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TRADE AND ENVIRONMENT AFTER SEATTLE

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The interrelationship between international trade and environmental protection is becoming increasingly important – and controversial. The volume of world trade in goods topped \$5 trillion for the first time in 1996, having grown at an average rate of about 8% a year since the signing of the Marrakesh agreement in 1994 which marked the completion of the Uruguay Round of trade negotiations. The set of agreements administered by the World Trade Organization (WTO), centred around the General Agreement on Tariffs and Trade (GATT) and covering areas such as agriculture, textiles, services, intellectual property, technical barriers to trade and health standards, represents a significant extension in scope compared with its pre-Uruguay Round version. In turn this means that international trade regulation increasingly impinges on other areas of public policy.

At the same time, the impact of human activities on the environment continues to grow. In terms of the degradation of land and water quality, the pollution of the local and global atmosphere, and the depletion of natural resources, most of the current trends reveal worsening environmental problems, suggesting that national and international environmental goals will not be met without extensive policy reform and significant changes in practices and strategies. At the same time, however, the network of international environmental regulation is developing rapidly. As well as the framework offered by Agenda 21, the programme for action aimed at achieving sustainable development in the 21st century signed at the 1992 'Earth Summit', the UN Conference on Environment and Development (UNCED), almost 200 multilateral environmental agreements (MEAs) now exist or are under negotiation, covering a wide variety of polluting or otherwise unsustainable behaviour.

Since trade and environmental policies both affect the use of natural resources, it is hardly surprising that the two interact. In theory, the objectives of trade liberalization and environmental protection should be entirely compatible. Both have as their aim the optimization of efficiency in the use of resources, whether from the perspective of maximizing the gains from the comparative advantages of nations, through trade, or of ensuring that economic development becomes environmentally sustainable. Indeed, each of the UNCED and Uruguay Round agreements claims to be in accordance with the other. Agenda 21 states that: 'An open, multilateral trading system, supported by the adoption of sound environmental policies, would have a positive impact on the environment and contribute to sustainable development'.¹ The WTO agreement recognizes that trade should be conducted '... while allowing for the optimal use of

the world's resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment and to enhance the means for doing so ...'.²

The founding conference of the WTO agreed a work programme for a new Committee on Trade and Environment (CTE), designed to 'identify the relationship between trade measures and environmental measures, in order to promote sustainable development [and] to make appropriate recommendations on whether any modifications of the provisions of the multilateral trading system are required ...'.³ The CTE has proved unable, however, to agree any such recommendations, and after a protracted but ultimately unsuccessful attempt to do so in 1995–6, has settled for playing a primarily analytical role. A number of proposals for modifying the WTO system for environmental ends surfaced during the run-up to the third WTO ministerial, in Seattle in late 1999, but – along with the rest of the agenda – failed to make any progress. This briefing paper looks at the key issues and controversies in the trade–environment debate after Seattle.

The environmental impact of trade and investment

Trade impacts both positively and negatively on the environment. The *net* impact in any given case of an increase in trade volumes will depend on the aggregate outcome of a number of effects:

- *Scale effects.* In general, trade and investment liberalization accelerates economic growth. Positive scale effects then result from a reduction in poverty-driven environmental degradation and from the increased attention countries tend to pay to environmental quality and regulation as income rises (though it is possible that by the time this 'turning point' is reached, the environmental resource base may have suffered irreversible degradation). Emissions of many global pollutants such as greenhouse gases, however, tend to grow as income rises, displaying negative scale effects. This is at base a result of market failures, such as ill-defined property rights (no one 'owns' the atmosphere), and a failure to incorporate environmental externalities (such as the costs of climate change).
- The *structural effects* of shifts in the structures of economies, which are accelerated by openness to trade, tend to be positive for the environment. Typically economies develop from primary resource extraction through processing to manufacturing and then to services, and each step tends to lead to a reduction in pollution output and resource depletion, though the correct pricing of environmental externalities is again an important factor.

¹ United Nations Conference on Environment and Development, Agenda 21, Chapter Two, Section B.

² Marrakesh Agreement Establishing the World Trade Organization, preamble, para 2.

³ WTO: Trade and Environment Decision of 14 April 1994.

- *Technology effects* arise from greater access to new technologies (again promoted by trade and investment liberalization), which in general tend to produce less pollution and use fewer resources than their predecessors.

- *Product effects* – changes in the mixes of goods produced and consumed, shifts in production methods (such as outsourcing component manufacture among different countries), and associated energy, transport and other environmental implications – can be positive or negative for the environment, once again largely depending on the extent to which prices and decisions reflect environmental costs.

- The *distribution effects* of shifts in production and consumption between countries (and sometimes within countries), which are promoted and accelerated by trade and investment liberalization, may be an important determinant of environmental impact. It is often argued that business may respond to higher environmental standards – which are assumed to lead to higher business costs and lower profits – through migration, of investment flows if not of industrial plant itself, to countries with less stringent regulatory regimes, where the cost of production is lower. In fact this is a complex area with a dearth of empirical evidence.⁴ Most research indicates that environmental standards play no significant part in investment location decisions, largely because the costs associated with them are relatively low; many other factors, including political stability, potential of domestic markets, quality of infrastructure, labour costs and ease of repatriation of profits are more important.

While this is true in general, however, some specific industry sectors may be more significantly affected by environmental policy. In particular, policies designed to mitigate climate change are bound to require increases in the cost of carbon-intensive energy sources, with a major impact on energy-intensive industries such as iron and steel or aluminium, where energy consumption may account for up to 15–20% of total costs. Furthermore, as with any measure where the benefits are diffuse and widespread but the costs are concentrated, political lobbies *against*

action may often prove stronger than lobbies *for*. Political decision-makers often tend to behave as though they believe that environmental regulation does invariably raise costs. Thus competitiveness concerns are likely to remain an important part of the debate.

It is impossible to be precise about the net environmental outcome of these impacts of trade and investment growth, though key sectors can be identified where the liberalization process is more likely to have net positive environmental outcomes. In general these are industries in which subsidies for environmentally damaging production processes, which would be reduced or removed under liberalized trade and investment regimes, are widespread: agriculture, fossil fuels and fisheries. Other benefits would flow from liberalization, particularly in the freight transport and environmental goods and services sectors.

Overall, however, given the widespread failure so far (with a few notable exceptions) of policy to halt or reverse many environmental impacts, it is difficult to be optimistic about the future. It seems likely that any positive technology and structural effects of trade and investment liberalization will be swamped by the large negative scale effects from the expansion of economic activity, and smaller aggregate negative distribution effects. It should be noted, however, that the situation is not necessarily improved if the liberalization process is slowed down or halted: negative scale effects are reduced in magnitude, but so are the positive technology and structural effects. The key question in each case is the effectiveness of *environmental policy frameworks*, which have the potential, if they are adequately constructed and enforced, to offset or even in some cases reverse the negative environmental impacts. In general, it seems likely that environmental policies will be more strongly implemented and enforced under conditions of strong economic growth, though even then it is difficult to believe that they can reverse the overall process of environmental degradation worldwide.

The final impact of trade and investment liberalization on the environment is expressed through the *regulatory effects* of the legal and policy impacts of trade and investment policies: do these make environmental regulation easier or harder to implement? This is the key question underlying most of the trade–environment debate within the WTO, and is the subject of the remainder of this paper.

The multilateral trading system and environmental policy

The central aim of the multilateral trading system – the complex of agreements overseen by the WTO – is to liberalize trade between WTO members. Its core principles are to be found in the following articles of the GATT:

- GATT Articles I (‘most favoured nation’ treatment) and III (‘national treatment’) outlaw discrimination in trade: WTO members are not permitted to discriminate between traded ‘like products’ produced by other WTO members, or between domestic and international like products.
- GATT Article XI (‘elimination of quantitative restrictions’) forbids any restrictions other than duties, taxes or other charges on imports from and exports to other WTO members.
- GATT Article III requires imported and domestic like products to be treated identically with respect to internal taxes and regulations.

WTO members, in other words, are not permitted to discriminate between other WTO members’ traded products, or between domestic and international production. Successive GATT trade rounds have both reduced tariff and non-tariff barriers to trade and extended these principles to ever wider ranges of traded goods and services – and so essentially the same principles are built into all the other WTO agreements which have developed alongside the GATT.

The GATT does, however, under particular circumstances permit unilateral trade restrictions for various reasons, including the pursuit of environmental protection. Article XX (‘general exceptions’) states that:

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in this Agreement shall be construed to prevent the adoption or enforcement by any contracting party of measures:

- ...
- (b) necessary to protect human, animal or plant life or health;
- ...
- (g) relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption.

⁴ For a good summary, see Lyuba Zarsky, ‘Havens, Halos and Spaghetti: Untangling the Evidence about FDI and the Environment’, (paper for OECD conference on FDI and the Environment, January 1999).

So WTO members wanting to apply trade restrictions for environmental purposes can argue that their actions are justified under Article XX. Disputes between WTO members over particular trade measures are decided by the WTO's two-stage disputes procedure: a dispute panel produces a finding, after taking evidence and arguments from all sides; this may be appealed against, in which case the same procedure is followed by the Appellate Body. Decisions of the Appellate Body are binding unless WTO members decide – unanimously – not to adopt them. Given the fact that several key terms in the text of the GATT and other agreements – such as 'like product' – are not defined, the findings of panels and the Appellate Body in a series of dispute cases have in practice determined how the multilateral trading system treats trade-related environmental measures, and will continue to do so in the absence of any agreement to modify or further extend the WTO system.

As noted above, the WTO itself contains a reference to sustainable development in the preamble of the Agreement establishing the body. Initially regarded as little more than a symbolic acknowledgment of the issue, it has been accorded considerably greater significance since the WTO Appellate Body cited it as an acceptable justification for particular trade measures in the 1998 shrimp-turtle dispute.⁵ (This arose when the US imposed an embargo on imports of shrimp caught in nets not fitted with turtle-excluder devices, which prevent the incidental deaths of large numbers of endangered species of sea turtles.)

The heart of the multilateral trading system is the principle of non-discrimination between 'like products'. Although in most instances this would appear to cause no problem for environmental regulation, there are in fact three main areas where conflicts may arise: over internationally determined product standards; where processes, rather than products, cause the environmental damage; and in the enforcement of MEAs.

Product standards

Although the GATT in general frowns on trade restrictions, the existence of Article XX suggests that countries should be able

⁵ This line of argument may widen the future potential for process-based trade restrictions (see further below) beyond what it was generally thought the WTO would allow, which is probably why it generated almost as much criticism from the complainants in the case as from the defendant.

to ban or restrict the import of products which will harm their own environments, as long as the standards applied are non-discriminatory between countries and between domestic and foreign production. As the GATT Secretariat expressed it in 1992, '... GATT rules place essentially no constraints on a country's right to protect its own environment against damage from either domestic production or the consumption of domestically produced or imported products ...'.⁶

The Uruguay Round, however, saw a significant extension of the two main WTO agreements governing the application of potentially trade-restrictive measures in the fields of standards. Technical standards, including packaging and labelling requirements, are covered by the Agreement on Technical Barriers to Trade (TBT Agreement), and human, animal and plant health standards by the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement). Both aim to encourage the international harmonization of product standards and to avoid their use as disguised protectionism. Where possible, internationally agreed standards, such as those agreed by the International Organization for Standardization (ISO) or the Codex Alimentarius Commission, are to be used.

Under paragraph 2.2 of the TBT Agreement, technical regulations 'shall not be more trade-restrictive than necessary to fulfil a legitimate objective'. This is defined as including environmental protection, and environmental grounds have indeed become more widely cited as an objective and rationale for applying trade-restrictive regulations including, most notably, measures aimed at controlling air pollution and hazardous chemicals.⁷ However, there is almost no experience with the way in which the WTO dispute settlement system might interpret the phrases 'not be more trade-restrictive than necessary' and 'unnecessary obstacle to international trade' in the TBT Agreement, particularly where non-international standards (e.g. standards more rigorous than those agreed by ISO) are involved.

The SPS Agreement allows WTO members to take protective measures in the face of a threat from one of a number of specific causes (such as disease-causing organisms) as long as certain conditions are met, including the requirement that the measure be based on a risk assessment. This was a key point in the 1998 beef

⁶ *International Trade 1990–91* (Geneva: GATT Secretariat, 1992), p. 23.

⁷ *Ibid.*, p. 32.

hormones dispute, in which the US argued that an EU ban on imports of beef from cattle treated with growth hormones was WTO-incompatible. The Appellate Body found that the ban could be justified as long as the EU provided convincing scientific evidence of the danger to human health; when the European Commission failed to supply this within the set period, the WTO authorized the US to levy tariffs on specific categories of EU exports.

This was not, however, an argument about discrimination, as the EU also bans its own producers from using the hormones in question. Effectively the Uruguay Round agreements have taken the WTO beyond the simple issue of trade discrimination into a new realm of global standard-setting. In turn this focuses attention on the standard-setting bodies themselves – both their composition (they are typically dominated by industry experts) and their modes of operating. It also raises the question of how appropriate standards can be set in the absence of complete scientific knowledge, and how the WTO would treat trade measures justified by the precautionary principle, familiar to environmental policy-makers, which argues for preventive action without full scientific certainty, particularly in instances where the costs of actions are low and the risks of inaction high. The SPS Agreement itself contains only a rather weak version of the precautionary principle, and the Appellate Body in the beef hormones dispute was not convinced that the principle had yet been accepted as a principle of general international law. However, the Cartagena Protocol on biosafety, agreed in January 2000, contains a distinctly stronger version of a precautionary approach to the movement of genetically modified products; this may reinforce the status of the principle in WTO disputes.

Process and production methods

The problem with trade restrictions based on environmental regulations derived from process and production *methods* (PPMs), as opposed to *product* standards, stems from the meaning of the GATT term 'like product'. This has become one of the most difficult issues in the trade–environment arena. Originally incorporated into the GATT in order to prevent discrimination on the grounds of national origin, GATT and WTO dispute panels have in general interpreted the term more broadly to prevent discrimination in cases where *process* methods, rather than *product* characteristics, have been the distinguishing characteristic of the product and the

justification for trade measures. In the well-known US–Mexico tuna-dolphin dispute in 1991, for example, the dispute panel ruled that the trade restriction in question (the US import ban on Mexican tuna caught with dolphin-unfriendly nets) was in breach of the GATT because it discriminated against a product on the basis of the way in which it was produced, not on the basis of its own characteristics – i.e. it discriminated against a ‘like product’.

In 1994, another GATT panel, ruling on an EU–US dispute over car imports, slightly relaxed the definition, considering that vehicles of different fuel efficiency standards could be considered not to be like products. However, it placed strict boundaries on this conclusion, arguing that Article III of the GATT referred only to a ‘product as a product, from its introduction into the market to its final consumption’.⁸ Factors relating to the manufacture of the product before its introduction into the market were, therefore, still irrelevant. In 1996 another panel found that chemically identical imported and domestic gasoline were like products regardless of the environmental standards of the producers.

It is worth noting, however, that the term ‘like product’ is nowhere defined in the GATT, and in other areas the distinction between products and PPMs is not maintained. Both the Agreement on Subsidies and Countervailing Measures and the Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement) regulate some aspects of how goods are produced, allowing importing countries to discriminate against products if they are produced using excessive subsidy or misappropriated intellectual property. GATT’s Article XX(e) allows countries to discriminate against products produced using prison labour.

Furthermore, there are some signs that the WTO’s Appellate Body may be modifying its approach in more recent disputes. In both the reformulated gasoline case of 1996 and the shrimp-turtle dispute of 1998, the Appellate Body overturned the original dispute panels’ arguments in some important respects (though upholding their conclusions, which were in each case to find against the restrictions on trade imposed by the US). The Appellate Body’s main objection to the measures employed in the two cases appeared to be to the way in which they were applied – which was found to be ‘arbitrary and unjustifiably discriminatory’ in the terms of the headnote to

⁸ *US – Taxes on Automobiles: Report of the Panel*, 1994, para. 5.52.

Article XX – rather than to the basis on which they rested. Although it was not stated explicitly, the implication could be that PPM-based trade restrictions might be acceptable if they were applied in a fashion which did not discriminate in any way other than on the basis of the means of production of the goods in question.

This is, however, a complex debate. Where the pollution caused by the PPM is confined to the locality of the process, PPM-based environmental trade measures are not easy to justify. Different parts of the world vary widely in their ability to assimilate pollution, depending on factors such as climate, population density, existing levels of pollution and risk preferences. Environmental regulations suited to industrialized nations, with high population densities and environments which have been subject to pollution for the past 200 years, may be wholly inappropriate for newly industrializing countries with much lower population densities and inherited pollution levels – and yet trade measures based on PPMs could in effect seek to impose the higher standards regardless. Carried to its logical extreme, enforcing similarity of PPMs could deny the very basis of comparative advantage, which rests on the proposition that countries possess different cost structures for the production of various goods. It is hardly surprising that many developing countries view the motives of those wishing to introduce the PPM issue to the debate as protectionist.

Where the pollution is transboundary or global, however, the argument is different, since the impact of the PPM is not confined to the country of origin. PPM-based measures are, furthermore, becoming increasingly important in strategies for environmental sustainability. Particularly where the use of energy is involved (as it is in virtually every manufacturing and processing activity), the pollution caused stems from the process and not the product. Attempts to reduce energy use in order to mitigate climate change – through, for example, energy or carbon taxes – may well be applied to processes. Life-cycle approaches, and ecolabelling schemes based on them, have similarly focused attention on the way in which products are manufactured, grown or harvested, as well on product characteristics themselves; indeed, the whole point of ecolabelling schemes is to provide information on differences in characteristics between like products.

Inclusion of PPM-based trade measures in MEAs may provide a solution, and in

fact the Montreal Protocol on ozone-depleting substances includes provision for such measures, though they have not so far been deployed. GATT and WTO panels have repeatedly stressed the desirability of multilateral rather than unilateral action; part of the original panel’s argument against the US action in the shrimp-turtle case was that the US had not attempted to enter into negotiations on a potential multilateral agreement before it imposed the import ban. The negotiation of international treaties is frequently, however, a difficult and slow process. A number of participants in the debate⁹ have therefore called for the GATT to be amended to set out objective criteria under which trade measures directed against PPMs could be taken (including requirements such as non-discriminatory and transparent measures and evidence of significant transboundary environmental problems), subject to challenge under normal GATT rules. In effect, this represents a redefinition of the term ‘like product’ in the context of a world in which environmental policy requiring the control of PPMs may justify trade policies which are not protectionist in intent but may seem so from the perspective of those who drafted the GATT fifty years ago.¹⁰

Multilateral environmental agreements

As Principle 12 of the Rio Declaration states, international agreement is clearly preferable to unilateral action in tackling transboundary or global environmental problems. Almost 200 MEAs already exist, of which about twenty incorporate trade measures. These include five of the most important: the Convention on International Trade in Endangered Species (CITES), the Montreal Protocol on ozone-depleting

⁹ See in particular Paul Ekins, *Harnessing Trade to Sustainable Development* (Oxford: Green College, 1995), pp. 10–11; and Natural Resources Defense Council/Foundation for International Environmental Law and Development, *Environmental Priorities for the World Trading System* (Washington, DC: NRDC, 1995), p. 9.

¹⁰ As Thomas Cottier, chair of the beef hormones panel, has argued, the ‘approach of construing the term like product in accordance with the very purpose of GATT and therefore in terms of prohibiting protectionist aims or effects of product differentiation is more suitable not only to the role of panels, but also leaves governments the necessary scope to pursue legitimate trade-related policies’. (Thomas Cottier, ‘The WTO and Environmental Law: Some Issues and Ideas’, paper delivered at the WTO Symposium on Trade, Environment and Sustainable Development, 17–18 March 1998, p. 5.)

substances and the Basel Convention on hazardous waste are all in force, while the Cartagena Protocol on biosafety and the Rotterdam Convention on the prior informed consent procedure for chemicals and pesticides in trade have been agreed but have not yet entered into force. The draft convention on persistent organic pollutants, currently under negotiation, will also affect international trade. The Kyoto Protocol on climate change (agreed but not yet in force) is bound to do so, and there will be more.

Trade restrictions required by MEAs have been designed to realize four major objectives:

1. To restrict markets for environmentally hazardous products or goods produced unsustainably.
2. To increase the coverage of the agreement's provisions by encouraging governments to join and/or comply with the MEA.
3. To prevent free-riding (where non-participants enjoy the advantages of the MEA without incurring its costs) by encouraging governments to join and/or comply with the MEA.
4. To ensure the MEA's effectiveness by preventing leakage – the situation where non-participants increase their emissions, or other unsustainable behaviour, as a result of the control measures taken by signatories.

Effectively, therefore, these MEAs restrict trade either because the trade itself is causing or leading to the environmental damage, and/or as an enforcement measure, to ensure that the agreement's objectives are not undermined by non-participation. The Montreal Protocol, for example, requires parties to ban imports of chlorofluorocarbons (CFCs) and other controlled substances from non-parties. On the face of it, this would appear to conflict with the GATT, since it discriminates between the same product imported from different countries on the basis of their membership of the Protocol. It is widely accepted, however, that the inclusion of this measure in the Montreal Protocol has contributed significantly to its success in attracting signatories.¹¹

This topic has become one of the main items of debate within the trade–environment agenda in recent years, and was a particularly important topic in discussions in the WTO's Committee on Trade and

¹¹ For a full discussion, see Duncan Brack, *International Trade and the Montreal Protocol* (London: RIIA/Earthscan, 1996).

Environment in its first two years of existence, during the run-up to the Singapore WTO conference in 1996. Members put forward proposals designed variously to define under what conditions trade measures taken pursuant to an MEA could be considered to be 'necessary' according to the terms of GATT's Article XX, or to establish a degree of WTO oversight on the negotiation and operation of trade provisions in future MEAs. The EU pressed for an amendment to the GATT itself to create a presumption of compatibility with MEAs, but no consensus was reached about the need for modifications to trade rules. Other options include waivers for MEA trade measures from the provisions of the multilateral trading system, or a WTO 'understanding' or full-blown agreement on MEAs.

It is worth noting, however, that no complaint has yet arisen within the GATT or WTO with respect to trade measures taken in pursuit of an MEA, and this may continue to be the case; in instances such as the Montreal Protocol, where the trade provisions were designed to encourage countries to accede, this has been so successful that there are virtually no non-parties left against whom trade measures could be taken in any case. On the other hand, the threat of a conflict with WTO rules has been raised in almost all recent MEA negotiations, generally by those opposed to the principle of the MEA and/or its effective enforcement, and there have been various attempts to write 'savings clauses' into them, ensuring that they remain subordinate to WTO disciplines.¹² The lack of clarity on the issue, and the uncertainty about the outcome of any WTO dispute, has thus led many to call for some kind of resolution.

Trade and environment at Seattle

A number of different proposals surfaced in the run-up to the WTO ministerial in Seattle, designed to set the agenda for the 'Millennium Round' of trade negotiations. The EU called for clarification of the relationships between WTO rules and environmental measures in three main areas: MEA trade measures; PPM requirements, particularly ecolabelling schemes; and 'core environmental principles', notably the precautionary principle. In addition, the EU commissioned a sustainability impact assessment of proposed

¹² The Cartagena Protocol contains both such a phrase and another sentence explaining that the Protocol is not subordinate to any other agreement, thus entirely avoiding resolving the issue.

reforms in the Millennium Round.¹³ Published just before the Seattle meeting, the assessment was generally welcomed as highlighting the main areas of impact, though the study was so broad and general that it was difficult to draw any conclusions from it at this stage; however, further work is being conducted (other countries have also called for impact assessments, including retrospective studies of effects of the Uruguay Round). The EU commitment to environmental priorities was somewhat undermined, however, by its attachment to existing and environmentally damaging subsidies for agriculture and fisheries.

The US agenda seemed to concentrate mainly on reform of the dispute settlement process, which is an important issue given its role in determining trade–environment relationships (see above). This included making the process more transparent and allowing input from NGOs and other interested bodies. However, the US opposed most of the EU's proposals and attempted to reach agreement on the establishment of a working party on biotechnology, viewed by many as a means of undermining the ongoing Cartagena Protocol negotiations; it also proposed a process of accelerated tariff liberalization in areas such as forestry, with uncertain environmental impacts.

Developing countries as a whole tended to be hostile to the trade–environment proposals of Northern countries, fearing that new environmentally directed trade restrictions would discriminate disproportionately against their exports, and potentially lead on to other new bases for trade barriers, such as labour or animal welfare standards (a fear reinforced by the views of many of the protestors on the streets of Seattle, particularly those from the labour unions, and by President Clinton's remarks to journalists on the subject).

The progress of the talks in Seattle was disappointing to those hoping for a way into the trade–environment agenda in the Millennium Round. The final draft ministerial text contained only a general paragraph on the trade and environment relationship, and the only specific proposal was the working party on biotechnology; and both of these remained in square brackets (i.e. they had not been agreed) in the text. Although the

¹³ This was carried out by the University of Manchester and published in two phases in October and November 1999 – see <http://fs2.idpm.man.ac.uk/sia>.

environmental dimension would of course surface in various parts of the proposed Round, including further negotiations on agriculture, reviews of the SPS Agreement, subsidies and so on, most of those hoping for more specific proposals were probably happy to see the conference end without any agreement on a new Round.

It is difficult to see how the debate will proceed from here. Although in theory a comprehensive trade round is necessary to provide the broad negotiating agenda that will enable deals on various trade–environ-

ment reform proposals, the lack of support for any of them in Seattle does not bode well for the next round, if and when it finally begins. Although there is a much greater degree of public awareness of the WTO and the trade impacts of trade on the environment, development and many other areas, compared with previous trade rounds, the demonstrations at Seattle probably simply raised the fears of many negotiators that protectionism was masquerading as environmental protection, labour standards, and so on.

Progress seems more likely in the environmental policy arena, where the conclusion of the negotiations on the Cartagena Protocol in January 2000 (although several questions were left unresolved) seems to offer a way forward in the controversial area of GM products and trade.

Whatever happens in the next few years, the relationship between trade liberalization and environmental protection is certain to remain, in one way or another, firmly on the international agenda.

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Further reading

RIIA trade and environment series:

- Duncan Brack, *International Trade and the Montreal Protocol* (London: RIIA/Earthscan, 1996)
- Duncan Brack (ed.), *Trade and Environment: Conflict or Compatibility?* (London: RIIA/Earthscan, 1998) (proceedings of RIIA conference, April 1997)
- Jonathan Krueger, *International Trade and the Basel Convention* (London: RIIA/Earthscan, 1999)
- Halina Ward and Duncan Brack (eds), *Trade, Investment and the Environment* (London: RIIA/Earthscan, 1999)
- Duncan Brack, Michael Grubb and Craig Windram, *International Trade and Climate Change Policies* (London: RIIA/Earthscan, 1999)
- Robert Falkner, *Trade, Development and the Politics of International Biotechnology Regulation* (forthcoming, 2001)

(See www.riia.org/Research/eep/eep.html for the latest details on the programme's trade and environment work.)

See also:

James Cameron, Paul Demaret and Damien Geradin (eds), *Trade and Environment: The Search for Balance* (London: Cameron May, 1994) (Cameron May also publish *International Trade Law Reports*, reprinting WTO panel findings, together with commentaries, as they occur.)

Dan Esty, *Greening the GATT: Trade, Environment and the Future* (Washington, DC: Institute for International Economics, 1994)

Gary P. Sampson and W. Bradnee Chambers (eds), *Trade, Environment and the Millennium* (Tokyo/New York/Paris: UN University Press, 1999)

International Institute for Trade and Sustainable Development/UN Environment Programme, *Environment and Trade: A Handbook* (Winnipeg: IISD, 2000)

The International Centre for Trade and Sustainable Development publishes *Bridges* journal (print) and *Bridges* weekly trade news digest (electronic), and maintains a useful web site at www.ictsd.org.

UN Environment Programme 'Environment and Trade' series of booklets now totals seventeen; see www.unep.ch/etu for a full list.

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