurisdiction of the proposed WTO, being as much related to environment and

development as to trade. Many of these tasks are already being addressed by various institutions. Such undertakings will need to proceed on a parallel track to efforts within the WTO, and on a more coordinated basis than is currently the case. International institutions will in general need to stretch and cooperate to reflect growing international economic and environmental interdependence. The Organization for Economic Cooperation and Development and the United Nations Conference on Trade and Development are asked to do more research more effectively in relevant areas. The United Nations Environment Program should provide leadership in facilitating Multilateral Environmental Agreements. These institutions as well as United Nations Development Program, the World Bank, regional development banks and national aid agencies are tasked with equipping needy countries to develop sustainably. There is also a need to identify an international coordinating body to deal with proliferating ecolabelling schemes.

Finally, we support the advocacy of Peter Sutherland, GATT's Director-General, to create a high level framework for economic cooperation between the World Bank, International Monetary Fund and GATT — with the important provisos that environmental cooperation also be on the agenda, and that such an agenda be pursued within a wider, more democratic system of governance which includes the relevant UN bodies, and which is open to meaningful forms of participation by NGOs, including the business community. This would help to ensure that environment and economy, of which trade is a part, are made mutually supportive in the process of sustainable development worldwide.

GATT, THE WTO AND SUSTAINABLE DEVELOPMENT: positioning the work program on trade and environment

OBJECTIVE

The objective of this paper is to sketch out a general approach which might be followed in the unfolding of the WTO's trade and environment work program ¹. It includes recommendations that the Trade and Environment Committee (The Committee) focus on specific issues. Much of what we say is also relevant to the institutional questions which will be considered by the Preparatory Sub-Committee, as regards The Committee's relationships with other organizations, and to the complementary work which those organizations might pursue. Our approach is to focus on achieving sustainable development, of which trade liberalization and protection of the environment are parts — parts that can be mutually supportive and promote sustainable development worldwide.

PREVIEW

The paper reviews some basic considerations which should inform any decisions on implementing the work program. It then looks at the current context to suggest a more inclusive approach to the program than exists now. This is followed by a brief examination of the perspectives of governments, business and northern environmentalists with respect to selected issues. We note that the objectives of the Marrakech decision are general rather than specific and argue that the focus now should therefore be on guiding its unfolding in a manner which is conducive to producing some early results and pave the way for more extensive results subsequently. We also argue that one cannot expect work leading to legally binding commitments to link trade and environment without a commensurate result to cover development. This requires effectively tasking other international organizations, not only those related to trade, to provide operational linkages. An outline of some of the necessary tasks is provided.

INTRODUCTION

The 1992 United Nations Conference on Environment and Development (UNCED) made it clear that we can no longer consider environment, economic (of which trade is a part) and social development policy objectives separately. The Rio Declaration suggests that environmentally compatible economic development will only occur if countries establish a genuine and continuously supportive, cooperative and equitable global partnership involving governments, their people and key sectors of societies to implement essential multilateral agreements. Agenda 21 points out that the only way to achieve this is to address environment and development concerns at the same time, noting that economic policies of individual countries and international economic relations both have great relevance to sustainable development. It called for a balanced comprehensive and successful outcome of the Uruguay Round of Multilateral Trade Negotiations, including improved market access and improved functioning of commodity markets which support transition of developing countries to sustainable development.

It is important to also recall that concern over sustainable development arose from the growing judgement that a planetary increase in production and consumption to meet the expected several fold increase in demand was simply unsustainable. The need for altered production and consumption patterns and a reallocation of resources had to be collectively and equitably addressed. UNCED parties agreed that this would generally require an open, equitable, secure, non-discriminatory and predictable multilateral trading system. They also warned against the use of trade restrictions or distortions as means to offset differences in cost arising from differences in environmental standards and regulations. Further, they agreed to shun unilateral actions to deal with environmental challenges outside the jurisdiction of the importing country, opting instead for international cooperation. It was also agreed that sustainable development would require domestic reforms and assistance programs in areas such as economic development, improved market access and commodity prices, environmental management, technology transfer, financing (debt relief, foreign investment, official development assistance) and institutional capacity building. Indeed, internalization of environmental costs was fundamentally tied to such positive actions.

The world community of nations has not adequately addressed questions of how to deal with the expected massive increase in demand for goods and services in ways which respect the integrity of the environment and treat people equitably. Sustainable development

not only requires growth but also a change in the quality of growth, to make it less material- and energy-intensive and more equitable in its impact. These changes are required globally as part of an inter-connected package to maintain the stock of ecological capital, to improve the distribution of income and to reduce the degree of vulnerability to economic crises. How we further construct the institutions and mechanisms to cope with this need — and how we avoid potential conflicts — are the central issues we must grapple with.

GETTING STARTED

We believe that profound changes in world economic and environmental relations are needed if trade is to make its full potential contribution to sustainable development. These changes should be based upon a commonly agreed set of indivisible principles from which new rules, agreements and conventions can be derived over time. The International Institute for Sustainable Development (IISD) released its Trade and Sustainable Development Principles in February, 1994 to suggest new ways to define and address shared concerns of the trade, environment and development communities². These Principles are an interlinked set, in line with the spirit of the Rio Declaration and Agenda 21. The principles encourage:

- progressive internalization of unpaid environmental costs in the prices of goods and services, and trade liberalization, to improve efficiency
- trade liberalization and other critical proactive measures to promote equity today and tomorrow (additional market access, building capacity to manage the environment, debt relief, funding, investment and technology transfer)
- special efforts to respect and help maintain the regenerative capacity of ecosystems, avoid irreversible harm to plant and animal populations and species and protect designated parklands (where such efforts require the use of GATT-inconsistent trade measures, they should be within the context of prior internationally agreed criteria)
- implementation of environmental measures at a jurisdictional level appropriate to the geographic scope of the problem, and cooperative efforts to this effect where there are significant transborder impacts
- better international cooperation across the board, as well as more open, effective and impartial dispute settlement procedures
- balancing the magnitude of potential environmental damage and the risk of its occurrence against the cost of preventing it, and adopting a precautionary and adaptive policy approach based on objective factors
- timely, easy and full access to information by all affected or interested parties, and public participation and accountability in the decision-making process

These principles need to be applied to the implementation of the work program, in ways that are detailed below.

CONTEXT OF THE WORK PROGRAM

Policy-makers everywhere are finding their challenges ever more daunting. They are under increasing pressure to broaden their foci, one salient example being the current demands to include environmental and development considerations in the formulation of trade policies. Yet this comes in the context of an extremely dynamic and complex global system of economic and political relationships, where we increasingly experience unexpected changes, uncertainties, and the resulting unintended effects of public and private sector actions. The implications of efforts to liberalize trade, protect the environment and support economic development are not well understood.

There is an urgent need to better understand the differing values, assumptions, goals, priorities and decision-making practices in these fields, with particular attention to differing national legal systems and cultures, and the resulting challenges for effective cooperation. The broader issues of linkage raised by efforts to integrate trade, environment and development nationally and through key inter-governmental organizations are also poorly understood. Progress depends on effectively addressing gaps in knowledge and tools of analysis and their practical applications to guide policy dialogues and decision-making processes. It also depends on not ignoring principles such as equity, multilateralism and openness.

On April 15, 1994, the Contracting Parties to the General Agreement on Tariffs and Trade (GATT) came together in Marrakech to sign the results of the Uruguay Round of Multilateral Trade Negotiations — this was recognized by the Earth Summit in Rio in 1992 to be the most important contribution that governments could make to improving the policy options for combating poverty, protecting the environment and promoting sustainable development. The Parties approved the transformation of GATT to World Trade Organization next year, covering goods, services, intellectual property and investment within a broader and perhaps more enforceable dispute settlement process.

There are some aspects of the new order which should be welcomed by those who strive for sustainable development. The Multi-Fibre Agreement, a quota system used effectively for decades against developing country textile imports, will be phased out over a 10 year period. The Agreement on Technical Barriers to Trade recognizes that no country should be prevented from taking measures necessary to protect human, animal and plant life or health or the environment within its own borders, provided they generally respect the principle

of non-discrimination and are no more trade restrictive than necessary. The Agreement on Agriculture should reduce incentives for environmentally harmful farming, given its disciplines on market access, domestic subsidies and export competition. The Agreement on Subsidies and Countervailing Duties allows genuine non-actionable environmental subsidies. The Agreement on Trade-Related Intellectual Property Rights should encourage innovations to support the environment, as well as exclude certain items from patentability to avoid harm to the environment (how to do so is the subject of some debate). As well, the General Agreement on Trade in Services contains a ministerial recommendation to examine and report on the relationship between services, trade and the environment.

One of the results of the April meeting was the approval of a work program to guide the GATT/WTO over the coming years. Among other things, the program laid out how to ensure better policy coordination and multilateral cooperation over the linkages between trade and environment — a theme that has been addressed for several years now by the GATT Working Group on Environmental Measures and International Trade and the Committee on Trade and Development.

The Group on Environmental Measures and International Trade in part anticipated Agenda 21 recommendations and UNCED follow-up, as indicated by the Ukawa Report³. The Report deals with trade provisions in multilateral environmental agreements, transparency of trade-impacting national environmental regulations and the trade effects of new packaging and labelling requirements aimed at protecting the environment.

The Committee on Trade and Development has discussed the interface between trade, environment and development, the relevance of trade rules to the interface; and improving market access. It proposes a program to achieve sustainable development by addressing such issues as differences in consumption and need; the relationship of poverty to environment, technology, trade liberalization, funding and compensation for the provision of environmental services; avoiding environmental measures which distort trade; and improving market access for new environmentally friendly goods and services through removal of trade barriers and tariff escalation. The risk exists that the Trade and Development Committee will be marginalized in the context of the politics of the proposed Trade and Environment Committee, or lose relevance.

The Trade and Environment Decision agreed to in Marrakech presented “the program of work, and recommendations on an institutional structure for its execution”⁴. The text suggests that

modification of existing GATT rules (“compatible with the open, equitable and non-discriminatory nature of the system”) might be contemplated as a result and over time⁵. This will be based on results of identifying the relationship between trade measures and environment measures in order to promote sustainable development. The agenda items to be initially addressed by the Trade and Environment Committee include:

- use of trade measures for environmental purposes
- environmental measures with significant trade effects
- charges and taxes for environmental purposes
- environmentally related packaging and other requirements
- transparency obligations with respect to trade measures used for environmental purposes and environmental measures with significant trade effects
- available dispute settlement processes
- the effect of environmental measures on market access and the environmental benefits of removing trade restrictions and distortions

As well, the Committee will be charged with addressing the workplan envisaged in the Decision on Services and the Environment, and the relevant provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights. The Committee on Trade and Development clearly shares interest in this agenda. The task of the Working Group on exports of domestically prohibited goods is also relevant.

The work program will certainly affect the operations of organizations such as the UN Commission on Sustainable Development (CSD), the United Nations Conference on Trade and Development (UNCTAD), and United Nations Environment Program (UNEP), in that it involves consideration of work planned or ongoing in those fora on various aspects of trade and sustainable development.

The institutional structure by which the work program is executed has great potential to affect global sustainable development. As more and more economic activity becomes transnational, and as trade rules expand to cover areas such as investment measures, services and intellectual property rights (IPRs), it becomes more and more urgent that the integration of economy and environment be taken to the level of the international system of trade — a system which now covers over \$5 trillion dollars in transactions annually.

This integration must move beyond trade and environment concerns, however, and be based on principles of trade and sustainable

development. The increasingly aggressive promotion of an agenda on trade and environment is seen by vulnerable countries to be woefully inadequate. Many in the North see sustainable development as simply environmental protection, ignoring the development side of the equation. But dealing effectively with the needs of the world's poor, and the special problems of developing and "transition" countries in successfully implementing growth and distribution policies, is essential to resolving the conflicts of trade and the environment. It is imperative that the GATT/WTO's trade and environment work program be a *de facto* trade and sustainable development work program, integrating the objectives of the trade, environment and development communities. There is a very real danger that the economic development dimension of the work program will be fundamentally lacking.

THREE PERSPECTIVES OF THE ISSUES

What follows is an attempt to lay out the trade and sustainable development perspectives held by the non-industrialized countries, the business community and the environmental community, with some emphasis on what each is looking for in the unfolding of The Committee's program of work. It should be noted at the outset that all three are in fact very heterogeneous groups, each embodying many differing agendas and priorities. The perspectives presented are necessarily composites, based on written output (much focused specifically on the GATT/WTO work program) and extensive personal consultation.

By way of setting the context, we note that the overarching agenda has been driven largely by the concerns of the United States (US) and the European Union (EU). These governments are responding to a potent combination of pressures from the environmental communities and the competitiveness, or "fair trade", lobbies. The US has pursued the most ambitious objectives, covering environmental measures, economic instruments, production process standards (PPMs), competitiveness, principles, etc. It is also perceived as seeking to legitimize trade measures which extend US standards to others on both a multilateral and unilateral basis⁶. The EU seems to oppose US unilateralism, but at the same time is seen to be open to a common US-EU approach. It has tried to obtain an exemption from GATT rules for Multilateral Environmental Agreements (MEAs), including "regional agreements", perhaps in an attempt to create the scope for EU members and like-minded associates to extrajurisdictionally apply process and production standards on which they agree. Both the US and the EU are seen to want more effective institutions free to act decisively on key issues as the two define them.

The Perspective of Non-Industrialized Countries⁷

The hopes of many non-industrialized countries were raised by Agenda 21 and its promise of the possibilities for achieving sustainable development. Instead such countries are now bitter about the results of the Uruguay Round in terms of meaningful market access for goods and services and a much smaller proportion and slower pace of reduction of subsidies and the tariffication of market access in agriculture. They claim to have made "disproportionate" concessions in areas such as intellectual property, investment and services which they vowed not to make only a few years ago. Many resent those aspects of the negotiations which took place non-transparently among a few to make their own deals and impose the results on others. The changing goals of the major players were

accommodated by the negotiating processes through altered mandates in particular subject areas, even when this upset the original balance of agenda items.

There is a perception, held by many governments and most NGOs in non-industrialized countries, that yet another set of conditionalities is being undemocratically imposed on them, in addition to those of the International Monetary Fund and the World Bank. Such countries are increasingly adopting the freer trade and investment regimes emphasized in Agenda 21 and promoted by many industrialized countries. Now, however, they are being told that these reforms will only be supported if the US/EU environmental agenda is also adopted. This includes internalization of environmental costs as identified by the North, including, for example, acceptance of limits or bans on harvesting of tropical forests. While Agenda 21 does make domestic governments of all countries responsible for respecting environmental integrity, the measures it called for to help developing countries in that undertaking have for the most part not yet been forthcoming. Instead, the weak countries are being told to provide a level playing field for the rich by investing in more costly environmental standards. The fact that these investments crowd out development dollars and often address environmental problems which are the result of industrialization and consumption of the rich are ignored repeatedly. Instead, there are growing threats of the use of import restrictions, eco-dumping and countervailing duties, and border taxes.

The northern governments, industries and environmental non-governmental organizations (NGOs) that are agitating for an ambitious trade and environment work program have yet to take serious account of this situation. Indeed, they continue to make greater demands on those who are staring at a possible "mirage" of market access in this Round. Even well-intentioned measures to protect the environment can and are at times designed to disadvantage foreign producers in terms of competitiveness and market access. These parties have yet to acknowledge publicly the extent to which they are violating Agenda 21 which, for example, requires them to not use trade restrictions as a means to offset differences in costs arising from differences in environmental standards and regulations. Instead, they are threatening to add labour, tax and possibly other standards under the guise of competitiveness⁸.

As a result, many non-industrialized countries are reluctant to deal on the subject of trade and environment. In areas where millions die every year from such basic environmental problems as lack of clean water and sanitation, the environmental issues being addressed by some northern NGOs seem remote, and dictated by a far different set

of priorities⁹. If non-industrialized countries are to be able to deal responsibly with their environmental problems, and contribute to solving problems of a global nature, they must at a minimum be able to simultaneously deal with the problems of underdevelopment.

As well as having to deal with such difficult traditional development issues as sanitation, nutrition and education, the poor countries of the world have pressing capacity problems when it comes to dealing with issues of environmental resource management. They lack financial, technical and managerial capacity in such areas — and crushing external debt and highly protected Northern markets make such deficiencies difficult to address. The fear — to some extent justified by the coercive process and sparse results of the Uruguay Round negotiations, and by the trend towards reduced commitments in the OECD countries to foreign assistance — is that the results of any trade and environment discussions in the WTO will be legally binding commitments to deal with environmental priorities of the North, in return for uncertain promises to deal with issues of development at some later date, on an issue by issue basis.

The position of the non-industrialized countries is, therefore, to try at all costs to more carefully balance the discussion of trade and environment issues in the WTO, fearful that any inch given will result in miles taken. The position is:

- there should be a review of environmental measures which have a significant trade effect with a view to determining their consistency with GATT/WTO rules, as well as a review of such rules to uphold and safeguard an open, non-discriminatory and equitable trading system
- the WTO should improve mechanisms to ensure that transparency requirements in the formulation and implementation of trade related environmental measures are met. In particular they want to examine environmental requirements relating to products, packaging, labelling, recycling and disposal and their effects on trade
- Contracting Parties should avoid unilateral imposition of trade measures to achieve environmental goals
- Contracting Parties should respect fundamental tenets of non-discrimination in the use of trade measures against non-parties to MEAs
- measures adopted for environmental protection should be legitimate, least trade restrictive and objective
- trade measures should not be used to address competitiveness problems, nor as instruments of pressure

- the WTO should improve links with other relevant organizations
- the WTO should analyze recent cases of trade-environment friction to assess trends and soundness/ fairness of measures used
- there is a need for an organizational structure which respects these and other commitments in Agenda 21

As well, on a more proactive level, many non-industrialized countries would like to see measures which would help improve both their economies and their environments, such as:

- expansion and enhancement of public and private sector mechanisms for technology transfer — stronger intellectual property rights and a liberal investment regime are not enough
- improved market access for commodity products in primary and processed forms via, for example, reduced tariff escalation
- substantial and progressive reduction in subsidies which induce inefficient industrialized country production (e.g., agriculture, textiles)
- capacity-building measures in environmental resource management, public education, etc.
- where appropriate, financial assistance in the form of grants, loans, debt relief, etc.
- a ban on the export of domestically prohibited goods
- a serious effort in general to deal with the spirit of Part IV of GATT which is intended to give the overwhelming majority of the world's countries and people a fair shake in the system

Articles XXXVII-VIII represent a commitment to accord high priority to the reduction and elimination of barriers to products currently or potentially of particular interest to non-industrialized countries, including customs duties and other restrictions which differentiate unreasonably between such products in their primary and processed forms. The Trade Policy Review Mechanism and other tools should be used to make industrialized countries individually and jointly more accountable in this regard and to halt introduction or increase in such barriers.

From a non-industrialized country perspective, a WTO work program which generates and legitimizes ambitious changes in legally binding trade rules to protect the environment while ignoring development concerns will further erode sovereignty and ultimately result in painful domestic disorder. Economically, this would arise from the additional burdens placed on domestic industries in the process of “greening”. Politically, it would arise from the perception in

the eyes of the domestic public and political opponents that governments were bowing to yet another set of externally imposed demands from the Bretton-Woods institutions. In the eyes of these critics, such demands are seen to ignore essential national differences in such areas as development priorities, risk tolerance, environmental conditions and ability to pay.

A disproportionate focus on what the WTO can do for the environment may excessively sap the energy of many countries to take action to protect the environment, if it causes their administrations to be preoccupied with the demands emanating from The Committee's work program. Many countries are barely in the process of integrating the relevant policies. There is a danger in using trade policy as the sole lever for change when environmental policy too must be improved. As well, such a focus on trade may lead non-industrialized countries, stung by lack of market access and threatened by new forms of trade barriers, to question the overall contribution of trade to their future development. And increasing references in industrialized countries to their difficult fiscal positions, and corresponding impacts on foreign assistance and export financing, suggest a reduced commitment to build capacity to improve the environment and to assist in the economic development efforts of the weaker parts of global society. Growing allegations about the non-transparent and undemocratic governance of key Bretton Woods international institutions to control non-OECD countries only serve to feed these concerns.

The Perspective of Business¹⁰

Business works from the fundamental starting assumption that trade, as an engine of economic growth, is essential for sustainable development. It asserts that effective environmental protection is unlikely to grow out of weak, debt and recession ridden economies. It views efficient and dynamic economic growth, induced by liberalized trade, as a necessary fund-generating element in enhanced environmental protection.

The aim of business is to foster a climate within which such growth may take place. To that end, much of the efforts of the business community in the trade and environment debate are devoted to trying to achieve some measure of certainty — to creating a clear set of rules with predictable consequences, by which investors may be guided in long-term decision-making. Given that trade and environmental policies currently interact in relatively dynamic and untested waters, business sees the unsettling likelihood that today's investment decisions will become mistakes in retrospect, as a result of reinterpretation of trade rules on environmental grounds. The importance of minimizing investor risk through greater certainty

therefore drives many of the specific policy positions that business takes on trade and sustainable development issues.

Business would like to see clarification of some rules of multilateral trade. There is uncertainty about the intent and scope of certain portions of the Uruguay Round results as they relate to the environment, specifically in parts of the Agreements on Technical Barriers to Trade, Trade-Related Intellectual Property Rights, and Sanitary and Phyto-Sanitary Measures. As well, there is the longer-standing uncertainty as to the scope of the Article XX general exceptions as they apply to environmental protection. Some have suggested that the negotiation of interpretive statements might be of some value.

Similarly, business would like clarification of the relationship between the provisions of the GATT and those existing (and future) legally binding MEAs that have trade measures and sanctions, to resolve conflicts while observing and strengthening GATT principles. Mechanisms should be developed to resolve disputes arising from such actions, which may affect trade and investment flows.

Harmonization of standards is not a function of WTO, but a further clarification (or simplification) of the trade rules applicable to harmonization is seen as desirable. Business also recognizes grounds which justify differences: e.g., differing environmental conditions and levels of development. It therefore opts for mutual recognition as a workable alternative.

Many in the business community fear that trade policy measures adopted for environmental purposes will inevitably be used as a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade. To reduce the scope for abuse from “green” trade protectionism, they advocate that such measures be consequent upon internationally agreed procedures and should be subject to trade rules, especially those governing transparency and non-discrimination.

A related worry begins with the suspicion that even legitimate trade-related environmental measures may be highly disruptive of trade flows, particularly measures contained in MEAs. This in itself is cause for concern, but the real issue is in determining how the attendant environmental benefits measure up with their economic costs. This is the issue of proportionality, and most in the business community would like to see procedures established which test trade-related environmental measures to ensure that: 1) their costs are not disproportionate to the objectives being sought, and; 2) any such measures are the least trade restrictive measures available, of the range of equally effective policy alternatives. In general, business argues that international standards should be formulated which establish rational,

objective, scientifically-based, cost-effective and performance oriented criteria for trade-related sustainable development measures (which includes environmental protection).

Business believes dispute settlement should be transparent, inviting at the outset comments by interested non-governmental experts, and providing an opportunity for comment before any final report is submitted for adoption. Where the dispute is about the unnecessary trade restrictiveness of national standards, the adjudication procedures should distinguish between degree of risk acceptable to particular parties and the scientific legitimacy of standards adopted to implement that degree of risk. It is essential to reach separate judgements about the scientific basis for the dispute and about whether the standard in question is unnecessarily trade restrictive. The former should involve consideration of the latest relevant scientific data and knowledge, feasibility, practical experience and standards used elsewhere for similar purposes. The latter involves consideration of whether the effects on trade are incidental, the burden on imports is excessive relative to the environmental benefit and another measure could promote the legitimate environmental objective.

In keeping with the desire for greater certainty and for increasingly liberalized trade, business argues that international problems (transboundary, global) should be tackled by means of international agreements, not by trade distorting or punitive measures. Specifically, there is concern that the use of trade sanctions to enforce environmental policies or MEAs should be avoided, as should unilateral actions to deal with environmental challenges outside the jurisdiction of the importing country. Multilateral agreements to deal with environmental management issues involving transborder or global ecological problems are the preferred policy response and should be encouraged over purely national measures involving the use of trade measures and sanctions. There may be willingness to explore trade-distorting or punitive measures and the criteria for their use within the specified disciplines of a genuine MEA.

Some in the business community argue the limitations of the GATT/WTO in approaching trade and environment issues, and urge that clear and rational institutional linkages be established with the other Bretton Woods institutions, the relevant UN agencies, and with secretariats of the various MEAs. Some have proposed that this could come about in the context of the Committee on Trade and Environment, and have suggested that The Committee might also maintain links with private sector and environmental expert groups. By whatever mechanism, all of the business community advocates an openness of process which includes their voices (among others) in

decisions which will affect trade and investment flows. This might include fora ranging from outside expertise in dispute settlement proceedings to representation on standard-setting bodies.

Finally, some business groups have called for a reduction in tariffs on processed goods “to allow developing countries to sustainably manage their resources and minimize environmental impacts.” They call for the work program to examine how such initiatives might be used to support sustainable development.

The Perspective Of Northern Environmentalists¹¹

Since well before the time of the Brundtland Commission, environmentalists have espoused the need to integrate environmental and economic objectives, and warned that failure to do so will eventually result in poor performance on both fronts. In a world characterized by growing economic interdependence, and where ecosystems and environmental effects respect few borders, the need for such an integration will often have to be international. In 1987 by Brundtland, and again in 1992 by the UN Conference on Environment and Development, this message was confirmed and reinforced.

It is only in the last three years or so that environmentalists had really begun to direct their attention to the GATT, and ask how such an integration was proceeding on that front. Their perception was that it was not, and that the GATT was woefully ignorant of international environmental problems.

More than any issue, the 1991 US-Mexico Tuna-Dolphin dispute brought the GATT under this type of scrutiny. One of the greatest fears of the environmental community, highlighted by this case, is that high process standards which they achieved only after decades of legal and political battle, involving extensive public mobilization and education, will now be eroded by imports from countries where such standards are not followed¹². They also fear that efforts towards harmonization will lead to the erosion of the “regulatory leader” effect, by which jurisdictions with great market power such as Germany and California in effect drive international standard-setting and technological innovation through high local standards. The results of such processes — unleaded gasoline, advances in alternate forms of power provision and new technologies for recycling and packaging — are rightly considered environmental triumphs.

Many environmentalists are wary of multilateral processes, a caution born of years of struggle against unsympathetic political powers, anxious to bury environmental concerns in lengthy and unproductive bureaucratic procedures. In that context, the appeal of the big stick

approach, especially to those holding the stick, is great. The tangible benefits in environmental terms of such an approach, weighed against the difficulties of more consensus-based multilateral efforts, add to the temptation. For example, the successful results of the campaign for a UN ban on driftnet fishing, which was achieved by unilateral threats, stands in sharp contrast to the perpetually troubled efforts of the International Whaling Commission, an institution relying on consensus, without sanctions as “teeth”. Not enough environmentalists are sensitive to the development limitations facing poorer countries, and reluctance of vulnerable countries to deal with trade and environment issues appears to them as more of the same government recalcitrance with which they are only too familiar.

In that context of mistrust and antagonism, the objectives of the environmental community are to have their concerns dealt with in very specific terms. To many environmentalists, the general language of The Committee’s work program simply means more scope for subsequent waffling and bad faith efforts. Some of the specific demands are:

- that the Committee be established as a permanent body — a standing Committee on Trade and the Environment.
- the establishment of an intergovernmental panel, similar to that which dealt with climate change issues, to deal with the issues outside the scope of the GATT/WTO itself (e.g., natural and social scientific research, fostering international environmental agreements and commodity agreements, facilitating the diffusion of clean technologies, etc.)
- a GATT definition of MEAs, with an a priori exemption from GATT rules for such agreements allowing for discriminatory trade measures as enforcement mechanisms
- discussion of how to allow for discrimination on the basis of PPMs, meaning, for example, the right to levy countervailing duties in cases of “eco-dumping”. Both this and the above issue relate to the more general desire to see an “internalization” of external environmental costs
- greater openness of GATT/WTO processes to public scrutiny and public influence. Included are calls for such things as:
 - greater openness of GATT/WTO-designated standard-setting bodies (on sanitary and phytosanitary standards, for example)
 - the publishing of dispute panel decisions and panel arguments

- observer status at dispute panels and negotiating sessions (direct access)
- the right to submit amicus briefs to dispute panels
- the right of a disputant to call in environmental expertise in a dispute proceeding
- regular consultations on key issues

More and more, the environmental community is becoming aware of the need to integrate development issues in the trade and environment debate. The result has been calls for the GATT Contracting Parties to act on a number of trade and sustainable development issues. Among them:

- a reduction of environmentally and economically damaging agricultural subsidies in industrialized countries
- a similar reduction in escalating tariffs which block developing country exports and frustrate diversification away from basic natural resource extraction/harvest
- commodity agreements which give greater returns to primary producers
- capacity-building for environmental management in developing countries
- debt relief and increased development assistance
- the need for the above-mentioned intergovernmental panel to integrate the work of organizations with environment and development expertise (e.g., UNCTAD, UNEP, UNDP, CSD) with the work of the WTO

A PRINCIPLED APPROACH

Given the widely disparate perspectives and shopping lists outlined above, the atmosphere of mistrust and uncertainty that surrounded the negotiation of the WTO's trade and environment work program, and the pressing need for international action to foster sustainable development, what is the best result that can be expected following Marrakech? IISD's Trade and Sustainable Development Principles, formulated as they were by a group familiar with trade, environment and development concerns, are instructive in pointing the way to possible common ground, to give some operational and pragmatic focus.

If sustainable global development is to be achieved, The Committee and its precursor must begin with certain reaffirmations which would guide the implementation of the work program:

- the essential needs of the world's poor should be given overriding priority through more effective and appropriate domestic and international policies and practices
- the environment's ability to meet present and future needs must be primarily supported by national governments through more effective and appropriate domestic and international environmental policies and practices (such as measures for cost internalization)
- a more serious effort must be made to liberalize trade and give the majority of the world's people alternatives to current, at times unsustainable, livelihoods
- the major participants should respect multilateralism rather than seeking scope for unilateral trade restrictions which extend their standards and choices to others. (International cooperation on global sustainable development concerns such as biodiversity, and forest issues will not be forthcoming from countries who feel they have been coerced in other fora.)

It should be noted at the outset that it would probably be counter-productive for The Committee to spell out a detailed program of work at this point. There has not yet been the time or the thoughtful consideration that should lead to such a program — the attention of the trade community has understandably been focused on completing the Uruguay Round — and the results of hasty planning would likely be regretted at a later point. This is particularly so since the issues currently contemplated as part of the agenda tend to be lacking in consideration of development concerns.

The question should be re-worked, then, to ask what should be looked for in the unfolding of that program of work, given the

Decision on Trade and Environment endorsed by the Ministers in Marrakech. Given the concise but open-ended agenda that was negotiated, it is probably more realistic for the program to proceed in two stages. The first could involve a continuation (perhaps with added or modified emphases) of the work done by the Working Group and Committee on Trade and Development, and could also involve addressing issues of institutional structure, such as openness of the WTO processes as well as operational linkages with other organizations in the fulfilment of the work program. The second could involve, having established the framework within which to treat them, the consideration of the other issues of substance described below.

There are two types of issues which need to be addressed: those which relate directly to The Committee itself, and those which may be outside the scope of the WTO alone, but which need to be addressed if trade and sustainable development are to be optimally compatible.

Issues for the Trade and Environment Committee

1. Trade and Sustainable Development Principles.

At the outset, the program of work on trade and the environment should seek to define a starting set of principles that will guide makers of trade policy and trade-related environment and development policy, to ensure the promotion of sustainable development. This would provide a commonly-agreed framework from which to proceed, and would make subsequent efforts to deal with the issues that much easier. IISD's work on principles might be valuable in this regard. The work of the OECD Joint Experts group and of UNCTAD might also be taken into account. We believe that without such a starting point, the issues of equity and fairness will be marginalized in the efforts to accommodate the very necessary environmental agenda. We also believe that to do so is in nobody's long-term interest.

2. Current Topics Under Examination.

The work program should include the three items which were discussed by the GATT Working Group: trade provisions contained in existing MEAs *vis-a-vis* GATT principles and provisions; multilateral transparency of national environmental regulations likely to have trade effects, and; trade effects of new packaging and labelling requirements aimed at protecting the environment. These are all topics of some interest to non-industrialized countries, and to business, who give a high priority to improving GATT discipline to ensure that environmental measures and trade interact in a mutually supportive manner.

3. Multilateral Environmental Agreements.

Progress in dealing with the relationship of MEAs with trade measures to the WTO could be quite a substantive achievement. The work of The Committee should result in recommendations to ensure that trade rules do not interfere with a decision by the world community to include specific trade measures in a genuine MEA. Since circumstances of future MEAs are likely to be heterogeneous, a boilerplate formula to exempt them a priori from WTO rules is unlikely generally acceptable. Such exemptions may have to wait until the international community gains more experience with such agreements, and trust levels are built up. Until that time, MEAs with trade sanctions should seek WTO waivers on a case-by-case basis which reflects a measured flexible approach. The process to be used in negotiating an MEA and the criteria which would need to be met so that the MEA qualifies for a waiver should be set out:

- the MEA should be developed under the aegis of UNEP
- participation should be available to all on a non-discriminatory basis, with a substantial consensus from producing, consuming, damaging and benefiting countries, from the different regions affected
- there should be a multilateral review of the specific nature and extent of the threat to environmental integrity, and clear analysis of the various policy options for addressing them
- the benefits and costs of any package of remedial measures should be negotiated and equitable, with special attention to the differentiated needs and responsibilities of poorer countries
- there should be clear and enforceable obligations, including dispute settlement procedures
- trade measures used as enforcement mechanisms should be defensible on grounds of necessity, effectiveness, proportionality and specificity
- there should be clear definition of what constitutes a significant free rider country to be targeted for punitive measures
- there should be good faith attempts to avoid use of trade measures through incentives to encourage participation, such as technology cooperation, training, funding, etc.

4. Process and Production Methods.

There have been a number of calls for The Committee to address the issue of PPMs. The most widely integrated — and therefore the

best — forum for addressing disparities of PPM standards is via multilateral agreements, which are discussed above. The forum should be multilateral because there is considerable scope for legitimate differences in such standards across jurisdictions, due to differing environmental circumstances, and in line with different development priorities. There is great potential for a significant disruption of global trade flows from increased unilateral adoption of standards for PPMs.

Yet there have been, and will continue to be, those who use unilateral trade measures to address differences in environmental standards for PPMs. The work program should seek to spell out specific disciplines on the use of unilateral trade-related environmental measures designed to affect PPMs abroad. Many, particularly in vulnerable countries, feel that such measures are unacceptable under any conditions. Business is concerned that confidential information may have to be disclosed to gain acceptance. Indeed, IISD's Principles characterize unilateral measures as signifying policy failure by all concerned, and the principle of Subsidiarity argues that where effects are localized, PPMs are usually a domestic sovereign concern. We are arguing for a workable compromise, given that such measures have been used in the past and will continue to be used, and on the understanding that a rules-based approach to the issue will benefit vulnerable countries (and others) in the long run. As well as specifying what types of measures are acceptable in what circumstances, the WTO should set criteria and prerequisites for such actions based on the criteria presented above in the discussion of MEAs and others (e.g., compensation for the loss of expected benefit from negotiated market access, or acceptance of withdrawal of equivalent trade benefits). It is essential that in the elaboration of such new rules, special consideration be given to the needs of developing and transition countries.

5. Institutional Body on Trade, Environment and Development.

We believe that the mandate of the Trade and Environment Committee should be expanded to include issues of development. Indeed, the Committee should be renamed Trade, Environment and Development Committee. This would signal a new beginning — the beginning of an interlinked consideration of the key issues of sustainable development. The environment community has preached such an integration for some time and the Brundtland Commission and Agenda 21 advocate the indivisibility of the underlying issues. And IISD's Trade and Sustainable Development Principles also urge an integration of the economy and the environment in decision making.

The proposed Committee should reaffirm and build upon the spirit of Agenda 21 by undertaking to bring forward recommendations

which link the schedule of progress in environmental protection to that of development. A separation of the two will allow the dominant parties to continue to trivialize development and trade concerns: in effect to build a ramp for environmental and protectionist interests to make demands of non-industrialized countries and business which will create a race to the bottom in international relations. We think, therefore, that it is unfortunate a recommendation has been made to establish a Trade and Environment Committee at the first meeting of the General Council of the WTO without at least clarifying its relationship with the Committee on Trade and Development.

Many developing and other countries are hesitant to see the GATT/WTO deal with trade-environment issues in any forum; there are legitimate fears that an exclusive focus on environmental concerns will lead to new non-tariff barriers to exports. In fact this may be the case. Our argument is that this demonstrates all the more clearly the need for such an approach. Environmental concerns will continue to affect trade with or without this approach, and only proactive agenda-setting by developing and other concerned countries in a rules-based setting will be effective in defending their interests from “the tyranny of the powerful” and in helping to shape the rules that will improve discipline while supporting the achievement of environmental goals. This is not intended to understate the real concern that future trade and environmental obligations will be legally binding while development assistance will not.

6. Clarification of Existing Rules.

At the end of the day, The Committee should clarify the scope for the appropriate use of trade measures to pursue environmental goals (while recognizing that appropriate environmental policies are a preferable option). This would involve demonstrating what environmental objectives can be met in ways that conform to existing rules¹³, providing elaboration on the intent and purpose of rules whose application is controversial (e.g., Article XX general exceptions relating to conservation of exhaustible natural resources, and protection of human, plant and animal health), and specifying amendments to existing text which might enhance the positive interaction between trade and environmental measures. There should also be an evaluation of the types of environmentally-motivated trade measures which fall outside the scope of trade rules, focusing on when they are effective and necessary and when undesirable and non-negotiable. The question of the adequacy of current rules to safeguard the trading system should be a priority.

7. Subsidies for Environmental Purposes.

On the issue of subsidies for environmental purposes, The Committee should examine how current rules and emerging trends

might impact on developing countries. Increased exemptions for non-industrialized country subsidies might be examined (the current exemption is set at 20%). As well, in anticipation of reduced scope to subsidize on traditional grounds, many countries are examining the feasibility of replacing such subsidies with others, based on environmental grounds, but with potentially similar distorting effects on trade. The Committee should examine the scope for such undesirable actions, and ways in which they might be avoided. Further reductions in agricultural subsidies should also be targeted.

8. Openness.

The Committee should deal with the issue of openness, where there is common ground, and this could be extended with additional exploration and confidence building. Much can also be done in capitals through domestic consultative processes, including round tables and symposia. By way of illustration, this item might involve examining the possibility of rule changes and criteria to allow: greater openness of GATT bodies dealing with agreements on standards; a disputant country to unilaterally call testimony from environmental experts in dispute settlement proceedings; public availability of panel reports; and non-disputing parties with standing to make comments at such proceedings.

9. Domestically Prohibited Goods.

The issue of using developing and transition economies as “dumping grounds” for trade in goods no longer permitted for sale in the developed country of origin must be resolved on a priority basis, given the principle of environmental integrity (and equity). The efforts of the Working Group on Trade in Domestically Prohibited Goods can serve as a starting point in these efforts.

10. Technology Transfer and the Rules of Trade.

The issue of effective alternatives to compulsory licensing of technologies must be given a more serious consideration than simply demanding intellectual property rights protection and a welcome mat for foreign investment in most countries. Accelerated transfer of technologies, particularly those related to environmental management, or which increase natural resource input efficiency, is critical for sustainable development, and it is unclear how the new rules for intellectual property rights and investment measures will impact.

11. International Payments for Environmental Services.

The 1992 GATT Annual Report discussed the possibility of international payments for environmental services rendered for the global good. These might include the preservation of biodiversity, the preservation of sites of international environmental significance, the

sequestering of carbon, etc. Such payments might serve as compensation for non-development of resources, or for following more expensive, more environmentally friendly development paths, and would be, in fact payments for the export of services. The Committee should examine the feasibility of various schemes to effect such payments.

12. Trade in Services and Sustainable Development.

The Committee's work program includes efforts ongoing in the Working Party on Trade in services, which has been asked to examine and report within three years on the relationship between services trade and the environment. This will include the issues of sustainable development, the relevance and relationship to MEAs, and whether any modification to Article XIV (general exceptions) are required.

13. Institutional Links with Other Bodies.

A key item for the preparatory Sub-Committee which precedes The Committee should be the specification of an institutional structure that will allow for links with other organizations active in the area of trade and sustainable development, whose work should have input from the WTO, and whose results should provide the basis for WTO discussions. A number of possible issues to be so considered are listed in the section immediately following this.

Issues Not the Exclusive Jurisdiction of the WTO

The issues listed below are all trade-related, and all need to be addressed if sustainable development is to be achieved. They are not, however, the exclusive jurisdiction or competence of the WTO itself, as described in Decision on Trade and Environment and in the mandate of the GATT Working Group. They are rather areas of joint concern of the WTO and other organizations, such as UNCTAD, UNEP, UNDP, the World Bank, the International Monetary Fund (IMF) and various non-governmental organizations. The WTO should be involved in the deliberations, and their results must feed into the work of The Committee's work program. Progress in negotiations and discussions in the WTO should in fact be linked to progress in addressing the issues laid out here.

This will involve the creation of a number of formal linkages, joining the relevant interested institutions, or forming several groups focused on specific issues. Creation of such linkages, the institutional structure for integrating trade, environment and development concerns, and dealing with these issues is no less urgent a priority than tackling the tasks listed above for consideration by The Committee, even if their cooperative nature makes them more organizationally challenging .

1. Research Into Trade, Environment And Development Linkages.

Good empirical research is already ongoing, but more is needed, and the results should generate policy discussions in the GATT, under the heading of Agenda 21 follow-up. Topics to be analyzed should include:

- effects of agricultural subsidies on sustainable development
- effects of escalating tariffs and selected non-tariff barriers on sustainable development
- effects of intellectual property rights, with reference to both technology transfer and preservation of biodiversity, on sustainable development
- effects of the functioning of commodity markets on sustainable development
- addressing conceptual and methodological issues, e.g. valuation of environmental cost, decision criteria to make precautionary principle operational, and appropriate policy and institutional designs

UNCTAD and OECD already have a number of empirical and policy research efforts underway in this area. The OECD could provide a useful service to developing countries by bringing together the knowledge and experience its constituent countries have gained in attempts to integrate economic and environmental policies. This should involve a more broadly focused effort which brings together committees missing from current trade-environment work, such as Economic Policy, Development, Financial, Science, Industry and others. UNCTAD and UNEP would also be essential partners in such work.

2. Facilitating MEAs.

There is an urgent need for more proactive efforts to facilitate MEAs, of two types: 1) the traditional multilateral governmental negotiations, predominantly concerned with global commons issues, which relate to PPMs; 2) producer-consumer or producer-producer agreements on PPMs, focused on particular sectors or commodities. UNEP (with UNCTAD and FAO) has traditionally facilitated the first type of multilateral agreement, and has experience in regional environmental agreements as well, such as those brokered in the Mediterranean. The second type is just as necessary, since commodity pricing issues and the challenges of a coordinated approach to cost internalization in resource-based industries are central to making trade better serve sustainable development objectives. Yet there is no body with experience or recognized jurisdiction in the area. This role might be taken on by UNEP (with UNCTAD and FAO) and will

involve extensive partnership with other organizations such as perhaps the World Industry Council on the Environment, the Business Council on Sustainable Development, the International Organization of Consumers' Unions, producers' organizations and others.

Both types of agreement would probably involve some types of incentives for participation of non-industrialized country governments or producers, whether in the style of the Multilateral Fund of the Montreal Protocol, or in the form of remitted levies, or technology transfer at concessional rates. Incentives might also include such things as concessions on escalating tariffs or reductions in subsidies.

3. Capacity Building For Sustainable Development.

Developing countries and economies in transition face special problems in dealing with issues of resource management and environmental protection, and in coming up with sustainable development action plans. In many cases, there is a lack of technical and financial capacity, a lack of trained scientists and administrators, a lack of experience in drafting environmental law, and a lack of public understanding of the issues. UNDP, the World Bank, regional development banks and national-level aid agencies currently work to address some of these gaps, and those efforts should be intensified and rationalized.

As well, and in cooperation with such agencies, capacity-building efforts should become a standard part of any MEA, both as incentives for participation, and as insurance that domestic-level efforts at such participation will be as effective as possible. These might take the form of natural resource management training, technology transfer and fostering of indigenous technology development, assistance with public awareness campaigns, funding for environmental infrastructure projects, etc.

A prerequisite to capacity building is an improved mediation between capital markets and project financing needs of many countries. In this regard, the OECD countries need to demonstrate a clearer and greater commitment. This might require major contributors such as the United States not to be in arrears in terms of contribution to the World Bank. It could mean a more flexible distribution of shares of capital to allow countries such as Japan and Taiwan to assume a greater role in the World Bank.

Capacity building also demands a much greater focus on sustainable development as the objective of foreign assistance programs, with poverty alleviation, environmental management and economic growth as sub-objectives. There could be multilaterally discussed criteria to guide program formulation, control and evaluation.

4. Coordinate Eco-Labeling Schemes Internationally.

There is a great risk that a plethora of disparate eco-labelling schemes would represent a non-tariff barrier for all exporters, particularly small-scale exporters who will face high costs in adjusting production processes for different markets. It may also occur that the nature of an eco-labelling program unintentionally discriminates against foreign producers. The latter problem can be proactively avoided by multilateral consultation in the design phase of such programs, when categories and measuring techniques are established. The former calls for greater efforts at harmonization and mutual recognition among national-level plans.

There is currently no multilateral forum for addressing these needs. There is a need for an international coordinating body to:

- define legitimate categories and structures for such schemes
- ensure multilateral input into the design of new and existing schemes
- facilitate harmonization and mutual recognition of standards, where appropriate

5. Provide Information To Exporters.

Exporters, particularly smaller-scale producers and those in developing countries, need two kinds of information about their export markets: what are the trade-related environmental regulations with possible trade impacts, and what are the “green” opportunities? Forecasts of future developments in both areas will also be invaluable. The first is a transparency issue, and the second is a market intelligence issue.

UNDP has a pilot project, involving a PC-based database of environmental regulations with potential trade impacts in developed country markets. The International Trade Centre also has a more generalized registry of trade-related domestic regulations. Such efforts should be coordinated to provide a wide dissemination both of current regulations and also of current market trends, and likely future regulatory developments.. The task of showing exporters where their opportunities lie could fall to national development agencies, or more international bodies like the World Bank, or the Development Assistance Committee of the OECD, in concert with NGO groups which have already begun to explore this area as ethical/“green” middlemen.

CONCLUDING NOTE

Perhaps the central feature of the above recommendations is the call for institutional change, which links the WTO to other institutions. Indeed, voices from the GATT/WTO itself have been expressing similar concerns with the piecemeal approach to global economic cooperation which now exists. In an address to the World Economic Forum, GATT Director-General Peter Sutherland observed that the OECD, the G-7, and other macro coordination regional groupings do not represent large and important sections of the evolving global economic map, and “at the same time, the Uruguay Round has taught us very clearly that economies are now too mutually interdependent to reach their full potential in isolation or at cross purposes”¹⁴. He expressed his concern that the current efforts “lack the institutional underpinning that is necessary to put improved cooperation on a firm footing”, and proposed a “high-level framework for communication and cooperation on economic matters” involving the three Bretton Woods organizations.

We applaud this sentiment and urge that the more democratic partnership must focus more broadly on sustainable development, of which the economy is one part. Unless we can create new structures in the post-Uruguay Round era to encompass both the economy and the environment, we will simply have replaced one piecemeal approach with another. Effective global cooperation must, moreover, involve not only the Bretton Woods institutions, but also relevant portions of the UN system, and various NGOs. UNCTAD and UNEP must be more formally linked. Indeed, there is a dire need to relate our environmental objectives with other foreign policy objectives, including the pursuit of peace and security, development, population migrations, democracy and good governance, regionalism and freer trade and investment. Sustainable development must be explored in all its dimensions if we are to devise efficient and equitable solutions. And cost internalization, so vital to sustainable development, requires a broad approach.

The piecemeal approach to issues at the global level is matched by, and even based on, a fragmented approach within national capitals. Many governments are represented in GATT/WTO as well as UNEP, UNCTAD and various MEAs, all of which have differing perspectives on many issues. Starting with domestic ministries and moving progressively outward, they must do a far better job of coordinating their positions on trade, environment and development. Their cohesion in doing so will in turn make the international organizations they subscribe to more effective.

Finally, we urge that in the unfolding of the WTO trade and environment work program the difficult issues raised above be addressed. There are going to be problems which are poorly understood or difficult to address quickly, given the resonance that such issues have with many people and the attendant pressures this puts on public policy. We must be careful of raising expectations beyond our ability to deliver on them. However, this does not preclude recognition of the issues, continued discussion, new ways to review them, segmenting them further, adding new perspective or analysis to clarify them and to make progress on them through greater understanding and mutual trust. All parties need to feel that their concerns have been reflected in the post-Marrakech agenda. These difficult issues can only be resolved cooperatively.

NOTES

- 1 The World Trade Organization (WTO) will become a reality if the legislatures of the Contracting Parties approve the results of the Uruguay Round, a process expected to be completed by mid-1995. Throughout the remainder of this paper, we will refer to the WTO as if its future existence were, in fact, certain.
- 2 *Trade and Sustainable Development Principles*. Winnipeg, Canada: International Institute for Sustainable Development. 1994, pp. 32. The Principles are: Efficiency/Cost Internalization; Equity; Environmental Integrity; Subsidiarity; International Cooperation; Science and Precaution; and Openness.
- 3 "Report by Ambassador H. Ukawa (Japan), Chairman of the Group on Environmental Measures and International Trade, to the 49th Session of the Contracting Parties." 25 January, 1994.
- 4 Trade Negotiations Committee. *Trade and Environment Draft Decision*. MTN.TNC/W/123, 13 December, 1993; Communication from the Chairman, MTN.TNC/W/141, 29 March 1994.
- 5 Trade Negotiations Committee. *Decision on Trade and Environment*. MTN.TNC/W/141, 29 March 1994.
- 6 For a first attempt to define under what conditions the U.S. might engage in unilateral measures of this sort, see Wirth, Timothy E. "Testimony before the U.S. Senate Subcommittee on Foreign Commerce and Tourism Committee on Commerce, Science and Transportation", 3 February, 1994. See also Inside U.S. Trade, Jan. 21, p. 1.
- 7 The composite perspective that we attribute to "non-industrialized" countries in fact covers a wide variety of concerns which, depending on the sector or issue in question, involves shifting allegiances of mutual interest. The central defining characteristic of the perspective is vulnerability, whether to the exercise of unilateral power, or to potential economic disruption during the transition to sustainable development, particularly for exporters of resource-based products. The traditionally-defined developing countries are certainly central to this grouping, as are the economies in transition, including Eastern Europe and the former Soviet Union. On some issues, the grouping might even extend to cover the interests of some OECD countries. For a good overview of this perspective, see Zutchi, Ambassador B.K., Keynote Address at the International Conference "Striking a Green Deal", Brussels, 7 November, 1993.

- 8 Labour issues were only kept off the WTO agenda approved in Marrakech by the determined last-minute efforts of a cluster of opposed countries
- 9 Some are urging that the North to focus more closely on patterns of Northern consumption. They suggest that efforts to internalize external environmental costs in traded goods should begin with the costs of energy and water use in OECD countries. See Third World Network, "World Trade Organization, Trade and Environment", Position Paper, 22 March, 1994.
- 10 The perspective presented here draws on a number of sources. See World Industry Council for the Environment, "Trade and Sustainable Development: A Business Perspective", March 1994; United States Council for International Business, "Statement on International Environmental Agreements and the Use of Trade Measures to Achieve Their Objectives", 15 December, 1993; Business and Industry Advisory Committee to the OECD, "BIAC Statement on International Trade and the Environment", 13 November, 1992; and Business Council on National Issues (Canada), "International Trade: The Environmental Dimension", 3 April, 1993.
- 11 The perspective presented here draws on a number of sources. See Prudencio, Rodrigo and Stewart Hudson (US National Wildlife Federation), "The Road to Marrakech: An Interim Report on Environmental Reform of the GATT and the International Trade System", January 25, 1994; Arden-Clarke, Charles (WWF International), "The GATT Trade and Environment Work Programme", January 1994; Natural Resources Defence Council/Foundation for international Environmental Law and Development, "Green Reform of the World Trading System: A Framework for Action", February 1994; and WWF International et al., "The GATT Trade and Environment Work Programme: A Joint NGO Statement", 9 February, 1994.
- 12 In fact the regulation in question, the US Marine Mammal Protection Act, while it raised concerns about protecting legitimate environmental standards, may not itself be a good example. The arbitrary nature of the standard suggests that some element of protectionism may have been involved.
- 13 The current scope for using trade measures to support environmental goals is quite substantial but could be clarified. Thousands of health, safety and environmental measures in OECD countries have been taken since the Stockholm Conference and OECD Guidelines. Some 360 environment-

related measures were notified under the technical barriers to trade agreement with not one being challenged. There is even scope for enacting measures which contradict basic trade rules, where justified by specific circumstances. No challenge has been brought under the dispute settlement provisions to threaten existing MEAs. A proliferation of environmentally friendly packaging and disposal requirements, eco-labelling, eco-taxes and similar instruments justify clarification of rules including transparency.

- 14 Peter D. Sutherland. "Global Trade — The Next Challenge", *News of the Uruguay Round of Multilateral Trade Negotiations*, NUR 082 28 January, 1994.

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