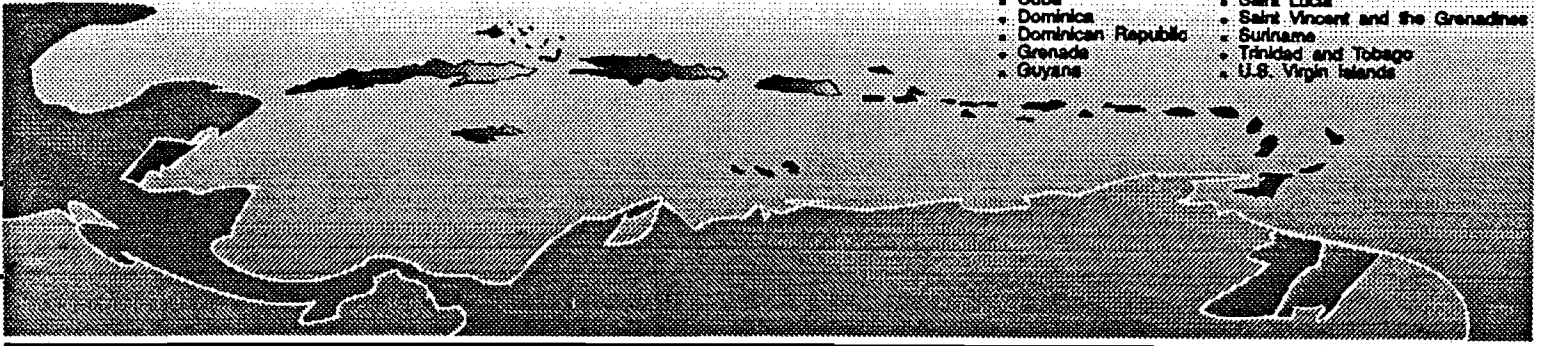




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**TRADE AND THE ENVIRONMENT IN THE CONTEXT OF
THE WORLD TRADE ORGANIZATION**



UNITED NATIONS
ECONOMIC COMMISSION FOR LATIN AMERICA AND THE CARIBBEAN
Subregional Headquarters for the Caribbean
CARIBBEAN DEVELOPMENT AND COOPERATION COMMITTEE



TRADE AND THE ENVIRONMENT IN THE CONTEXT OF THE WORLD TRADE ORGANIZATION

Introduction

The Uruguay Round of trade talks sought to bring agriculture and textiles progressively under the ambit of international trade rules and regulations. It also sought to extend the coverage of international trade rules to trade in services, intellectual property rights and trade-related investment measures. The implementation of trade liberalization programmes around the world has resulted in increased competition and the consequent exposure of many previously protected domestic industries to foreign competition. The decrease in the use of the usual barriers to trade and investment, i.e. tariffs, quotas, exchange controls etc., has turned attention to domestic regulations, including those related to the environment, which are increasingly being challenged as a new category of barriers to trade and investment. Since environmental standards differ from country to country and there are costs associated with compliance with these standards, the issue of unfair trade has arisen based on the differences in costs related to environmental standards faced by the same industries in different countries. Countries with higher standards contend that those with lower standards have gained an unfair advantage with consequent negative trade and investment implications for their economies.

Concern for the environment has been growing rapidly as a result of increasing evidence of environmental degradation, including air and water pollution, soil erosion, species extinction and resource depletion which are all associated with economic activities in pursuit of growth and development. There has also been increasing concern about global environmental problems, including ozone layer depletion and global warming.

These concerns have led to various attempts to use trade policy measures to promote higher environmental standards and sustainable development. Trade policy measures have also been advocated to remedy a perceived unfair advantage in trade and investment enjoyed by countries with lower environmental standards. Although the use, or threat of use, of trade measures for environmental purposes might be capable of yielding immediate results, that effectiveness ought to be weighted against the risks of turning these trade measures into discriminatory and protectionist measures. Such developments would be inimical to the pursuit of an increasingly liberalized trade and investment system and the resulting efficient allocation of resources. They might also introduce further distortions into the economies, yet not be the most appropriate to correct the original environmental problem.

The linkages between trade and the environment and the issue of the use of trade policy measures for the promotion of higher environmental standards had already assumed great importance in international trade policy discussions when the Marrakesh Ministerial Decision established the Committee on Trade and the Environment with a specific work programme. This Committee reported to the first World Trade Organization (WTO) ministerial conference held in Singapore in December 1996. The evolution of the complex issues related to trade and environment may have

significant effects on the economies of the countries of the Caribbean, which are mostly island countries with fragile ecosystems and also highly dependent on a narrow range of exports of primary commodities and services. This paper examines the issues involved in the current debate on trade and the environment, gives a summary of the conclusions and recommendations contained in the report of the WTO Committee on Trade and the Environment and examines some of the issues in the context of recent Caribbean trade policies.

I. THE EMERGENCE OF THE ENVIRONMENT AS A MAJOR ISSUE IN INTERNATIONAL TRADE TALKS

The widespread implementation of trade liberalization programmes around the world involving the actual or planned removal or lowering of tariffs and non-tariff barriers has brought into focus the many domestic rules and regulations impinging on trade policies, including those related to the environment.

Differing domestic regulations are thought to have significant effects on the competitiveness of similar products in a liberalized trading environment. It is in that perspective that countries with higher environmental standards view trade in similar goods with countries having lower environmental standards as being inherently unfair. This is based on the assertion that compliance with higher environmental standards adds significantly to the overall costs of production faced by firms operating in these countries, making them less competitive compared to those firms operating in countries with lower environmental standards. According to this view, countries with lower environmental standards are therefore subsidizing the production of their firms by allowing them to produce goods below their real costs. These subsidies, it is argued, should be included in the categories of subsidies to be countervailed under the international trade rules governed by the WTO agreement.

Since countervailing this environmental subsidy is not allowed under the present international trade rules, it is thought that firms operating in the countries of higher environmental standards will seek to lower the standards in their home countries or attempt not to comply with the established standards. If the efforts of these firms to lower standards in their home countries are not successful, it is contended that they are then likely to move their production to countries with lower environmental standards so that they could compete on a level playing field and avoid the costs imposed on them in their home countries.

Fears have been expressed that under such a scenario, countries competing for foreign investment will lower their environmental standards with the sole aim of attracting more investment at the risk of promoting environmentally inefficient technologies and contributing to an overall deterioration of the environment. To prevent the likelihood of such a chain of events from happening, it is sometimes suggested that there should be an upward world-wide harmonization of environmental standards and that this should be achieved prior to trade liberalization so that international trade is fair and environmentally sound. According to this view, the present diversity of environmental standards among countries is not consistent with the adoption of free trade.

Closely linked to the argument for the harmonization of standards around the world is the view that the methods of production of the goods to be traded should be acceptable to the countries of destination of these goods. A variant of that argument supports the opposition to free trade in particular animal products because of the way the animals have been captured, slaughtered or processed. A prominent example among these is the Marine Mammal Protection Act of the United States which seeks to limit the killing of dolphins associated with the catching of tuna. Market access restrictions placed on Mexico's exports of tuna to the United States was based on that legislation and the assertion that the killing of dolphins in the process of catching the tuna had exceeded the limits specified under the law¹.

In addition, objections are raised to the WTO multilateral dispute settlement mechanism because it allows countries with lower environmental standards to challenge trade measures taken by those with higher environmental standards on the grounds that they are seeking to protect their domestic industries and restrict access to their market. This right of countries with lower environmental standards under the WTO rules is considered to be inimical to the promotion of higher international environmental standards and put into question the functioning of the multilateral trading system based on the principle of free trade. Also, proposals have been advanced to use the international trading system to apply sanctions on countries which opt out of international environmental agreements or those signatories of these treaties which do not comply with them.

There are suggestions that growth associated with free trade may harm the environment and that its costs may ultimately be much higher than its likely benefits. This view states that increased output leads usually to more resource depletion and environmental degradation and is therefore unsustainable.

Since countries are at different levels of development, possess different technological capabilities and are endowed with different resources, they are unlikely to have the same priorities as far as environmental standards are concerned even though they may share common environmental objectives. For example, it is unlikely that the less developed and lower income countries will devote as many resources to pollution reduction projects as their higher income counterparts because of their much more limited resources and levels of income and the different costs and benefits associated with certain levels of pollution and their different capacities to assimilate pollution.

Also, the valuation of the costs to be incurred in pursuit of higher environmental standards may differ among countries because of different weights given to different environmental costs and benefits as well as different priorities accorded to different environmental issues, i.e. sanitation, clean water and air pollution. Decisions based on all these considerations are likely to lead to taxes, transfers and subsidies related to environmental issues as well as environmental rules and regulations which will necessarily be different among countries because of their particular circumstances. Costs internalization and standards will therefore differ among countries; each country will have less of the

¹ A GATT dispute settlement panel ruled in 1991 that the import restrictions taken against Mexico were inconsistent with GATT rules.

industry whose pollution it fears relatively more than other countries do². Differences in environmental standards should therefore be seen as the reflection of different capabilities, different priorities and different weights given to different environmental objectives. These differences are generally not connected with any unfair trade practices against which countervailing or anti-dumping actions could be justified under the WTO rules and their existence do not justify any departure from the basic principles of free trade policies³.

It should, however, be noted that WTO rules allow for the use of standards related to products and, as such, allow countries to impose the same standards on foreign products as those on domestic products. This provision addresses the environmental externalities involved in the consumption of the products. On the other hand, the WTO does not allow for the use of standards related to production processes of traded products. Countries cannot stipulate the production processes and methods to be used by their trading partners and cannot restrict imports from their trading partners on the grounds that different production methods were used to produce these imports. These standards cannot be imposed on trading partners because of their possible use as restrictions to trade. The WTO seeks, through its rules, to ensure that such abusive use does not occur. Such use would also limit innovation in production processes and be inimical to improved efficiency. WTO rules also do not allow the use of unilateral trade actions, including those taken on the grounds of environmental protection. It is similarly not permitted, under WTO rules, to use trade restrictions to coerce non-members of Multilateral Environmental Agreements to become members.

With regard to the fear that trade between countries of higher and lower environmental standards would lead to the products of the former becoming uncompetitive compared to those of the latter and investment moving from the former to the latter, a number of studies undertaken to test such hypotheses have generally found little justification for these fears. The strict environmental regulations imposed in the 1960s and 1970s in industrial countries did not seem to have affected the pattern of trade in the most polluting industries⁴. Little evidence existed regarding the significance of the costs implications of expenditures related to environmental regulations and trade in environmentally sensitive goods, i.e. goods with the highest pollution costs abatement. In industrial countries where these regulations have been applied and costs have been incurred, firms have maintained their superior performance in these goods in accordance with indices of revealed comparative advantage⁵.

² See Jagdish Bhagwati, "The case for free trade" in Scientific American, November 1993.

³ J. Bhagwati, and T. N. Srinivasan (1996), " Trade and the environment: Does environmental diversity detract from the case for free trade? " In Jagdish N. Bhagwati and Robert Hudec, editors Harmonization and Fair Trade, vol. 1, Cambridge MIT Press.

⁴ See J. Tobey, "The effects of domestic environmental policies on patterns of world trade: An empirical test", Kyklos, Vol.42, n2 (1990).

⁵ See P. Sorsa, "Competitiveness and environmental standards: Some explanatory results", Policy Research Working Paper 1249, Washington, the World Bank, 1994.

Also, the belief that free trade between countries of higher level environmental standards and those of lower levels would lead to investment moving from the former to the latter to take advantage of the latter's cost advantage, based on inferior environmental standards, does not seem to be justified. Indeed little evidence was found that pollution control costs were important enough to alter the decisions of international investors⁶. This may be due to the existence of many factors including market access, macroeconomic and political stability which may be more important than lower environmental standards in the determination of the decisions to invest abroad.

It should be noted, however, that although the studies behind these results may have underestimated the costs of some environmental regulations, i.e. health and safety protection costs⁷, the costs would most likely be much higher for lesser developed countries. The lower standard of technology of these countries and the lower ability of their firms to finance the capital expenditure required and to respond adequately to changes in prices make it much more difficult for these countries to upgrade their environmental standards without adding significantly to their costs of production.

In any case, investment and trade patterns do not appear to have shifted as a result of differences in environmental policies. Therefore, the contention of the migration of polluting industries to countries of lower standards and the consequent specialisation of those countries in highly polluting industries, although possible in theory, has not occurred and the bulk of the pollution-intensive industries is still in the more advanced countries where environmental standards are higher. The percentage share of pollution-intensive exports originating in the more developed countries has not changed between 1970 and 1990⁸. There was also little evidence found with regard to the fears that investors would take advantage of countries with lower environmental standards to invest in highly polluting industries in these countries⁹. This may be due to the expectation that environmental regulations are likely to get tougher and increase, in time, the costs of production of these industries. Even those studies which have found some indication of changes in the patterns of trade in pollution-intensive industries report only marginal decreases in the more advanced countries.

⁶ See J. Lenord, "Pollution and the struggle for the world product", New York, Cambridge University Press, 1988. Examination of this hypothesis for Spain, Ireland, Mexico and Romania found no evidence of lower environmental standards determining investment decisions.

⁷ See D. Chapman, (1991) "Environmental standards and international trade in automobiles and copper: The case for a social tariff", Natural Resources Journal.

⁸ Sorsa P. (1992), "GATT and the Environment: Basic issues and some developing countries' concerns" In P. Low (ed.), International Trade and the Environment (Washington D.C., World Bank discussion papers n° 159).

⁹ See A.E. Harrison and G.S. Eskeland "Multinationals and the pollution heaven hypothesis" mimeo, the World Bank, May 1994.

Environmental problems are usually caused by production and consumption distortions in the economy and trade measures are usually not the best instruments to remedy these problems. Domestic policy interventions are considered optimal in such cases and trade policy intervention only second best¹⁰. Therefore, trade restrictions do not address the source of the environmental problems directly and are more often than not favoured by protectionist interests in their efforts to restrict market access to competing products.

Trade restrictions do not only impact negatively on the export revenues of countries which are subjected to them and reduce their real incomes but they may also sometimes increase rather than reduce environmental degradation. The ban on ivory trade may have reduced the incentives for Africans to tolerate elephants trampling their crops and so ultimately could result in more rather than less culling of elephants in some areas¹¹. Also the ban on the exports of logs in Indonesia to prevent deforestation was found to have resulted in a fall in domestic log prices and greater demand for logs from the local wood processing industries and more logging and deforestation¹².

Since it is now widely acknowledged that an open trading regime encourages higher rates of economic growth, there is a contention that growth achieved in such a context is harmful to the environment. The opening of the economies increases economic activities, in general, including those related to industrial and agricultural development which are bound to involve some degradation of the environment. But these activities also increase incomes and the resources which could be available for environmental protection and, if they are carried out efficiently, are unlikely to be unduly harmful to the environment. In that context, the type of growth pursued becomes crucial to ensure its compatibility with the protection of the environment and the promotion of higher environmental standards. In most cases, environmental degradation is linked to distortions and inefficiencies in economic activities, i.e. subsidies leading to the overexploitation of land and the free provision of pesticides leading to soil erosion. The principle of free trade, upon which the international trading system is based, seeks to eliminate these distortions and should therefore be conducive to the promotion of a cleaner environment and higher environmental standards.

¹⁰ Harry G. Johnson, "Optimal trade intervention in the presence of domestic distortions" In Trade, Growth and the Balance of Payments: Essays in Honour of Gottfried Haberler, ed. Robert Baldwin and Others (Chicago: Rand McNally and Company, 1965).

¹¹ See Kym, Anderson, "Environmental standards and international trade", in Annual World Bank Conference on Development Economics, Washington D.C. 1997.

¹² See C.A.P. Braga, "Tropical forests and trade policy: The case of Indonesia and Brazil", in International Trade and the Environment, ed, P. Low, World Bank discussion papers 159, Washington, the World Bank, 1992.

Growth based on increased efficiency and productivity will not generally be harmful to the environment. Free trade is consistent with this type of growth which is not linked with the expansion of resource use and the consequential depletion of these resources. It is the inefficiency and waste which accompanies certain growth and non growth that is responsible for environmental degradation¹³.

All these issues have been debated within the framework of the WTO Committee on Trade and the Environment which presented its report to the first WTO Ministerial Meeting held in Singapore in December 1996¹⁴. The following section summarizes the conclusions and recommendations of the report submitted.

II. THE WTO COMMITTEE ON TRADE AND THE ENVIRONMENT

The WTO Committee on Trade and the Environment was established by the Marrakesh Ministerial Decision on Trade and the Environment taken in April 1994. The Committee was assigned the following work programme:

- (a) The relationship between the provision of the multilateral trading system and trade measures for environmental purposes;
- (b) The relationship between environmental policies relevant to trade and environmental measures with significant trade effects and the provisions of the multilateral trading system;
- (c) • Relationship between the multilateral trading system and charges and taxes for environmental purposes;
 - The multilateral trading system and requirements for environmental purposes related to products, including standards and technical regulations, packaging, labeling and recycling;
- (d) Provisions of the multilateral trading system with respect to the transparency of trade measures used for environmental purposes and environmental measures which have significant trade effects;
- (e) Relationship between WTO trade dispute settlement mechanisms and those existing in multilateral environment agreements;

¹³ T. Panayotou, "Is economic growth sustainable?" in Proceedings of the World Bank Annual Conference on Development Economics, Washington DC, 1991.

¹⁴ See World Trade Organization, Report of the Committee on Trade and the Environment, 12 November 1996.

(f) Effects of environmental measures on market access especially in relation to developing countries in particular the least developed amongst them and the environmental benefits of removing trade restrictions and distortions;

(g) The issues of exports of domestically prohibited goods;

(h) The relevant provisions of the agreement on trade related aspects of intellectual property rights;

(i) The work programme envisaged in the decision on trade in services and the environment;

(j) Input to the relevant bodies in respect of appropriate arrangements for relations with intergovernmental and non-governmental organizations referred to in Article V of the WTO.

In its deliberations, the Committee adhered to the principle of the ministerial decision that there should not be nor need be any policy contradiction between upholding and safeguarding an open equitable and non-discriminatory multilateral trading system, on the one hand, and acting for the protection of the environment, on the other. The two areas of policy-making are both important and should be mutually supportive in order to promote sustainable development.

In its report on the multilateral trading system and trade measures for environment purposes, the Committee on Trade and the Environment noted that governments endorsed the results of the 1992 United Nations Conference on Environment and Development which included a commitment to principle 12 of the Rio Declaration that “ Unilateral actions to deal with environmental challenges outside the jurisdiction of the importing country should be avoided. Environmental measures addressing transboundary or global problems should, as far as possible, be based on multilateral consensus.”

The Committee also endorsed multilateral solutions based on consensus and international cooperation as the best and most effective way to tackle environmental problems of a transboundary or a global nature. International cooperation, including financial and technology transfers and capacity building, are important especially for developing countries to allow them to become parties to a multilateral environmental agreement or to effectively implement the provisions of the multilateral agreements to which they are parties. However, trade measures based on specifically agreed upon provisions can be needed in some cases to achieve the environmental objectives of a multilateral environment agreement when trade is related directly to the source of an environmental problem. In that connection, it was noted that trade measures have been included in a relatively small number of Multilateral Environmental Agreements and no General Agreement on Tariffs and Trade (GATT) or WTO dispute concerning trade measures pursuant to environmental objectives has occurred.

The Committee also noted that a range of provisions in the WTO agreement can accommodate the use of trade related measures needed for environmental purposes, including

measures pursuant to Multilateral Environmental Agreements. These measures include the defined scope provided by the relevant criteria of the general exceptions provisions of GATT Article XX¹⁵. In addition, the Committee emphasized that policy coordination between trade and environmental policy officials at the national level plays an important role in ensuring that WTO members are able to respect the commitments which they have made in the separate forums of the WTO and the Multilateral Environmental Agreements and in reducing the possibility of legal inconsistencies arising.

On the issue of changes in the dispute settlement mechanisms, the Committee noted that the WTO and the Multilateral Environmental Agreements emphasize the avoidance of disputes, including through the parties seeking mutually satisfactory solutions. Many views were expressed with regard to whether modifications to the provisions of the multilateral trading system are required. It was concluded that this matter should be kept under review and that further work on the issues involved should be undertaken.

In its deliberation on the relationship between environmental policies relevant to trade and environmental measures with significant trade effects, the Committee on Trade and the Environment decided that further analysis of policies and measures, such as property rights, tradable emission permits, emission taxes, financial subsidies, soft loans and bond and deposit refund systems, etc. was required, including the analysis of their effects on trade. The Committee also discussed the possibility of the conduct, at the national level, of environmental reviews of trade agreements and of the relationships and compatibility of general trade and environmental policy-making principles, but was not able to come to a conclusion on this issue and decided that further work was required.

With regard to the issue of charges and taxes for environmental purposes, the Committee decided there was scope under the WTO provisions for the use of such taxes and charges but that further work was required on the relationship between the multilateral trading system and taxes and charges for environmental purposes.

The Committee also discussed the issue of the multilateral trading system and requirements for environmental purposes relating to products, including standards and technical regulations, packaging, labeling focusing mainly on eco-labeling schemes/programmes, including those based on life cycle approaches, and their relationship to the provisions of the WTO and the Agreement on Technical Barriers to Trade. The Committee noted that Chapter IV of Agenda 21 encouraged the expansion of environmental labeling and other environmentally related product information designed to assist consumers in making informed purchasing decisions. However it also noted that eco-labeling schemes/programmes have, in certain cases, raised concerns about their possible trade effects and suggested that an important starting point to respond to these concerns was to ensure adequate

¹⁵ Article XX provides for exceptions to the fundamental GATT rules of most favoured nation and national treatment requirements and allows for trade restrictions necessary for the protection of human, animal or plant life or health as well as those related to the conservation of exhaustible natural resources. Both exceptions are subject to the requirement that they are not used as disguised restrictions on international trade or as means to operate unjustifiable discrimination among trading partners.

transparency in their preparation, adoption and application, including affording opportunities for participation in their preparation by interested parties in other countries. Further work will be conducted on these issues.

In looking at the provisions of the multilateral trading system and the transparency of trade measures used for environmental purposes and environmental measures which have significant trade effects, the Committee on Trade and the Environment reaffirmed that transparency was very important in the provisions of the WTO in order to ensure the proper functioning of the multilateral trading system. This was necessary to prevent undue trade restrictions and distortions from occurring. It also concluded that no modification to the WTO rules were required to ensure the adequate transparency of the existing trade-related environmental measures. At the same time, it decided to keep under review the adequacy of the existing transparency provisions with respect to trade-related environmental measures, including the results of the Working Group on Notifications, Obligations and Procedures.

The Committee suggested that members exchange information, especially with developing country members, about market opportunities created by environmental measures. But it also recommended that, in the meantime, the WTO Secretariat compile from the central registry of notifications all notifications of trade-related environmental measures and collate these in a single database which can be accessed by WTO member. It was proposed that the database could contain information, such as: nature/title, objectives, product coverage, relevant WTO provisions and the Multilateral Environment Agreements provisions in addition to a description of how the measure operates.

In its consideration of the effects of environmental measures on market access especially in relation to developing countries, in particular the least developed amongst them, and the environmental benefits of removing trade restrictions and distortions, the Committee on Trade and the Environment acknowledged that an open, equitable and non-discriminatory multilateral trading system and environmental protection were essential to the promotion of sustainable development. It has also been recognized that trade liberalization, including the elimination of trade restrictions and distortions could yield developmental and environmental benefits by facilitating a more efficient allocation and use of resources.

In that connection, opportunities were seen to be important to assist developing countries to obtain the resources to implement adequate developmental and environmental policies, diversify their economies and provide income-generating activities to their people. At the same time, the Committee underlined that adequate environmental policies determined at the national level as part of sustainable development strategies were needed in order to ensure that these benefits were realized and that the induced growth was sustainable. The Committee also decided that further work was required to deal with the environmental benefits that might arise from enhancing market access opportunities for developing countries, in particular the least developed among them, and to ensure

that the implementation of environmental measures did not result in disguised restrictions on trade, particularly those that had adverse effects on existing market access opportunities of developing countries.

With regard to the issue of the export of domestically prohibited goods, the Committee on Trade and the Environment recognized the serious concerns which have been expressed by some developing and least developed countries about the export to them of products whose domestic sale or use is banned or severely restricted in the exporting country because they pose a threat to human, animal or plant life or health or the environment. Developing countries considered that they do not have sufficient timely information about the characteristics of these products nor the technical or technological capacity to make informed decisions about importing them. On the other hand, the Committee noted that progress was being made in other intergovernmental organizations in addressing problems created by trade in potentially hazardous or harmful products and, as such, was mindful of the need not to duplicate nor to deflect attention from the work of the other specialized intergovernmental forums.

However, the Committee recommended that the WTO Secretariat determine what information was already available in the WTO on trade-related environmental measures which related to trade in domestically prohibited goods including on restrictions or bans on domestic sales or use which were or might be exported. Members were encouraged to supply the Secretariat with any additional information which could be used to draw up a comprehensive picture of the overall situation throughout the WTO system. In addition, the Committee encouraged the provision of technical assistance to developing countries, in particular the least developed ones, to strengthen their capacity to monitor and, where necessary, control the import of domestically prohibited goods.

In its discussion of the relevant provisions of the Agreement on Intellectual Property Rights, the Committee on Trade and the Environment noted that the Agreement referred to the need to promote the effective and adequate protection of intellectual property rights and the enforcement of such protection. This should contribute to the promotion of technological innovation and to the transfer and dissemination of technology to the mutual advantage of producers and users of technological knowledge.

Since access to environmentally sound technology and products was essential for sustainable development, the Committee concluded that measures, such as the access to and transfer of technology both according to the terms and conditions stipulated in the covered Multilateral Environmental Agreement and without prejudice to the requirements of the TRIPS agreement, could be effective instruments to assist developing countries to meet multilaterally agreed targets in some MEAs and in keeping with the principle of common but differentiated responsibilities contained in the Rio declaration. Further work will be required to develop a common appreciation of the relationship of the relevant provisions of the TRIPS agreement to the protection of the environment and the promotion of sustainable development. The work will also attempt to show how these provisions relate to the facilitation and generation of environmentally sound technologies and products as well as the access to and dissemination of these technologies, among other issues.

With regard to trade in services and the environment, preliminary discussions in the Committee could not identify any measures that members felt might need to be applied for environmental purposes to trade in services and which could not be covered under the provisions of the General Agreement of Trade in Services (GATS), in particular Article XIV (b)¹⁶. Further work was required before any conclusions could be drawn on the relationship between trade in services and the environment.

The Committee on Trade and the Environment considered its agenda item related to input to the relevant bodies in respect of appropriate arrangements for relations with intergovernmental and non-governmental organizations referred to in Article V¹⁷ of the WTO. In its discussion of this item, the Committee recognized that there was a need to respond to public interest in WTO activities in the area of trade and the environment and to build support for the contribution that could be made through the WTO towards mutually supportive trade and environment policies and the promotion of sustainable development. In that connection, WTO members have agreed to improve public access to WTO documentation and to develop communications with NGOs through the derestriction of a number of working documents and continued interaction with NGOs. In addition, the Committee granted observer status to all those intergovernmental organizations which have so requested and acknowledged the possibility of considering further requests from other intergovernmental organizations, including MEAs. This issue is to be kept under review.

III. THE DEBATE ON TRADE AND THE ENVIRONMENT AND CARIBBEAN TRADE POLICIES

Most CDCC countries have been implementing trade liberalization policies as part of their stabilization and structural adjustment programmes with a view to increasing their output and employment. The high share of trade in these countries' GDP (in excess of 50 per cent in all cases)¹⁸ is a reflection of their high level of openness. In addition, the relatively undiversified economic base and trade structures of Caribbean countries make them vulnerable to any curtailment of market access. This could be particularly harmful if it is applied to the new products which the Caribbean countries are trying to develop in their efforts to diversify their economies.

¹⁶ Article XVI (b) states that nothing prevents a member country from adopting or enforcing measures necessary to protect human, animal or plant life or health, provided that they do not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade in services.

¹⁷ Article V deals with WTO relations with other organizations and states that the General Council shall make appropriate arrangements for the effective cooperation with other intergovernmental organizations that have responsibilities related to those of the WTO.

¹⁸ UN-ECLAC/CDCC, "Factors affecting the participation of Caribbean countries in the Free Trade Area of the Americas", LC/ CAR. G.459.

Attempts to enforce the same environmental standards as those obtaining in the advanced countries, through the use of trade-related environmental measures or the use of environmental measures with significant trade effects, could have far-reaching implications for the development of Caribbean economies. Such attempts could result in restricting their access to their main markets or increase significantly their costs of production, with consequent negative effects on their export product competitiveness and their overall levels of income.

The present level of development of these countries makes it more difficult for them to raise their environmental standards to those of their more advanced partners without incurring substantial costs. The small Caribbean firms which are making efforts to enter new export markets are likely to face most difficulties in that regard. The curtailing of the market access of Caribbean countries as a result of their inability to comply with higher standards may well negatively affect their overall welfare and be ultimately detrimental to higher environmental standards, given these countries' high levels of dependency on export revenues. Countries of the subregion should be allowed to set their own environmental standards in accordance with the costs and benefits of these standards within the context of their own capabilities and priorities. They should not be subjected to trade restrictions to lift their environmental standards up to those of other more advanced countries.

The commitment of Caribbean countries to sustainable development, including environmental protection, should not be in contradiction with the trade liberalization policies which most of them have been implementing over recent years. That does not mean that there would not be conflicts arising from the pursuit of the two sets of policies, but trade liberalization which seeks to prevent the introduction of various distortions in the economies and allow for a more efficient use of resources should contribute to reinforcing the objective of sustainable development which has been adopted by the countries of the Caribbean.

Since there is some evidence that the quality of the environment improves with the level of development¹⁹, it is likely that higher environmental standards would evolve with increasing incomes when there is higher demand for a cleaner environment and there are more resources which could be devoted to environmental issues. It will, therefore, be easier in time for countries, such as those of the Caribbean, to participate in the upward harmonization of environmental standards which is now being advocated. It should be noted, however, that trade liberalization, growth and increasing incomes are not substitutes for environmental policies, neither do higher levels of income necessarily

¹⁹ See T. Panayotou, "Empirical tests and policy analysis of environmental degradation at different stages of development", Geneva, ILO, World Employment Programme 2-22, 1993

lead to higher environmental standards. Environmental policies should be deliberately adopted and implemented and the transfer of environmentally sound technologies could lead to higher environmental standards at lower levels of incomes²⁰. The use of technical assistance measures, including the transfer of technology, may be a better method of improving environmental standards than trade restriction policies in countries with lower standards.

A number of global environmental agreements use trade measures against free riders to promote the achievement of their objectives. These include the 1987 Montreal Protocol on reducing the use of CFCs to slow down ozone depletion, the Convention on International Trade on Endangered Species, and the Basel Convention on Trade in Hazardous Wastes. The inclusion of trade measures in these international agreements was based on the judgement of the participants that the measures were transparent, necessary and non-discriminatory. The signatories also waived their rights under the WTO Agreement. However, it is not always possible to ensure that those characteristics will apply to any trade measures proposed for environment purposes and there is always a real possibility that these measures could be used as disguised protectionist policies which could undermine the world trading system.

Environmental requirements in the main export markets of the Caribbean usually include permitted levels of pesticide residues in foodstuffs, emissions standards for machines and packaging requirements. Although most Caribbean exports have not yet frequently faced obstacles based on these requirements, recently some of them have had to adjust to some of these changing environmental requirements. Exports of cut flowers from Jamaica were denied access to the German market because of packaging requirements. Also papayas from Jamaica were denied access to the Swedish and Belgian markets because of pesticide residue levels. While these restrictions may be, under specified circumstances, within the rules of the WTO Agreement, the United States' denial of market access for shrimp from Trinidad and Tobago and Suriname because their trawlers were not fitted with turtle excluder devices was unlikely to be within the present WTO rules.

Within the context of environmental requirements, ecolabelling schemes which are in operation in a number of countries are widely accepted as a means of giving consumers environmentally related product information. They have, however, raised concerns regarding their possible use as non-tariff barriers. This generally happens when they lack transparency or are not based on scientific criteria or give rise to cumbersome procedures of certification. These schemes have not yet become obstacles to Caribbean exports, but because of their rapid and widespread implementation it would be essential to take them into account in the future development of Caribbean exports.

The issue of environmental requirements should not be seen solely as being potentially detrimental to Caribbean exports, but also as capable of generating new trade opportunities which could be beneficial to the Caribbean. Already, there is evidence that some Caribbean countries are

²⁰ G.M. Grossman A.B. and Krueger, "The Inverted U : What does it mean?" in Environment and Development Economics, vol. 1, part 1, February 1996

taking measures to increase their exports of ecofriendly products to take advantage of the opportunities created by the fast growing market for these products. The emergence of ecotourism in the Caribbean to capture the environmentally sensitive part of the tourism market is an example of these initiatives. Actions have also been taken to improve environmental standards in the Caribbean countries, including in the areas of agriculture and manufacturing. The establishment of institutional structures, such the Environmental Management Authority (EMA) in Trinidad and Tobago, to promote environmental management policies and practices in the countries is a reflection of the increasing attention being given to the environment by the policy makers.

CONCLUSION

The pursuit of global free trade often raises conflicts with environmental protection but it is unlikely that trade restrictions would be the best response to pressing environmental problems. In the Caribbean, where ecosystems are fragile and trade represents a very high percentage of GDP, it is especially important to maintain a balance between trade development and environmental protection. The policies dealing with these two important issues will have to be implemented simultaneously and efforts will have to be made to minimize conflicts between them. The importance of trade in the national product of Caribbean countries makes market access extremely important for their future development. This is clearly reflected in the countries' search for larger markets via the proposed Free Trade Area of the Americas (FTAA) and other free trade areas in the Western Hemisphere, as well as their negotiations with the European Union.

It is through the economic reform programmes, including trade liberalization policies which Caribbean countries have been implementing over recent years, that the countries are likely to improve their financial and technological capacities to raise their environmental standards and provide a better protection to their environment. Trade restrictive measures for environmental purposes aimed at Caribbean exports will result in a decrease in their welfare and reduced capacity to meet the environmental objectives they have set out to achieve. The fear that trade between countries with lower standards, including those of the Caribbean, and countries with higher standards has not yet been found to be unfair or likely to lead to the further deterioration of the environment. The migration of dirty industries from countries with higher standards to those with lower standard has not yet happened. The likelihood of such a scenario happening is rather remote because countries do not generally base their development activities on the destruction of their environment and investors are usually not attracted simply by lower environmental standards. There does not seem to be any justification to add more environmentally related rules to the existing provisions of the international trade rules of the WTO Agreement, including the dispute settlement mechanism and the provisions on anti-dumping and countervailing duties, as well as those on unilateral trade actions.

The Committee on Trade and the Environment is to continue its work on all the issues in its work programme. The Ministerial Declaration issued in Singapore recognized the need for more discussion and more empirical work to be undertaken on the various issues²¹. Countries of the Caribbean should participate more actively in the work of the Committee to ensure that their concerns and interests are taken into account in the issues being examined, including the participation in the empirical work to be undertaken to further clarify the issues under discussion.

In the discussions on the links between trade and the environment which are likely to continue in the WTO and which may very well come up in the negotiations for the FTAA, the Caribbean should ensure that trade measures for environmental purposes are limited to their most transparent and their least intrusive expression. Unilateral trade measures to correct perceived unfair trade or to induce countries to adhere to or comply with the provisions of Multilateral Environmental Agreements should be opposed and the use of internationally agreed cooperative arrangements and the transfer of environmentally sound technologies should be promoted.

Trade liberalization seeks to remove consumption and production distortions in the economies. It also promotes the efficient use of resources and, therefore, their conservation and, as such, ought to be consistent with the promotion of growth and environmental protection. However, such an outcome is more likely to be reached if the countries adopted and implemented national environmental policies and participated actively in the implementation of the international environmental agreements. Growth and environmental protection will also be greatly assisted if the more advanced countries adopted deliberate policies for the transfer of technologies and know-how to assist lesser developed countries, like those of the Caribbean to deal with their environmental problems.

²¹ The Committee on Trade and Environment has made an important contribution towards fulfilling its work programme. The Committee has been examining and will continue to examine, *inter alia*, the scope of the complementarities between trade liberalization, economic development and environmental protection. Full implementation of the WTO agreements will make an important contribution to achieving the objectives of sustainable development. The work of the Committee has underlined the importance of policy coordination at the national level in the area of trade and environment. In this connection, the work of the Committee has been enriched by the participation of environmental as well as trade experts from member governments and the further participation of such experts in the Committee's deliberations would be welcomed. The breadth and complexity of the issues covered by the Committee's work programme shows that further work needs to be undertaken on all items of its agenda, as contained in its report. We intend to build on the work accomplished thus far, and therefore direct the Committee to carry out its work, reporting to the General Council, under its existing terms of reference.

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