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## **Agriculture and Environmental Issues in Free Trade Agreements**

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Including environmental issues in trade agreements is controversial, although these issues are an integral part of the NAFTA and WTO agreements as well as being the subject of numerous multilateral environmental treaties and agreements. Despite its inclusion, many members are opposed to allowing the environment an extensive role in the WTO. Nonetheless, the Doha Ministerial Declaration recognizes the environment in negotiating the next trade liberalization agreement. Agriculture and agricultural trade, which were integrated with international trade disciplines in the Uruguay Round, have environmental implications, and the inclusion of agriculture in the WTO introduces complex issues that also have environmental consequences.

Keywords: agriculture, Doha Round, environment, trade liberalization, WTO

## Introduction

Agriculture is and will continue to be a major contributor to environmental degradation, inducing the conversion of natural ecosystems to agricultural production as the sector responds to increased demand for food and fibres due to increases in population and wealth (see, e.g., Peterson, Boisvert and de Gorter, 2002; Tilman et al., 2001). Agricultural goods also comprise an important segment of international commodities trade and there can be important environmental effects, both positive and negative, from increased agricultural trade. In addition, domestic environmental regulations can significantly affect an industry's competitiveness (see, e.g., Metcalfe, 2002). Thus, it is important to explore the implications for agriculture and the environment of international trade agreements, such as the World Trade Organization, the Free Trade Area of the Americas, and other regional and bilateral trade agreements.

Environmental issues became important in free trade agreements after the U.S. loss in the 1991 dispute with Mexico over tuna fishing and protection of dolphins (Eglin, 1999). This loss energized environmentalists who wished to protect endangered species threatened by commercial activities. It resulted in the inclusion of environmental provisions in the North American Free Trade Agreement (NAFTA) and in activation of the Environmental Measures and International Trade Group by the General Agreement on Trade and Tariffs (GATT), a group established in 1971 but that had never met. Consequently, environmental issues affected the Uruguay Round and have a more prominent role in the Doha Round of negotiations with the establishment of the Committee on Trade and the Environment (CTE).

Environmental and trade issues are interrelated, with important implications for the global economy and domestic agricultural sectors.<sup>1</sup> Historically the two spheres were dealt with through separate international treaties and agreements, trade concerns under GATT (WTO) and a multitude of regional and bilateral trade agreements, and environmental issues under a large number of multilateral environmental agreements. While each type of agreement has implications for the other, no trade measure established under an environmental agreement has been challenged by the GATT/WTO system, according to the WTO (2003).<sup>2</sup>

Concerns about the environment were a factor in the protests at Seattle that delayed the start of the current round of WTO trade negotiations. Thus, when the Doha Round of negotiations was initiated in November 2001, environmental issues were specifically recognized and integrated into the negotiation process, although to a

relatively limited extent. This integration is contentious due, in part, to very different views held by the European Union and developing countries with respect to negotiations on environmental protection in the international arena. While environmental protection is not apt to receive the support that most environmentalists would like to see in the WTO, it will continue to be an important part of the process, although environmental agreements will continue to be the more important venue for handling and resolving global environmental issues. There also is a requirement in the 2002 U.S. Trade Promotion Authority Act (TPA) that U.S. negotiators include a set of environmental objectives in future trade agreements (Shiner, 2002).

### **Environmental Issues in Trade Agreements: Concerns and Issues**

The incorporation of environmental issues in trade agreements is relatively recent and remains controversial. As indicated by Bhagwati (2000, 2002), many economists tend to think environmental and trade issues should continue to be addressed in separate agreements, while environmentalists often think that it is essential to address relevant environmental issues in trade agreements (Deere and Esty, 2002).<sup>3</sup> Kerr (2002b) discusses the complex issues of WTO-MEA trade conflicts from the viewpoint of international law, noting that the latest agreement tends to prevail.

The basic view of many free trade proponents is that environmental regulations that affect trade are non-tariff barriers, are not justified, and generally should be avoided in trade agreements. This view is represented by what Bhagwati (2002, p. 80) calls “the principle of two birds and two stones.” Although an oversimplification, the following summarizes this viewpoint: 1) free trade results in increased incomes; 2) higher incomes increase the demand for improvements in the environment and will result in increased expenditures on the environment; 3) environmental regulations in trade agreements become trade barriers which restrict trade and reduce incomes, with an accompanying decrease in the demand for improvements in and expenditures on the environment; and 4) therefore, environmental issues should be left to domestic policies and multilateral environmental agreements that are separate from and that do not restrict or prevent the benefits of free trade. Many, however, recognize the need for coordination of activities to reduce and/or resolve conflicts between multilateral trade and environmental agreements.

Those who advocate the inclusion of environmental issues in free trade agreements believe that trade and environmental issues are too interdependent to be

separated. Their views can be summarized as follows: 1) trade produces negative direct and indirect effects on the environment; 2) free trade agreements are biased against environmental protection issues; 3) in disputes about environmental issues, the MEAs tend to lose and are not effective in protecting the environment; 4) environmental regulations tend to be weak in developing countries and this weakness will attract polluting industries which will produce environmental damage; and 5) thus, it is essential to provide for environmental protection in trade agreements to assure environmental protection and sustainable production (see Deere and Esty, 2002). Some environmentalists do not support this position, but maintain that strong measures are needed to protect the environment (Repetto, 2000). In addition, although several theoretical models indicate that a race to the bottom could occur, there is little or no empirical evidence to indicate that it does (Xu, 2000; Eliste, 2002).

The issue of whether or not to include environmental topics in trade agreements may have become a non-issue, since it seems certain that the environment will be addressed to some extent in most future multilateral trade agreements as a result of the activities undertaken by environmentalists to increase the general level of concern about such issues, as well as the provisions of the TPA and the Canadian and U.S. requirements for environmental assessments of trade agreements. It also might be noted that these concerns arose, to some extent, through a misplaced emphasis on the impact of the tuna/dolphin case, which was never implemented. The United States and other tuna fishing nations undertook negotiations that resulted in most tuna fishing becoming relatively dolphin safe (although this remains a concern due, at least in part, to attempts by the Bush Administration to weaken the standards; see, e.g., Defenders of Wildlife, 2003).<sup>4</sup> Between 1988 and 1998, the estimated annual dolphin kill declined from more than 130,000 to less than 2,000 (NOAA, 2002). While the partial overturning of a similar GATT/WTO dispute settlement panel ruling in the shrimp/sea turtle case may indicate that the concerns of environmentalists were not fully justified, their actions/reactions have had significant impacts on the trade community. Also the lack of transparency in GATT/WTO and other weaknesses, as in the dispute settlement process, cause suspicion and distrust (Sampson, 2000).<sup>5</sup> When the GATT procedures were developed, the organization consisted of a small group of industrialized nations, which could function like a club (Kerr, 2002a). That approach does not function well with the greatly expanded membership of the WTO, creating the need for a different, more open approach.

The positions and concerns of the less developed nations also affect the role of the environment in trade agreements (see Ingco, 2002, for a good review of these issues).

To many developing countries, the inclusion of environmental issues in trade agreements is just another way the developed world is imposing trade barriers on the goods produced by the world's low-income countries, which cannot afford to undertake the costly environmental programs being imposed on them as conditions to export products to the industrialized nations (Hoekman and Anderson, 2000; Huff, 2000). This position was specifically stated by Argentina in a position paper to the CTE (ICTSD, 2002b). GATT/WTO rules require that the same regulations must apply to domestic and imported products and that it is the final product that matters, not the production process. This requirement formed the basis of the argument used by countries that contested the tuna/dolphin and shrimp/sea turtle cases, since the final product is not distinguishable by the method used to catch the fish or shrimp. Environmental concerns, however, involve more than just production processes; they also include issues such as biodiversity, species extinction, quality of life, etc. Article XX of GATT permits regulations to protect animal life, which includes endangered species. The sometimes conflicting provisions of the GATT/WTO agreements can be and are interpreted in different ways by those with varying views of environmental, development, trade, and related issues. Interpretations also vary as a result of differences between the views held by industrialized and developing nations. Thus, developing nations continue to be concerned that their manufactured, agricultural, or mineral products produced by methods not acceptable in the industrialized countries for environmental or other reasons may be subject to import restrictions.

### **NAFTA's Environmental Side Agreement**

NAFTA was the first major trade agreement to explicitly incorporate environmental issues, resulting in measures to improve environmental conditions, especially in Mexico (see, e.g., Colyer, 2002 and Hufbauer et al., 2000 for evaluations of the impacts). The agreement includes environmental issues in its main document as well as in a side agreement. The side agreement created the North American Agreement on Environmental Cooperation Commission, a trilateral organization that addresses environmental issues and that functions through the Commission for Environmental Cooperation (CEC) and its secretariat in Montreal. The CEC operates according to three basic principles, i.e., the three countries: 1) agreed not to induce investment by becoming pollution havens, 2) established rules about the use of regulations to protect consumer, plant, animal and environmental health, and 3) gave priority to multilateral treaties, such as the WTO. Each country enforces its own environmental laws, although the CEC can investigate citizen

complaints that a country is not enforcing its environmental laws and regulations. The CEC oversees the implementation of the side agreement, provides a forum for discussing issues, cooperates in solving environmental problems, and adjudicates complaints about the failure of governments to enforce their environmental laws. A Joint Public Advisory Committee allows for input from NGOs and others (Kotvis, 1995). The provisions for transparency and for citizen input into the processes are important aspects of the agreement that negotiators for WTO and other agreements might examine and consider emulating (see Deere and Esty, 2002).

The CEC functions through cooperation and contention. Cooperative efforts include the exchange of information, technical assistance, consultation, and coordination of environmental laws, while contention includes observing and monitoring the environment, receiving and evaluating complaints, and imposing sanctions if the complaints are judged valid (Kotvis, 1995). Governments, organizations, firms, and individuals can file complaints with the CEC if they find that a country's environmental laws are not being enforced. Complaints are referred to the Evaluation Committee of Experts, which further refers them to dispute resolution panels if they are found to be valid. Trade or monetary sanctions may be used to enforce the findings.

### **The WTO and the Environment**

Environmental concerns became an issue in the GATT negotiations during the Uruguay Round following the tuna finding by a GATT dispute resolution panel. They had not been a major issue in the several rounds of GATT negotiations that preceded the Uruguay Round, although GATT had established the Group on Environmental Measures and International Trade in 1971 to focus on issues of industrial pollution (Nordström and Vaughan, 1999, p. 68). That group, however, had not met until called together by the GATT director general in response to the crisis provoked by the tuna decision and the threat it posed to an already contentious and tardy process for concluding the Uruguay Round (Eglin, 1999; Esty, 1994). Its deliberations resulted in a Chairman's Report with four conclusions: 1) that its activities should remain within the GATT mandate to consider only aspects of environmental policies that affect trade; 2) that there is no necessary contradiction between upholding the principles of multilateral trade and environmental protection; 3) that multilateral trade rules should not present an unjustified obstacle to environmental policy making; and 4) that an open and secure trading system can facilitate environmental protection (Nordström and Vaughan, 1999, p. 10).

The conclusion of the Uruguay Round resulted in the formation of the WTO in 1995, and environmental issues became an established part of the multilateral trading system. According to the WTO Secretariat: “At the end of the Uruguay Round, Trade Ministers adopted the Decision on Trade and the Environment which anchored environment and sustainable development in WTO work” (Nordström and Vaughan, 1999, p. 67). Implementation of the WTO agreement included establishing the Committee on Trade and Environment, which was given jurisdiction over most aspects of the trade-environmental interface. In evaluating this process, Nordström and Vaughan (1999, pp. 2-7) found that environmental degradation is a problem, but that trade could enhance economic welfare *when proper environmental policies are in place* (emphasis added). They also concluded that trade barriers generally make poor environmental policy and that it is not necessary to harmonize all environmental standards. Additionally, they found that public accountability and good governance are essential to good environmental policy and that international cooperation is required to protect the environment. The press release that accompanied the report cautioned against making the type of sweeping generalizations that are often heard in public debates on trade and the environment (WTO, 1999). However, both the report and press release make statements that can be interpreted as sweeping generalizations, e.g., “every WTO government supports open trade because it leads to higher living standards for working families which in turn leads to a cleaner environment” (WTO, 1999, pp. 1-2).

### **Agriculture and the Environment in the WTO**

The Uruguay Round of GATT was also the first time that agricultural trade was subjected to trade discipline, with the Uruguay Round Agricultural Agreement (URAA). The WTO agreement mentions environmental issues in a number of places, including the preamble to the Marrakech Agreement which established the WTO, GATT’s Article XX, the Technical Barriers to Trade Agreement, the Agriculture Agreement, the Intellectual Property Agreement, and under services, the General Exceptions of GATS Article XIV (WTO, 2002b). These references to the environment tend to contain a provision that domestic laws on the environment or those that protect human, animal and plant life or health can be exceptions to prohibitions to trade barriers, a situation that can lead to the erection of barriers to trade.

Although the environment is not the main focus of the agricultural agreement, it does contain provisions with environmental implications. The URAA generally covers border measures, export subsidies, market access, domestic support measures, and



product attributes including sanitary/phytosanitary provisions (Josling, Dixit and Blandford, 2001; Nayyar, 2003). The agricultural agreement should result in increased trade in agricultural products, which can have environmental impacts in the trading countries due to scale, structure or technological impacts, although the net effects cannot be determined *a priori* (Abler and Shortle, 1998; Krissoff et al., 1996). Some argue that the provisions of the URAA were designed to have minimal current effects on agriculture (see OECD, 2001) and thus will have few if any impacts on the environment. However, it was expected that agricultural trade would be further liberalized in the following (current) round of WTO negotiations, although the negotiations are currently deadlocked and there are many contentious issues to be resolved (ICTSD and IISD, 2003a).

The URAA has implications for the environment through its provision on domestic subsidies and product characteristics. The agreement limits and requires reductions in those agricultural subsidies that are defined as trade distorting. For these purposes, subsidies are classified into three groups or boxes: amber, blue and green. Payments in the amber box are considered the most trade distorting and are those that encourage production or raise consumer prices. Such subsidies are called the Total Aggregate Measurement of Support (AMS) payments and are limited by the URAA. However, the limits have not been a problem for most countries, which revised their policies when needed to shift payments into the exempt categories. For example, most direct payments not tied to current production levels go into the green box and are exempted from the AMS limits. Payments tied to production and that also limit output are classified as blue-box payments, which also are exempt. Payments for conservation, environmental protection, infrastructure, and domestic food aid are classified as green-box payments and regarded as non- or minimally trade distorting. Green payments, those for conservation and related environmental purposes and favored by the EU and Japan, have become controversial in the Doha Round of trade negotiations, as developing and some other countries view them as harmful to their agricultural sectors' competitive position and are opposed to the use of such payments by the industrialized countries (see Lohr, 2001, for one U.S. perspective).

Several governments, including those of the United States and the EU, adjusted their agricultural policies to take advantage of the blue- and/or green-box payments to farmers, thus avoiding the limits set by the URAA. In the United States, the 1996 Federal Agricultural Improvement and Reform (FAIR) Act decoupled most farm subsidies from current production. However, the loan deficiency payments portion of the subsidies is tied to production and such payments, under both the FAIR Act and

2002 farm legislation are not eligible for the blue box, since they are not accompanied by production control measures and, thus, are reported under the amber box. The full impacts of the latter act are yet to be determined, but are viewed negatively by other countries (*New York Times*, 2002; see also Mussell, Mayer, and Martin, 2002, for a strong critique of U.S. subsidies).<sup>6</sup>

The sanitary-phytosanitary measures and other provisions dealing with product characteristics recognize the legitimacy of domestic laws and regulations to protect human, animal and plant life and health, provided such regulations are based on science.<sup>7</sup> Thus, they are presumed not to have been imposed as trade barriers designed to protect domestic industries. Such regulations must apply equally to both domestically produced and imported products. However, developing countries tend to view many of the regulations as trade barriers and are opposed to their use (Hoekman and Anderson, 2000).

### **Environmental Issues in the Doha Round Negotiations**

The agreements from the Doha meetings mandate environmental negotiations as stated in the Ministerial Declaration of November 2001 (WTO, 2001; ICTSD, 2001). The Committee on Trade and the Environment (CTE) has responsibility for these negotiations as outlined in paragraph 31 of the declaration (WTO, 2001):

31. With a view to enhancing the mutual supportiveness of trade and environment, we agree to negotiations, without prejudging their outcome on:

(i) the relationship between existing WTO rules and specific trade obligations set out in multinational environmental agreements (MEAs). The limitations shall be limited in scope to the applicability of such existing WTO rules as among parties to the MEA in question. The negotiations shall not prejudice the WTO rights of any member that is not a party to the MEA in question;

(ii) procedures for regular information exchange between MEA Secretariats and the relevant WTO committees, and the criteria for granting observer status;

(iii) the reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services.

In addition, environmental issues are also addressed in other negotiating venues (ICTSD and IISD, 2003a).

## CTE Negotiations

The Doha mandate's charge to the CTE is specific, although limited. Item (i) has been especially contentious, at least as reported from the CTE meeting of March 2002. The European Union, the primary group demanding that environmental issues be included in the Doha negotiations (see EU, 2001), distributed a controversial paper with its thoughts on these issues (ICTSD, 2002a). Their presentation implied that the negotiated environmental provisions might still obligate non-signatories to MEAs. This was objected to by the other participants who felt that the European proposal goes beyond the scope of the Doha mandate to the CTE, which was crafted to define and limit the scope of the negotiations and contains language that they should not prejudice the rights of non-signers of any MEA. Resolving conflicts between the WTO and MEAs is a complex endeavour that poses numerous problems and issues that will need to be resolved by the negotiations (see, e.g., Kerr, 2002b).

Under item (ii) the CTE is to consider information exchanges with the MEAs and observer status for nonmembers. This resulted in a dispute about why observers from the MEAs were not permitted to attend a 2002 meeting. A separate meeting was, however, held to provide information to the MEAs (ICTSD, 2002b). Issues discussed at this meeting included which MEAs should be included in information exchanges and granted observer status – there are a large number of international and regional agreements – and the role of the CTE in determining observer status vis-à-vis the Trade Negotiations Committee, which also is considering observer status issues. While there has been reluctance to permit the MEAs to participate in the special negotiating sessions, most MEAs routinely invite WTO observers to attend their meetings. At a meeting held in February 2003, the CTE decided to allow the secretariats of the U.N. Environmental Program and six MEAs to attend the next special session of the CTE on an ad hoc basis; others may be allowed to attend in the future (ICTSD, 2003b).<sup>8</sup> However, some MEA representatives at a May negotiating session expressed disappointment at the role they were permitted and indicated that they were uncertain that the MEAs had anything to gain from participating in the process. The same group has been invited to the July negotiating session, but again with discussion limited to paragraph 31.1 issues (ICTSD, 2003d).

Item (iii) of paragraph 31 is intended to facilitate trade in environmental goods, and the CTE negotiations in this regard have addressed what is included in environmental goods. The Negotiation Group on Market Access is the body that has been given the actual task of reducing the barriers to trade in environmental goods and

the Council for Trade in Services is handling environmental services barriers. However the CTE is still involved, especially for goods, as there are disputes about definitions of such goods. Some members, e.g., the EU, wish to include those produced in environmentally friendly ways or that are environmentally sound, i.e., recyclable. Most other members are opposed to including such goods, that is, goods that are defined as environmental on the basis of their production processes; those who register this objection think of environmental goods as those used to directly improve the environment, such as pollution control equipment for factories. New Zealand has proposed a list of goods to be included based on the list used by the Asia Pacific Economic Cooperation group; this list, together with a list of environmental goods categories from the Organization for Economic Cooperation and Development, appears to be the approach favored by most members of the CTE. These lists consist primarily of goods used to clean the environment and those used to contain or prevent pollution (ICTSD and IISD, 2003a).

### **Related Negotiations**

**I**n addition to the roles for the market access and services negotiating groups discussed above, environmental concerns also are part of the ongoing negotiations within the agricultural, intellectual property rights, development, and other negotiating areas, generally as a direct effect of Doha Ministerial Declaration mandates (WTO, 2001; ICTSD and IISD, 2003b). In paragraph 32 of the declaration, for example, the CTE was directed to give attention to the effect of environmental measures on market access, provisions of the Trade-related Aspects of Property Rights (TRIPS) agreement, and labeling requirements. The TRIPS directive indicated that particular attention should be given to the impacts on developing countries. India has presented a paper describing how environmental measures of developed countries hamper the entry of developing-country goods that are actually environmentally friendly; this issue has a long history and is related to the failure of the developed countries to follow through on the promises made to assist developing countries with their environmental problems in exchange for supporting international multilateral environmental efforts.<sup>9</sup>

The agricultural negotiations are very contentious and environmental issues are a factor in this situation although not the major contributor to the disputes, which largely revolve around export subsidies, domestic support measures, and developing-country issues. Environmental subsidies for agriculture are classified as green-box matters, but the green box also contains the so-called non-trade-distorting direct

income subsidies, which are especially controversial from the point of view of many developing countries – as is the expanded use of green payments (see Ritchie, Murphy and Lake, 2003, or Devadoss, 2002, for discussions of this). Another environmentally related concern being raised in the agricultural negotiations is the concept of multifunctionality, including environmental issues, put forward by Switzerland, Norway, Mauritius, Japan and Korea as well as the EU. This concept envisions agriculture as encompassing issues to do with the environment, rural development and food security and holds that policy in these spheres should not be sacrificed for free trade (ICTSD and IISD, 2003a; EC, 2003; Peterson, Boisvert and de Gorter, 2002). For example, the EC's agricultural paper states (p. 6): "The EC proposes that measures that aim at protecting the environment, which is relevant to both developed and developing countries, should be well targeted, transparent, and implemented in more than minimally trade-distorting ways" (emphasis in original).

## Environmental Assessments

Environmental assessments of trade agreements (and other legislation) have become common or required in a number of countries including the United States and Canada. The U.S. program is mandated by Executive Order 1341 developed during the Clinton Administration and reaffirmed by the Bush Administration (Clinton, 1999; USTR, 2001b). Paragraph 33 of the Doha Ministerial Declaration requires that the CTE prepare a report on how expertise in environmental capacity-building can be enhanced through sharing of expertise and the provision of technical assistance, including the carrying out of environmental reviews (ICTSD and IISD, 2003b).

The Canadian Department of Foreign Affairs and International Trade (2002) has made an initial environmental assessment of the WTO negotiations and concluded that they would have minimal effects on the Canadian agricultural sector. The department recognizes that this is due to Canada's rigorous farm environmental regulations. Thus, the same conclusion does not apply in countries with less strict regulations or those that do not enforce their rules as effectively as Canada does. The EU also presented a paper to the WTO on a proposed multi-year program to conduct sustainability impact assessments of the Doha negotiations (ICTSD and IISD, 2003b), and the United States has announced undertaking a partial analysis (agriculture and services) of the environmental effects of the WTO (USTR, 2001a). Paragraph 33 of the Doha mandate provides that technical assistance should be provided to developing countries wishing to conduct environmental reviews (ICTSD and IISD, 2003b).

## Other Trade Agreements

A large number of multilateral, regional, and bilateral trade agreements exist and many are being negotiated. Historically, environmental issues have played a relatively minor role, if any, in most trade agreements other than NAFTA, the last GATT agreement, i.e., the WTO, and the Canada-Chile agreement (see Matus and Rossi, 2002, for a discussion of the latter). Furthermore, environmental issues are not included in any significant way in the draft agreement for the Free Trade Area of the Americas (FTAA), due largely to the opposition of most members other than Canada, the U.S. and, possibly, Chile. Since the WTO has encompassed environmental issues in its agreements and negotiations, those involved in the FTAA and many other trade agreement negotiations are disposed to let that organization handle the thorny and contentious negotiations on the environment. They, then, will apply the results to their own situations. Other trade agreements in the Americas largely ignore the environment or are approaching it in separate efforts (see, e.g., Seeger and Borregard, 2002). The Common Market of the Southern Cone (MERCOSUR) has developed a Framework on the Environment, but it has not been ratified. The Andean, Caribbean, and Central American groups are approaching environmental issues in separate negotiations. While a few bilateral agreements, e.g., Canada-Chile, Canada-Costa Rica, include environmental provisions, most do not.

## Conclusions and Implications

Agriculture, trade and the environment are interrelated, with important implications for and effects within the global economy. Agriculture did not become an important factor in trade agreements until its inclusion in the Uruguay Round of GATT negotiations. Historically trade and the environment were dealt with through separate international treaties and agreements, trade issues under GATT (now the WTO) plus a multitude of regional and bilateral agreements, and the environment under several multilateral environmental agreements. Each of these sets of agreements has implications for the other and each has provisions that affect the other. Although these have tended to be relatively minor, they have frequently led to disputes, particularly in the GATT. Thus, the GATT dispute settlement panel ruling in the tuna-dolphin case brought by Mexico against U.S. laws to protect dolphins led to widespread protests and, consequently, hastily improvised responses in the Uruguay Round and NAFTA negotiations. These responses included the NAFTA environmental side agreement negotiated by the Clinton Administration, the activation

of the Environmental Measures and International Trade Group by Arthur Dunkel, the GATT director general, and the creation of the Committee on Trade and the Environment by the WTO. Environmental concerns together with widespread anxieties about the effects of globalization also resulted in the protests at Seattle that delayed the start of the current round of WTO trade negotiations, as well as protests at many subsequent meetings of international leaders.

When the Doha Round was undertaken in November 2001, environmental issues were specifically recognized and integrated into the negotiation process, albeit to a limited extent. Their inclusion also remains contentious due, in part, to the very different views held by the EU and developing countries with respect to the role of the environment in the international arena; i.e., there is no consensus on what should be included in the process. Nonetheless, while environmental protection is not apt to receive the support that many environmentalists would like to see in the WTO, it will continue to be an integral part of the process. The WTO will increasingly co-ordinate with international environmental agreements, which will continue to be the more important approach for handling and resolving international environmental issues.

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## Endnotes

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1. Huang and Labys (2002) provide a good review of the theoretical and empirical trade and environmental literature.

2. According to the WTO (2003) there are some 200 multilateral environmental agreements, of which only about 20 have trade provisions. The WTO website states (p. 13): "So far no measure affecting trade taken under environmental agreements has been challenged in the GATT/WTO system." There have been challenges, but they have come as a result of domestic laws or regulations such as those of the United States for protection of dolphins or sea turtles and the CAFE standards.
3. Part of the reluctance of environmentalists to trust MEAs to protect the environment might be related to the failure of the United States to fully endorse those agreements. According to Anderson (2002, p. 12): "Thirteen global environmental treaties have gone into force in the last three decades, but the United States is party to only half of them. The Senate's great reluctance to ratify loosely worded treaties, such as the Kyoto Protocol, has meant the United States has no role in its implementation."
4. In January, the Bush administration suspended its proposed changes to the dolphin-safe label. This was the second attempt to weaken those requirements, and was in part a response to Mexican complaints that the requirement is a *de facto* embargo of its tuna. The first attempt failed as a result of an unfavorable court ruling in response to a lawsuit by environmentalists. Another lawsuit was filed after the Department of Commerce announced the proposed changes and the administration withdrew the proposed changes (ICTSD, 2003c).
5. For a discussion of the issues in the dispute settlement process see ICTSD and IISD 2003c. The complex dispute settlement process is well described on the WTO website: [http://www.wto.org/english/tratop\\_e/dispu\\_e.htm](http://www.wto.org/english/tratop_e/dispu_e.htm).
6. While the United States has taken a strong free trade position with respect to agriculture and the Doha Round negotiations, the inconsistency of its positions vis-à-vis its actual policies creates problems in the negotiations and causes other nations to be skeptical of the legitimacy of the positions it is advocating. For the official U.S. position on agriculture see USTR (2003a) and for the more general approach to trade negotiations see USTR (2003b).
7. With some technologies, however, the science is not adequate to determine the full impacts on society. With, for example, genetically modified organisms it is often contended that it is not possible to establish whether they are harmful to human/animal health for many generations. The EU proposes invoking the precautionary principle, to ban or restrict such products until their safety is firmly established. The contrary (U.S.) view is that current testing has not shown them to be harmful and, therefore, trade or use should not be restricted.
8. The six MEA secretariats granted permission to attend on an ad hoc basis during the February 12-13 meeting were the Basil Convention on the Transboundary Movement of Hazardous Waste, The Convention on International Trade in Endangered Species of Wild Flora and Fauna, The Convention on Biodiversity, The Montreal Protocol on Ozone-depleting Substances, the International Tropical Timber Organization, and the UN Framework Convention on Climate Change.

9. Anderson states (2002, p. 14): “In repeated attempts to allay these suspicions, the rich countries have made large promises to help the poor ones in many ways. But, again, there has been little in the way of enforcement and many of the promises remain unfulfilled.”

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