



**REPORT OF THE WORLD TRADE
ORGANIZATION SYMPOSIUM OF NON-
GOVERNMENTAL ORGANIZATIONS ON TRADE,
ENVIRONMENT AND SUSTAINABLE
DEVELOPMENT
17-18 MARCH 1998**

The World Trade Organization (WTO) Symposium of Non-Governmental Organizations (NGOs) on Trade, Environment and Sustainable Development was held at WTO Headquarters in Geneva from 17-18 March 1998. The Symposium was attended by over 150 individuals representing environment and development NGOs, private corporations, research and academic institutes, and over 60 individuals representing Member governments. The objective of the Symposium, organized by the WTO Secretariat, was to broaden and deepen the constructive dialogue between NGOs and the WTO on the relationship between international trade, environmental policies and sustainable development.

The Symposium was divided into six sessions, wherein participants heard panel presentations, asked questions and offered comments. Discussions focused on three major themes: identifying institutional linkages related to the trade-environment-sustainable development nexus; deepening analysis of the economic linkages between trade liberalization and the environment; and legal compatibility between trade and environmental agreements. The Secretariat compiled papers for consideration at the Symposium concerning a number of topics, including the environmental benefits of removing trade restrictions and distortions.

A BRIEF HISTORY OF WTO AND THE CTE

The WTO, established on 1 January 1995, is the successor to the General Agreement on Tariffs and Trade (GATT) and the embodiment of the results of the Uruguay Round. As the legal and institutional foundation of the multilateral trading system, the WTO provides the principal contractual obligations that determine how governments frame and implement domestic trade legislation and regulations. The WTO provides the platform on which trade relations among Members evolve through collective debate, negotiation and adjudication.

The WTO provisions include a number of references to the environment, such as the Preamble to the Marrakech Agreement, which notes the importance of "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 in a manner consistent with their respective needs and concerns at different levels of economic development." Specific references to the environment are included in the Agreements on Subsidies and Countervailing Measures, Agriculture and Technical Barriers to Trade and a number of other WTO provisions.

The principal focus of the WTO's work on trade and environment is contained in the Uruguay Round Final Act, under which ministers adopted a decision on trade and environment that called for the establishment of the Committee on Trade and Environment (CTE) and outlined its work programme. The decision states that the purpose of the CTE is "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, compatible with the open, equitable and non-discriminatory nature of the system." The CTE builds upon progress achieved in the GATT's Group on Environmental Measures and International Trade, the Committee on Trade and Development and the GATT Council.

The 1996 report of the CTE summarizes the discussions and presents the conclusions of the CTE on its work programme. The Singapore Ministerial Declaration, adopted in December 1996 at the WTO Ministerial Conference, noted that the CTE has made an important contribution toward fulfilling its Work Programme. The Declaration also notes that the breadth and complexity of the issues covered by the CTE Work Programme show that further work needs to be undertaken on all items of its agenda.

The WTO's first Symposium on Trade, Environment and Sustainable Development was convened from 20-21 May 1997 in Geneva and attended by over 70 NGOs. Many participants considered the Symposium a success because, for the first time, there was actual interaction between NGOs and member States. Most came away with a greater understanding, though perhaps not sympathy, for the positions of their traditional "opponents." As well, most agreed that this meeting might represent the first of a number of such informal sessions tied to CTE meetings. The door having been opened and, no monsters having been found on the other side, the beginnings of trust between the trade community and civil society may have been established.

REPORT OF THE SYMPOSIUM

OPENING STATEMENTS

Chulsu Kim, WTO Deputy Director-General, welcomed participants to the symposium and noted that building linkages with the NGO community builds understanding between the trade, environment and development communities. He noted that this meeting was the largest NGO gathering to date at the WTO and underscored the keen interest in environmental and trade agendas.

Renato Ruggiero, WTO Director-General, stated that a new consensus is emerging that trade liberalization and environmental protection are not only compatible goals, but two sides of the same strategy for global sustainable development. Regarding the way forward, he stated that: trade liberalization is a powerful ally of sustainable development and efforts in the CTE should be revitalized; a sustainable environment is critical to the future of the world economy and nothing in the WTO stands in the way of reaching global environmental agree-

ments; and globalization makes apparent the need for a new international architecture to manage the linkages not only between trade and the environment, but among all policies that spill across borders.

He said it has been estimated that the completion of the Uruguay Round is bringing US\$500 billion each year to the global economy, which is indispensable for reducing poverty and under-development; the single most potent source of environmental degradation. Trade liberalization also plays an important role in getting prices right, which is a prerequisite for getting the right global policies. Not only do market access restrictions and domestic support policies suppress development, they lead to distorted prices and serious environmental spillovers. He called for a focus on remaining tariff escalation and tariff peaks.

He said the solution to complex environmental and social issues lies in global consensus. He recalled the CTE report to the Singapore Ministerial, which said the most appropriate means of addressing shared environmental problems is through shared solutions, and noted that although several MEAs contain trade measures, no legal dispute has ever arisen between the WTO and an MEA. He recalled the Ministerial Conference's consensus on labor standards. These examples underscore that multilateral approaches are working and that nothing in the WTO impedes the pursuit of shared goals under other agreements. Difficult issues — such as those involving the sovereign right of governments to establish domestic production process standards — underscore the pressing need to reach multilateral solutions. The key point is that MEAs and the WTO represent different bodies of law and a new framework is needed to define the relationship between the two.

He cautioned that if a problem is environmental, the goal must be to develop environmental, rather than trade policies. Asking the WTO to solve issues that are not central to its work, especially those that governments have failed to address satisfactorily in other fora, is not just a recipe for failure but could do untold harm to the trading systems itself. A country that will not join a consensus to resolve an environmental problem can hardly be expected to join a WTO consensus to change trade rules on the same issue in a way that punish it. The WTO has no intention of becoming a supranational body with extraterritorial powers and no country can be forced to accept rules and disciplines to which it has not explicitly agreed. He noted the "ironic" growing pressure for global solutions through unilateral trade measures, but questioned whether the WTO should play judge, jury and police of environmental, social and ethical values. Trade sanctions will not serve as a wake up call for public opinion around the world, and could be seen as a sign of weakness rather than strength.

He urged participants not to believe that global environmental rules and institutions are unattainable and said the reality of today's economic interdependence means that the horizons of international cooperation must expand rather than shrink.

Rubens Ricupero, Secretary-General of the United Nations Conference on Trade and Development (UNCTAD), emphasized that trade and environment are as a rule complementary, not conflicting. However, the trade and environment communities have traditionally been divided by mutual suspicions, lack of understanding, and even hostility. To avoid the destructive forces inherent in this clash, both communities must work to harmonize and reinforce their objectives. This synthesis can only be attained within the context of sustainable development.

He cited a definition of development from Pope Paul VI, as the promotion of all men, and of whole men: of concerns for the poor (the material) as well as for self-actualization (the spiritual). He noted that development is also the new name of such concerns as human rights. However, he argued, this leaves out concerns for future generations and for the complex and poorly understood natural world of which mankind is inextricably a part. The conferences of Stockholm and Rio were, seen in this light, a further elaboration of a more holistic definition of development.

He said the two major social movements that may be the biggest legacies of the 20th century — human rights and environmentalism — were largely the product of the struggle of civil society. He welcomed this as encouraging for the prospects of progress on sustainable development.

He recalled the formation of the GATT Working Group, which was the precursor of the CTE in 1972, and his role in reconvening it in 1991, and pointed to the difficulties in even establishing the agenda for discussion at that time. From that perspective, he warned the audience not to disparage the small achievements of the CTE in its first two years, and argued that tangible progress had been achieved. As well as dispensing with unjustified fears that trade and environment are fundamentally incompatible, the discussions have almost entirely diffused some controversies — such as the issue of eco-dumping — on the basis of empirical evidence, and have built essential confidence and trust.

He pointed to the fundamental unity of human kind, and of the global environment. He asked, then, how people can claim to care about the environment or humankind, if they choose to deny resources and technology to those who do not have the means to address their problems.

Klaus Töpfer, UNEP Executive Director, noted that this was the first time UNEP had addressed the WTO, which represented an important step. He noted that much has been accomplished in the trade and environment debate, but cautioned that the linkages are complex and progress has been incremental. He noted that economic growth has helped alleviate poverty in many countries, but urged participants to look ahead. Privatization and trade liberalization continue to present new concerns for which there are no precedents. The fear among trade officials that the "slippery slope" would undermine trade rules has proven unfounded and the question of how to resolve an MEA/WTO dispute has remained hypothetical.

He highlighted the importance of institutional issues and noted the absence of a counterweight to the WTO, whose role and scope has increased while UNEP's has eroded. One sign of segmentation is the continued diffusion of independent secretariats. While not advocating relocation, he called for a common approach and noted that isolating environmental negotiations impedes integrated solutions.

He said the Kyoto Protocol opened new trade questions, particularly regarding emissions trading and the clean development mechanism. Questions regarding new property rights, particularly regarding who is responsible and who serves as the bank, must be addressed as soon as possible.

He also emphasized public policy and transparency, and said dialogues such as this symposium, as well as public accountability, are crucially important. Partnerships with NGOs make better public policy because NGOs challenge established economic assumptions.

Eimi Wantanabe, Assistant Administrator and Director for the Bureau of Development Policy, United Nations Development Programme (UNDP), cited the changes in the patterns of world trade in the decades since the 1950s, and the "astounding rate" of national economic integration; merchandise trade is now 16 times what it was in 1950. However, the distribution of that growth and of mushrooming FDI flows, has been highly uneven to the detriment of the least developed.

She noted that environmental degradation leads to poverty, a relationship brought to the fore at the Rio Earth Summit, and that the Copenhagen Conference confirmed the need to put human development and equity concerns at the forefront of the development agenda. She argued that the task at hand is to merge the agendas of Rio and Copenhagen — to explore the nexus of trade, environment and development agendas, and identify the roles to be played by all institutions and stakeholders.

She highlighted UNDP's role as an agency of development and as a builder of capacity. UNDP has as its core function poverty eradication, and in the trade-environment nexus is helping to build capacity for policy development and trade negotiations, and in the area of information technology. This will help move toward the goal of full participation of the least developed countries (LLDCs) in future WTO negotiations.

She noted the need for action by a number of actors. Developing countries need to pay attention to differences in sectoral capacities within their economies; large companies adjust more easily to new rules on trade or environment, meaning special attention needs to be paid to small- and medium-sized enterprises (SMEs). Also, they need to increase their investment in human resources and strengthen relationships with the private sector and civil society.

Developed countries need to increase developing countries access to their markets and allow the exploitation of niche markets in environmentally sound products and services. Increased R&D might be helpful, as in the case of recent research on palm oil by-products. They also need to face up to environment challenges of their own. Present energy systems, for example, are unsustainable in economic and environmental terms.

The international community needs to facilitate greater market access for developing country exports, particularly those governed by current rules on textiles and agriculture. In this context, the WTO's plan of action for the LLDCs would be a good step, encompassing elimination of tariff escalation, tariff cuts, eliminating duties subject to tariff peaks and eliminating textile barriers against small producers even if they are not members of WTO.

She argued that such trade-related steps, while necessary, are not sufficient. Also needed are action on debt relief, more and better targeted ODA, and more R&D focussed on win-win solutions and developing country needs. She said globalization will remain an incomplete process until the deprived millions become full partners in the process.

DISCUSSION: One participant noted that little was heard about development, or the problems facing civil society. He remarked that the theory of GATT, wherein a country cannot be forced to accept any WTO ruling, differs from the practice. The most economically powerful countries impose their views on smaller countries.

Another participant said there is no consensus that trade will automatically lead to economic growth and called for prices that reflect environmental costs. One speaker noted that private companies are interested in maximizing profit and asked when the CTE would allow discussion of companies that destroy the environment. Another questioned whether the general public in developing countries fully understood the implications what their trade ministers had signed when joining the WTO. A number of speakers noted with approval the presence on the Panel of senior officials from UNCTAD, UNEP and UNDP and urged that this precedent be followed in future.

Ruggiero reiterated that advancing development and eradicating poverty are the WTO's biggest priorities, particularly given the preponderance of developing country members, and noted that many developing countries have openly acknowledged their improved economies since trade liberalization began. He cautioned against denying the progress made in last ten to fifteen years. He repeated that the WTO is consensus based, and cannot impose its will on countries that do not want it.

Ricupero argued that developing countries knew what they were signing in the Uruguay Round, and had done painstaking analysis and consensus building. The speaker who originally raised the point later replied that perhaps non-trade ministries were not so clear. On assessing the impacts of the Uruguay Round on developing countries, Ricupero noted that this is one of UNCTAD's major lines of work.

Töpfer noted UNEP's role in more fully understanding the social, environmental and economic impacts of economic integration, and urged the development of new instruments to do so. He elaborated on impacts related to the globalization of consumption patterns, uniform production and regional identity, and urbanization.

UNDP responded that there is a potential linkage between trade and poverty alleviation, but noted that the linkage is not automatic. She recalled UNDP's ongoing work related to this topic, as well as to country level programmes on technological capacity building.

Participants also raised questions regarding requests by the Commission on Sustainable Development and the World Summit on Social Development for the WTO to study the impacts of trade liberalization, and consideration of green credit lines for transfer of environmentally sound technologies (ESTs).

SESSION II: OVERVIEW OF TRADE AND ENVIRONMENT

Anne Krueger, Stanford University (US), noted that the past 50 years have seen economic growth at rates never before realized. Benefits, even if unevenly distributed, have been in terms of high economic growth. However, any measure would yield more or less the same picture, be it adult literacy, life expectancy or others, even in the developing countries.

Some of those developing countries did very well in the last 50 years. Korea, Taiwan and others demonstrated that it is possible to take giant strides against poverty with relative speed. She argued that this success was due in part to a continuing 200-year trend: falling costs of transport and communications, and falling trade barriers. Krueger reminded the audience that before the creation of the GATT, quantitative restrictions existed in most countries, and average tariff levels were around 40%.

She argued that growth in developing countries depends on a number of factors, but without access to trade and international markets, the possibilities of the sort of result achieved to date would be limited.

Fitting environment into the picture, she argued that environmental concerns have sprung up most powerfully since WWII in developed countries because those societies became rich enough to purchase environmental quality. This is not to say that the poor have no desire for environmental quality, but rather that they do not have the means to achieve it. Their priorities may instead be focused on needs such as food. She cited studies suggesting that as societies become richer, environment degradation is a massive problem, but that as growth proceeds (the turn-around point being around US\$ 5,000 - 3,000), some forms of environmental degradation begin to diminish, either because of more efficient production processes or environmental investments societies are willing to make.

She noted at least two important trade linkages to these issues: first, market distortions such as subsidies need to be eliminated – particularly those that are both environmentally and economically perverse. Second, she argued that protectionists are ubiquitous and will always try to justify their lobbying efforts by allying them to some politically popular cause. She warned that some of them have done so with the issue of environmental protection.

She called for a two-step process: first, establish global consensus; second, assign tradable rights. Part of the problem is that reaching agreement on the levels of environmental protection. Regarding rights allocation, developed countries, with high GNPs and high current emissions, would like the allocations to be based on proportion of GDP. Developing countries, understandably, would like allocations to be based on population.

Where agreement is not reached on environmental priorities, trade measures to enforce environmental rules are usually ineffective, and always costly. To be effective, any measure must be agreed on, or those affected will circumvent it. She argued that the costs, in terms of forsaken economic growth, might harm the environment in the long run. She asserted that, given progress in poverty alleviation and wealth creation, time is on our side in the battle to achieve sustainable development.

Thomas Cottier, Institut für Europa Wirtschaftsvölkerrecht (Switzerland), discussed the importance of overcoming the "legacy of mistrust" and bringing together the international trade and environmental regimes. In illustrating win-win situations, he described benefits stemming from the reduction of production subsidies in agriculture and the shift to direct payment. He also highlighted areas of tension, noting that diverging societal attitudes towards new technologies in the field of genetic engineering will likely create restrictions on market access. He noted that global standard setting either within the WTO, or by linking standards set in MEAs to the WTO, would become of paramount importance.

He stated that the WTO increasingly assumes constitutional functions and the dismantling of trade barriers is increasingly accompanied by the inclusion of additional non-trade issues. Trade regulation has emerged as the prime instrument of foreign policy. The major challenge for the world trading system is to develop constitutional doc-

trines to cope with the complex interface of different policies. The constitutional issues raised relate to how rules and precedents are shaped and brought forward. The system needs to reflect all interests.

He stressed the need to study how the process could be made more responsive to input from non-trade interests. He noted that while the CTE is a valuable instrument for research and fact-finding, it could not undertake the necessary coordination. He asked whether there should be an enhanced role for NGOs independent from national positions and suggested that, from a point of view of democratic legitimacy, global integration may eventually require the establishment of a WTO Parliament representing a wide range of interests.

Regarding dispute settlement and treaty interpretation, he questioned whether the dispute settlement mechanism is responsive to non-trade issues. He also questioned whether existing procedural rights are capable of addressing issues of interest to those outside the trading community. He highlighted areas for increased flexibility: additional hearings for scientific evidence, as used in the recent beef hormone case; public access to panel hearings; and *amicus curiae* briefs from NGOs.

He noted that a shift toward balancing the varying interests can be seen in the ruling of panels and the Appellate Body, and cited interpretations on national treatment, "like products" and environmental exceptions under Article XX to demonstrate the point. He also focused on the future role of tariffs for environmental protection and suggested exploration of the potential role for Ecological Tariff Quotas (ETQs) and Ecological System of Preferences (ESP). The core function of the WTO is to lower tariffs, but there has only been progress with regard to goods. Two avenues could be explored: members defining special import quotas, within which lower tariffs are accorded to environmentally preferable goods, and a general system of preferences for such goods.

He highlighted the need for research regarding ecologically unsound activities related to trade in services (GATS). He also noted that modern intellectual property protection law is an excellent tool for bringing about new technologies, but fails to protect traditional knowledge. He said the IPR system should be expanded and new forms of protecting traditional knowledge should be created in order to allow for control, compensation and incentives to protect biological diversity.

Björn Stigson, World Business Council for Sustainable Development (Switzerland), noted that businesses realize that public participation and consultation is important, and has been practicing the principle for some time. He was glad to see that the WTO is also catching on.

He noted that business can and does play a significant leadership role in promoting sustainable development, but it is not responsible for all the world's ills; population growth, government failure and other causes are also major contributors. Business cannot make progress on its own. There is also a need for governments to implement appropriate frameworks to encourage sustainable development. Stability and certainty are important to business. He noted that some 85% of capital flows to LDCs are from FDI, and defended the record of highly uneven FDI flows, arguing that investment will flow to jurisdictions with the most inviting frameworks in place. He cited social instability, corruption and regulatory uncertainty as elements that would deter investment.

There is a need for positive recognition from financial markets - banks, investors, insurers and accountants - for firms that behave responsibly toward the environment.

He noted the importance of technological innovation and market liberalization. Industry will be the most important engine for change in the drive for solutions. Trade, which is done by business, helps to generate wealth. New clean technologies will come from business as well, perhaps with the help of mechanisms like the Kyoto protocol's Clean Development Mechanism.

He agreed with Anne Krueger's arguments against perverse subsidies. Businesses also like the idea of tradable rights, and has a number of ways to address the allocative problems she set out. He warned,

regarding Prof. Cottier's suggestion that tariffs might be used to advance environmental protection, that the business community is leery of such proposals.

Vandana Shiva, Research Foundation for Science, Technology and Ecology (India) noted that two themes defined the parameters of the discussion: trade liberalization must lead to growth, and without growth there will be no environmental protection. She questioned the validity of these themes, arguing that affluence is not an indicator of environmental concern. She said the leading environmentalists in her region, including indigenous peoples, fishermen and others, have very little income, and noted the lack of correlation and between affluence and the ratification of environmental conventions.

She argued that a discussion of what trade liberalization does "on the ground" is not about rules themselves, but the process unleashed following these rules. Liberalizing marine exports led to the construction of factory shrimp farms on the coasts, which have destroyed local ecosystems and the communities that depend on them. She also noted that once export interests are allowed to gain political power, they attempt to dismantle domestic environmental laws in the name of trade liberalization.

She called for IPR expansion, characterizing it as an expansion of rights. Citing cases involving basmati rice and neem tree products, she cautioned against situations where IPRs protect bio-piracy. She said Article 8(j) of the Convention on Biological Diversity should serve as the basis for reviewing IPRs and supported recognition of an effective *sui generis* system.

DISCUSSION: Some NGOs raised questions on the relationship of WTO rules and procedures to those in other fora, as well as questions regarding dispute resolution panels. One NGO noted that WTO panels are making decisions in areas unrelated to trade and the environment and the WTO cannot wait for the next round to start addressing this problem.

Cottier reiterated that the WTO has been forced to take over a number of issues it did not intend to cover and noted that the WTO offers broader scope for trade-offs than specialized organizations. He said the work of other institutions was still useful, and the question was how to link them to the WTO.

A number of speakers also questioned Cottier's proposal to use tariffs to promote sustainable development. He clarified that he did not propose to raise or introduce tariffs, but suggested lowering existing ones to benefit products made in a sustainable manner. He said PPM-based bans are blunt instruments, but a more nuanced system could provide incentives for products made in an environment-friendly manner. As long as rules regarding PPM-based discrimination remain "dogma," the WTO cannot address environmental problems.

One participant commented that agriculture is becoming more industrialized and the traditional family farm is being subsumed by a capital-driven industry. He called for trade discrimination to favor small producers. Shiva cautioned against insulating economic paradigms from the facts that disprove them. Supported by a number of speakers, she said there cannot be sustainable development without differentiation based on scale of production. She recalled that when GATT was drawn up, corporations were not in the business of agriculture.

A number of participants argued against Krueger's linkage of economic growth to eventual environmental quality. One noted that there are real costs of such growth in the present, and Krueger responded that there are costs also of poverty. Another argued that the environment is not a luxury good - that the poor actually spend a greater percentage of their income on such environmental goods as potable water and fuelwood than do the rich.

One NGO noted that some subsidies could be beneficial. Stigson and Krueger agreed but remained distrustful of their use in the hands of politicians. Another participant argued that while there had been no legal conflict between the WTO and MEAs, a number of MEA negotiations had been haunted by the threat of WTO-incompatibility.

Regarding IPRs, one participant noted that the protection of intellectual property has restricted technology transfer and noted that most transfers now take place within companies rather than between coun-

tries. Shiva called for indicators to apply for those whose sustainable utilization of resources benefits everyone. Stigson pointed out that the overwhelming majority of technology was in the public domain, and argued that the relationship of IPRs to technology transfer was insignificant. Cottier noted that the jury was still out on TRIPs and technology transfer, but that it was certain that no IP protection stifled innovation noted that most transfers now take place within companies rather than between countries. Shiva called for indicators to apply for those whose sustainable utilization of resources benefits everyone. Stigson pointed out that the overwhelming majority of technology was in the public domain, and argued that the relationship of IPRs to technology transfer was insignificant. Cottier noted that the jury was still out on TRIPs and technology transfer, but that it was certain that no IPR protection stifled innovation.

SESSION III – TRADE LIBERALIZATION AND ENVIRONMENTAL BENEFITS: PURSUING WIN-WIN LINKS

Robert Repetto, World Resources Institute (US), asserted that environmental regulation is not inherently harmful to trade, pointing to the explosion of environmental agreements and regulation during the same period that has seen unprecedented trade liberalization, over the last 25 years. On the contrary, he argued that reasonable environmental standards, because they get the prices right, are a pre-condition for the consolidation of the gains from trade.

One way to achieve the desired win-win results is to look for environmental improvements through the use of market-friendly instruments. Another way is to adhere to the polluter pays principle where possible – avoiding the sorts of conflicts arising from differing standards across countries. Yet another is to reduce or eliminate perverse natural resource subsidies.

With these types of environmental safeguards in place, increased trade will not be harmful to the environment, and may be beneficial. He noted that open economies encourage the free flow of technology, and that closed ones have had the worst environmental records. Many trade restrictions can be environmentally damaging, as demonstrated by US and EU agricultural policies.

He downplayed the concerns about industrial relocation resulting from high environmental standards, noting little empirical evidence and citing relatively low environmentally-related costs (averaging 1.5% in the U.S.). He noted some of these expenditures generate significant paybacks through increased efficiency. He therefore rejected trade measures as an option for addressing “eco-dumping.” There is, he argued, a need for concern over varying standards when the environmental problems are international.

He likewise downplayed green protectionism as quantitatively unimportant, arguing that most significant trade barriers are brown, not green. He cited agricultural protectionism, tariff escalation and protection of state enterprises as examples. And he noted that most trade is intra-firm or inter-firm, where there is no motivation for green protectionism.

He conceded there will still be some green protectionism, and outlined his idea of the appropriate WTO response. First, in deciding what is green protectionism, environmental expertise should be allowed a role in trade disputes. Second, the expanded safeguards in Article XX beyond the chapeau are unnecessary. He criticized, for example, the idea of a “least-trade restrictive” criterion, arguing that trade agreements should then have to be “least-environmentally restrictive” as well. Third, he argued that the precautionary principle should dictate the assigning of the benefit of the doubt in an environmental trade dispute.

Assuming that competitiveness effects and green protectionism are not the real environmental issues, he asked where the WTO should focus its attention. Among other things, he argued that control of transboundary environmental problems was important, and that international institutions to deal with their effects are needed. Sunita Narain, Center for Science and Environment (India), emphasized the need to keep in mind the Southern agenda as the debate moves ahead. She said there have been too many bad subsidies and the Secretariat’s paper

provides evidence that the poor are subsidizing the rich. Arguing that growth has its problems, she called for a supportive social and environmental framework to check unsustainable growth.

She said liberalization demands democracy and called for decentralized decision making. To redefine sustainability, it should be asked whether a society can learn from its mistakes. Sustainability of a society should be judged by how soon it can learn from those mistakes and react.

She said rules must be made to increase the economic strength of the poor. Rules have been set by the rich for the rich because they are major trading partners. Poor producers need the support of empowering policies and they should be able to incorporate the environmental costs into their prices. She noted that negotiators react strongly to recommendations to change commodity agreements but benefits must be shared more equitably.

Regarding the Kyoto Protocol, she said property rights within a global framework must be established at a local level. Negotiators must understand that without a new regime of property rights, emissions trading is immoral. She strongly stressed that the atmosphere is a global common and that trading demands entitlements that are built on equity.

David Schorr, World Wildlife Fund (WWF-US), suggested that subsidies for fisheries should be an area for WTO action. Some fisheries subsidies are clearly GATT-illegal and yet go unchallenged. He noted that other fora, such as the OECD, FAO and APEC are already investigating the issue and the politics are “heating up.” The cost of inaction on this win-win situation could be disputes brought directly to the WTO. He suggested actions that could be taken immediately. The WTO could play a positive role in increasing transparency. Fisheries subsidies should systematically be the subject of trade policy reviews. He noted that although the issue is ripe, many delegations have said the WTO would not act on this issue because the political will is absent.

DISCUSSION: One participant asked if liberalization demands democracy, then what is the role for the international trading system in formulating conditions for democracy or good governance. Narain expressed concern at the premise that the WTO should teach good governance.

ARGENTINA said environmental resources are normally undervalued because subsidies reduce the cost of overexploiting and markets fail to account for only private costs and not public costs. He proposed first reducing subsidies, and then internalizing environmental externalities. Schorr argued against seeing this as a two-step process; both need to be addressed at once. One NGO challenged the premise that trade liberalization is good for the environment, and said only when the WTO is able to give preference to green production systems will it successfully promote sustainable development.

NEW ZEALAND discussed subsidies related to fisheries and noted ongoing work by the OECD, FAO and APEC. He recalled that the US and New Zealand had tabled proposals during discussions on market access, but there had been no response from countries uncomfortable with the issue.

Schorr expressed disappointment at the EC’s resistance to taking up the question of fisheries subsidies in the WTO. FIELD challenged governments to test the WTO’s dispute settlement mechanism by attacking a perverse subsidy. The EC urged sustainable fisheries management practices, and supported multilateral solutions. He also pointed to progress in the evolution of WTO case law on the environment. Schorr and Repetto responded that this was not impressive, given the baseline.

Schorr asked Repetto what should be done if the appropriate environmental policies were not in place. Repetto believed that while trade measures were not a first-best solution in this case, neither was plowing ahead with trade liberalization a second-best solution; both need to be addressed simultaneously.

SESSION IV – PANEL I -- PRICING REFORM AND THE ENVIRONMENT: SECTORAL IMPLICATIONS

Heinrich Hugenschmidt, Union Bank of Switzerland, outlined the ways in which banks might integrate environmental concerns in their operations. He identified three types of risk that might cause them to do so: liability risks, business risks and reputational risks. The first is the risk that governments will force banks to pay for the sins of their borrowers – an idea that was pioneered in the US, but is now less used. The second is the standard risk of borrower default. This could be precipitated by, for example, falling stock prices in response to poor environmental performance or stricter environmental laws. The third is a public image issue; banks could be criticized for financing environmentally damaging projects.

He noted a positive linkage as well: there has been a strong growth in demand for socially responsible mutual funds, whose investments are screened on non-financial grounds. The most important element is integrating environmental risk assessments in lending and investment. His bank has issued a directive to fund managers to take ecological aspects into account when making investment decisions, as an “integral part of investment analysis and selection process.”

Gary Sampson, Director of the WTO Trade and Environment Division, said that while the WTO does not have as its primary objective the protection of the environment, the importance of this policy goal is clearly acknowledged in its Preamble and various agreements. The WTO places no constraints on governments in implementing whatever “legitimate” policy options they choose with respect to environment within their borders.

He said measures that distort resource usage and consumption patterns can damage the environment, citing agriculture and fisheries as sectoral examples. There is an important role for WTO to play in addressing these sectors. He also noted that an increasingly important area of world trade is in environmental goods and services, and the WTO sectoral negotiations could help liberalize that trade. He also stated that the link between removal of trade restrictions and economic growth is unequivocal, but economic growth does not ensure equity or improve the environment. A prerequisite to benefits from expanded trade is adequate national environmental policies.

He noted advertisements and campaigns by environmental groups characterizing that WTO disciplines as an obstructive force constraining well-intentioned national interest groups from enforcing environmental standards. This dissatisfaction exists despite the flexibility governments have to adopt whatever national policies they wish in order to protect their own environment. He said the question of broadening the environmental role of the WTO raises the fundamental issue of whether the limited role the WTO currently plays in world governance is inappropriate. This requires careful reflection because a change in status quo could extend its reach into environmental, social, cultural and ethical considerations.

Daniel Chudnovsky, Centro de Investigaciones para la Transformación (Argentina), began by addressing the Secretariat’s paper on the environmental benefits of removing trade restrictions. The first link in the hypothetical chain is between removal of trade restrictions and economic growth. He noted that there is no consensus in the literature on this linkage, which depends on determining factors such as initial conditions, financial liberalization, and effectiveness of other government policies in the areas of technology, industry and environment. Evidence indicates that the benefits remain small, and tend to be linked to growth through uncertain channels.

The second link is the effects of removing trade restrictions on the environment. He agreed with previous speakers on the need for appropriate existing environmental policies, but argued that the case for developing countries was not so simple, as the need was not just for policies, but also for enforcement. The process of liberalization followed recently by many developing countries involved dismantling government institutions. In that context environmental enforcement is difficult, involving the building of new institutions. He noted the Argentinian case, where liberalization of trade, investment and financial regimes has clearly outstripped the advance of environmental regimes.

He stressed the importance of sector-level analysis, and of examining the actors involved. His research has shown that the speed and ease of a firm’s adoption of environmental improvements varies greatly according to such factors as size, age, ownership and management style, the latter being crucial. He noted evidence of progress in the manufacturing sector, but pointed out that it had been uneven, with larger export-oriented firms far ahead of domestic-oriented SMEs.

In contrast, he noted Argentina’s lack of progress with the environmental effects of agriculture – not only related to subsidies but also the result of expanded use of chemical inputs (albeit at much lower levels than used in the North), and lack of investment in long-term concerns such as soil conservation.

On the issue of adoption of new technologies, he noted that most of the discussion is biased toward “end of the pipe” solutions, for which there are many Northern suppliers. He argued that such solutions are inferior since they do not change production efficiency and amount to straight increased costs. Pollution prevention, on the other hand, often generates returns to increased efficiency.

While pollution prevention has gone far in the North, his research has shown that it is only beginning to take root in countries such as Argentina, mostly among larger firms also concerned with other aspects of quality management. The main problem seems to be lack of information.

Most pollution prevention innovations he surveyed were produced in-house, in firms with good human resource development policies, and thus not traded. This has two implications for the trade-environment debates. First, technology transfer may be less important an issue than is currently believed, as it tends to bring end-of-pipe solutions. Second, the beneficial effects of trade liberalization in bringing cleaner technologies may also be less important than previously thought. More research is needed, but this may be an area ripe for North-South cooperation.

Barbara Bramble, National Wildlife Federation, highlighted the Trade and Sustainable Development Principles (“Winnipeg Principles”) as a useful on this topic. While work on subsidies and price distortions could provide progress for the WTO, there are practical limitations to what can be accomplished. The existing price distortions have created a stabilized set of behaviors, and destabilizing must be done with caution. Pursuing subsidy removal as an ideology, rather than on a case-by-case basis increases the risk of making matters worse.

She cited an example from Brazil, where extractive reserves were established in the Amazon. When the price supports for rubber were removed during economic liberalization, the rubber tappers who protected the reserves were forced to leave. In Mexico, a price support for maize was undone without a safety net during the recent economic crisis, leaving nearly 20 million people impoverished. She did not discourage the elimination of subsidies, but stressed that the process is the most important aspect. Reductions will have social and environmental effects, and she called for participation from the effected peoples in the dialogue.

Regarding the discussion of the WTO as supranational body, she recalled that no one has ever asked the WTO to serve as the world’s environmental policeman. Instead the WTO should stay out of the way when democratic conclusions are reached. She noted that it would always be seen as the bad guy until the chilling effects of its rulings on environmental regulations are removed.

Regarding cost internalization, she noted the need for a discussion of processes and production methods, and noted that consumers must have information on these issues to make choices with knowledge. Until trade rules can accommodate better production processes, it will be seen as thwarting sustainable development. The WTO should not generate rules for sustainable development labeling but should ensure they will be respected.

Discussion: CANADA asked how the information sharing would be accomplished and recalled recent efforts involving eco-labeling, which dealt with trade concerns in information sharing. He advocated a concrete sector-by-sector approach to the issues, and noted the for-

estry paper he had submitted to the CTE as an example. He reminded participants that they may need to address WTO Members, rather than the Secretariat, to effect real change.

Some developing country NGOs supported eco-labeling, but said it must not be unilaterally defined by Northern countries. One speaker cautioned that nothing was more likely to provoke controversy or stalemate than a premature effort by the WTO to control private eco-labeling schemes.

JAPAN asked if there existed a banking code of good practice on integrating environmental aspects. Hugenschmidt said that there were some existing guidelines. On the removal of trade distortions, JAPAN called for detailed studies and supported giving priority to subsidies that are good for the environment such as rice production, which prevents soil erosion and floods.

One NGO spoke on fisheries subsidies, noting that they are used to support distant water fishing fleets that compete with local small-scale fisherman in West Africa. Hidden subsidies are also used, such as the unpaid environmental costs of shrimp fishing. NEW ZEALAND supported calls for action on fisheries subsidies. He noted that good management was not enough, pointing to numerous UN initiatives that were hampered by lack of action on subsidy-induced overcapacity.

Several participants complained that the Secretariat document on the benefits of removing trade distortions did not address costs as well. Sampson replied that these were the terms of reference given the Secretariat by the CTE.

One NGO said that without controls on the foreign investment and technology transfer associated with trade liberalization, there is a danger of importing hazardous industries. National governments are being pressed to remove subsidies, but the individual businesses should also be pressed and their activities checked. He said some national governments cannot be counted on to act responsibly. Sampson replied private companies are not within the WTO's purview.

SWITZERLAND called for more study on the precise environmental effects of removing trade restrictions, noting that in some cases the effect might be negative. Several participants called for caution in removing subsidies, to take account of the effects on all stakeholders.

Other statements focused on: problems of price fixing; the need for a continuous NGO dialogue with WTO members; the need for access to national delegations; the need for financial measurement tools which take environment into account; and the facilitation of EST transfer.

SESSION VI - PANEL II

Leena Srivastava, Tata Research Institute, made a specific presentation on the effect of fiscal reforms on the energy sector in India. She noted that the reforms were not taken for environmental reasons, but often resulted in environmental benefits. She also outlined major environmental concerns, such as deforestation, water availability and air pollution. Environmental solutions include appropriate resources costing, pollution taxes and strict enforcement.

She argued that, as a driving force, there is little connection with environment or trade. She presented four case studies on national fiscal reforms underway: hydrocarbons; conventional power; co-generation; and wind power generation. She concluded that all of the changes have trade implications and positive environmental impacts. The remaining questions are the social impacts, employment generation and access to energy agriculture.

Konrad von Moltke, Institute for Environmental Studies of Vrije Universiteit (IVM - Netherlands), cautioned that the search for "the right price," which reflects full environmental values, is like the search for the Holy Grail. The proper search is for a price high enough to avoid the damage in question. This will be much lower, but it is a real increment, and can be significant in highly competitive and efficient commodity markets, where any cost differences mean a huge loss of market share.

On the subject of industrial relocation, raised by Repetto, he countered that there has been massive North-South relocation of commodity production over the last few decades, partly due to environmental regulations, noting that it is now impossible to site a mine in Western Europe.

He related some lessons learned from an ongoing research project in four developing countries, carried out by IVM and financed by UNEP, starting with the importance of distinguishing commodities from manufactured goods. The latter have made progress in dealing with their problems, which are mostly waste-related, by closing loops and moving to zero waste systems. On the other hand, it is impossible to avoid environmental damage in the extraction of commodities from the environment.

The researchers found that the actual costs of addressing the environmental problems may not have been large, but the markets were not putting any rents at the point of environmental damage. They found it useful to analyze the cases in terms of global product chains, looking at the various regimes that link producers to consumers. This framework allowed them to understand where the rent was created and how it was appropriated in each chain.

One implication of their findings is that it is unlikely that any environmental price premium paid for certain types of goods – cotton and textiles for example -- will find its way to the producers. Bananas are another example of how this has worked; the EU banana regime created huge rents, but no increase in farmgate prices. There are important implications for how make environmental policies to internalize costs.

His research led to several recommendations. First, there is a need for more work of this type. Second, there must eventually be a WTO agreement describing to segment product markets on the basis of PPMs, whether they be related to scale of production, environmental criteria or others. He noted that there is already such an agreement for the special case of IPRs, and wondered why that precedent had not been extended. Without this, internalizing environmental externalities for commodities will be difficult.

He recommended that the upcoming WTO Ministerial send the clear message that, in the interest of the trading system, the WTO is anxious to see vigorous effective environmental policies in place. He preferred this formulation to the "disingenuous" statement from previous speakers that countries are not constrained by the WTO from putting in place any environmental policies they like.

Murray Smith, International Council on Metals and the Environment, reflected on several points raised during the Symposium. He noted the difficulty in achieving progress quickly on the issue of like products. At international level, one real problem is the weakness and fragmentation of the multilateral agreements. He stressed that national positions taken in trade fora and MEA discussions need to be consistent. On subsidies and price distortions, he said the issue is still largely unexplored.

Several participants endorsed eco-labelling as a good method for making PPM-based distinctions. Others cautioned that they can act as non-tariff barriers if not well designed. CANADA praised the TBT Code of Good Conduct as helpful in preventing these problems. One participant argued that eco-labelling schemes needed to be mandatory to have much effect. Smith noted the concern that eco-labels can be misused or lead to the extraterritorial application of standards, but noted that his study of the Canadian scheme had found no problems. He argued the need for an international framework, and warned against mandatory schemes in the absence of such international consensus. Von Moltke said that eco-labeling without reference to market power can produce damaging results. One must look to markets and determine where the power lies and the likely outcome produced by various schemes. He called for more imaginative approaches, such as brand-name marketing.

One participant pointed to studies denying the link between economic growth and environmental quality. Von Moltke agreed, calling the theory "junk economics."

A private sector participant called for stable, predictable rules, such as found in the WTO, on the interface between trade and environment, and noted the high environmental expenditures in his sector (aluminum).

SESSION V: LEGAL COMPATIBILITY BETWEEN TRADE AND ENVIRONMENTAL POLICIES

James Cameron, Foundation for International Environmental Law and Development (FIELD UK), identified elements of a trend toward greater compatibility, and noted an increasingly significant role for public international law in the WTO. He said Appellate Body decisions consistently refer to a requirement in the Vienna Convention on the Law of Treaties for the tribunal to consider the sum of the legal relationship between the Parties, which would include MEAs. Other principles of general obligations of international law have been considered as well. In the recent beef hormone case, the Appellate Body heard differing arguments on whether the precautionary principle had become customary international law – a principle not found in the GATT, but frequently found in international environmental agreements.

He said that implementation of MEAs presents a “difficult zone” for trade systems. MEAs can be respected, but there is not an equivalent certainty attached to the rules made under them. They have aspirational rules, but not precise rules for implementation. He noted that Article 2 of the Kyoto Protocol contains a list of policies and measures that governments are exhorted to follow and reviewed possible opportunities for actions that could meet or violate WTO rules. He called for careful consideration of ways to make the Protocol’s Clean Development Mechanism or the any forthcoming emissions trading scheme fit with WTO rules. He characterized the Protocol as the most significant *economic* instrument since the completion of the Uruguay Round.

He recalled the WTO Director-General’s call for a framework of collaboration to link the MEAs and the WTO. He said the agreement may begin with the MEAs themselves coordinating efforts. He also noted the importance of connecting domestic environmental regulators with appropriate institutions to ensure they make WTO-compatible rules.

David Wilkins, Eurogroup for Animal Welfare (Belgium), noted that animal welfare concerns are linked in many ways to the modern consumer culture of the North. He pointed out that such concerns derived from mass urbanization, contact with domesticated animals, increased wealth, and the modern methods of intensive agro-business.

He focused on a statement by the EC Trade Commissioner -- similar to those made by the WTO Secretariat in the environmental context -- which asserted that nothing in the WTO rules would prevent a country from enacting whatever animal welfare legislation it chose within its own borders. He detailed three examples of recent cases in the EU which he said put the lie to this claim: the ban on imports of furs produced using leghold traps; 1993 legislation on animal testing of cosmetics; and the strengthening of a 1986 directive on the conditions of laying hens. In all three cases, the threat of WTO incompatibility was enough to derail or weaken the initiatives.

He warned that the WTO will eventually be seen as the villain, whether correctly or not, by those concerned with animal welfare, and proposed two remedial options: animal welfare can be seen as an exception under GATT Article XX (General Exceptions); or it can be seen as an example of why it is appropriate to make distinctions on the basis of non-product related PPMs.

On the first option, he noted concerns for the sanctity of domestic regulations in the Havana Charter (the origin of the GATT), and legislative concern for subsidiarity in the EU context. He proposed an interpretive rule confirming that animal welfare issues fall under Article XX (a) (moral concerns) or XX (b) (protection of animal health).

On the second option, he noted that almost all animal welfare concerns are non-product related PPM distinctions, and if they are not recognized as legitimate exceptions, then the animal rights movement will join the ranks of those calling for a redefinition of like products in the WTO.

He discounted the applicability of labeling schemes and multilateral solutions. The latter do not go far enough, and the former are difficult and inappropriate for purely national-level concerns. He distanced the animal rights movement from protectionists and unilateralists, stressing that they simply wanted to have national preferences respected.

Reinhard Quick, Union of Industrial and Employer’s Confederation of Europe (Belgium), spoke on “creative unilateralism”. He said the goal of adopting unilateral measures by a country was to force others to change their laws or practices, even though the approach clearly violates international norms. He said that such actions should not be accommodated by the WTO rules, but noted that the dispute settlement system could resolve some of the issues at stake. He noted, however, that political reality allowed the action to succeed in some cases. If public perception is at stake in both countries, unilateral action can bring about the intended result. Some unilateral actions have led to agreements outside the WTO.

Steve Charnovitz, Global Environment and Trade Study of Yale University (US), started by welcoming the return of NGOs to the WTO, noting that a number of them had observer status when the GATT was negotiated in 1947. He hoped that the WTO would find this meeting valuable and continue the tradition.

He surveyed the arguments and ideas put forward by the three panelists. He recalled the statement made earlier by the WTO Secretariat that nothing in the WTO prevents states from enacting environmental law as they see fit within their borders, and suggested that it did not present the full picture. Since 1995, several WTO dispute panel rulings have made it harder for governments to adopt environmental taxes and regulations. The Japanese alcoholic beverages dispute and the Canadian magazines dispute rulings have both rendered Article III increasingly restrictive. The Venezuela/Brazil reformulated gas dispute ruling restricted the interpretation of the headnote of Article XX. He allowed that the laws in dispute were bad laws, but pointed out that the result was an increasingly high set of hoops to be cleared by legitimate policies.

He recalled the discussion of trade measures in MEAs, and noted that the key point was discriminatory treatment of non-signatories. He argued that this stance was odd, coming from an organization which itself had a restrictive membership policy. He urged the WTO to accelerate the accession of China to the multilateral system.

JAPAN asked whether the CTE was capable of making rules on the interface between WTO and MEAs, noting that Japan tabled guidelines on the topic in 1996. Cameron replied that the Secretary-General likely envisioned an overarching structure involving other bodies, rather than action only within the CTE. The CTE could suggest rule changes for WTO Members to adopt.

One participant presented a hypothetical regulation that discriminated against genetically engineered crops and products as a threat to biodiversity and a human health, asking if it could constitute an Article XX exception. Cameron said that as long as the measure was carefully crafted to avoid being a disguised protection of a domestic industry, such a rule should be GATT-legal.

One participant attacked the US record on extraterritorial enforcement of IPRs, and asked when a dispute would be brought to the WTO on the matter. Another argued the need for trade measures in MEAs, and asserted that there is conflict between the WTO and the MEAs. A participant noted that his company opposed animal testing of finished products, but cautioned that there were no acceptable alternatives for the development of some new ingredients. A participant asked why the WTO was being invoked against the leg-hold trap ban, when the intent clearly had nothing to do with protectionism.

Discussion also centered on: conflicts with trade under the Kyoto Protocol; the Protocol’s in adequate dispute settlement mechanism; and the ambition of building linkages between MEAs.

SESSION SIX: THE FUTURE AGENDA

David Runnalls, International Institute for Sustainable Development (IISD), urged the audience to recognize how far we have come since the beginning of the trade-environment debates. He pointed out

that the GATT/WTO has evolved from a completely opaque organization, and noted that it now boasted a decent WWW page. But the present policies are not perfect, and the organization is now more translucent than opaque. The International Centre for Trade and Sustainable Development fills some of the remaining gaps.

He noted that the issues aired at this meeting are all old and familiar, and the performance of the CTE has been a disappointment, the Singapore Ministerial producing nothing, and nothing much happening since. In part, this is because the Committee can only address part of the issue – trade and environment. The broader issues of trade and sustainable development have proven more elusive.

He argued that trade is an essential, though not a sufficient condition for sustainability. However, this holds true only if trade regimes are designed to promote sustainable development. While the WTO Preamble mentions sustainable development, the concept hardly permeates the Organization. He argued that the CTE should not be the only home of sustainable development issues in the WTO.

He anticipated the response that the WTO is member-driven, and the Members have not yet seen fit to enact such change, and asked why this was so. He countered the idea that environment is a dead issue, pointing to the overwhelming support world-wide for the Kyoto Protocol. He warned that the environmental clock is ticking.

He outlined his recommendations for future action, based on the previous discussions. The first item on the agenda was openness. While the WTO has started out well on this, it has far to go, and for its own good. He noted the massive public opposition to the MAI, and its adverse effects on the agreement's prospects. He argued that in this age of electronic communications, closed agreements negotiated in closed settings will no longer work. He recommended open dispute panel discussions, release of interim panel reports, and a limited number of observers at non-negotiating type meetings. Future NGO meetings might be smaller, and focused on one or two specific subjects.

He also noted the disparity of power between the WTO and the MEAs, and was intrigued by Ruggiero's reference to a new architecture for their collaboration. He supported a proposal for a standing committee on trade and environment, composed of representatives of environmental agreements, states, civil society, industry, trade organizations. He cautioned that this would not be a new organization, but an ad hoc gathering to consider one or two issues at a time, with no statutory power.

He also supported calls for a WTO Agreement on how to appropriately distinguish between like products, noting that sustainable development presumes changing the way in which goods are produced. And he agreed with calls to reduce economically and environmentally perverse subsidies.

He warned WTO Members that the Kyoto Protocol, important at present, would only become more so over time, and with the accumulation of further scientific evidence. He predicted a "ratcheting up" of commitments similar to that which occurred in the Montreal Protocol, with potentially huge consequences for the trading system.

Many participants commented that this symposium had witnessed more sophisticated commentary than previous sessions and Members had exhibited a higher level of willingness to engage in public dialogue. A number of speakers praised the participation of UNDP, UNEP and UNCTAD. Several participants reiterated their earlier statements, particularly on: the connection between trade, environment and poverty eradication; the increasing gap between the rich and poor; and the need for more openness in the dispute resolution process. One NGO said these discussions had taken place against a background of stalemate and inaction. He noted it would be delusional to think these issues will go away, despite what some delegations seem to think.

One NGO stated that the negotiations in Singapore were not only held behind closed doors, but that some were hidden or closed even to most members. He asserted that the final text in Singapore was approved without many ministers having seen it, though none dared admit to the fact. He argued that this demonstrates the power that wealthy countries, and a consensus among them, can have over smaller players in world trade, and asked what measures were being taken to

prevent a recurrence in the next Ministerial meeting. Another participant asked the Secretariat to consult with NGOs on any reform in the area of openness.

CANADA agreed that environmental officials need to attend WTO sessions, just as trade officials need to participate in MEA negotiations.

For future NGO meetings, participants proposed: discussing poverty eradication alongside environmental measures; establishing a permanent mechanism for NGO input; limiting discussions to specific themes such as internalization of ecological costs; a review of policies on the distribution of documents; distributing names and contact numbers for government officials; and participation by environmental officials, particularly from developing countries.

The US called for using existing mechanisms for communicating with NGOs; called on NGO participation to help in the WTO-mandated cross-notification of subsidies; and expressed disappointment at inaccurate recounting by some participants of Uruguay Round negotiations. The European Community said the symposium had successfully improved transparency and communication.

Director-General Ruggiero closed the Symposium by offering four observations: cooperation with UNEP and other international organizations must be part of WTO future discussions; MEAs need active support and advice from the trade community; CTE must be revitalized and make concrete progress; and the pace of development should quicken and the fight against poverty must remain a priority.

A BRIEF ANALYSIS OF THE SYMPOSIUM

Participants at the fourth WTO NGO Symposium drew at least one nearly unanimous conclusion: the trade and environment communities have made giant strides in understanding each other's role and competence. Some of the seemingly insurmountable barriers apparent at the first such symposium in June 1994 have given way to reasoned debate, revealing a sophisticated level of knowledge of both the issues and the possibilities and limits of the WTO in addressing these issues. The days of sterile "WTO bashing" seem largely over.

NGOs recognized the WTO's efforts to increase transparency, particularly through its electronic document distribution system. However, much remains to be done: documents are still routinely restricted until six months after issuance and all meetings, even those not involving negotiations, remain closed to civil society observers. As the NGO representative summing up the meeting observed: The WTO has evolved from opaque to translucent. Transparency is still some distance away.

It was generally recognized that while trade liberalization, subsidy reductions and other trade-related measures could contribute to sustainable development - through improved living standards and more resources for environmental protection, for instance - the link was by no means automatic: adequate national policies coupled with effective enforcement were essential preconditions for trade and sustainable development goals to be mutually reinforcing.

THE FORMAT

The Symposium was the largest NGO consultation ever organized by the WTO. It also attracted more government delegates than any of the previous ones. While these facts may indicate success, time may have come to consider supplementing the rather general exchange-of-views type of symposia with smaller, more focused meetings on specific topics where more concrete and detailed debate on key issues could take place. Among the many possible topics for such meetings are achieving a better balance between the global environmental and trade regimes, and finding mechanisms to address the environmental and social impacts of international trade. There also is an obvious need, expressed by one of the very few African NGO participants, to hold symposium-type regional meetings to build civil society capacity to deal with trade and sustainable development issues in Africa and other developing regions.

THE ISSUES THAT "WILL NOT GO AWAY"

Most participants agreed that the Committee on Trade and Environment had not lived up to expectations. In his closing remarks, Renato Ruggiero said he shared the sense of disappointment and committed himself to "revitalizing" the CTE, which should move from "identifying problems to identifying solutions." Several major stumbling blocks, however, still remain.

The relationship between multilateral environmental agreements and the WTO: Many speakers acknowledged that the WTO is ill-equipped to deal with the global commons. In his opening statement, Renato Ruggiero challenged the participants to help establish a new "international architecture" or framework to "manage the linkages" between the multilateral trade regime and sustainable development concerns. The need to better integrate the various components of sustainable development was reflected in the addresses of the heads of UNCTAD, UNEP and UNDP's Bureau of Development Policy. Referring to the fragmented nature of the international environmental regime, Klaus Töpfer said one his top priorities as UNEP's new Executive Director was to develop a single voice for MEAs to provide a coherent environmental counterpart to the powerful world trading system. The agreement between the two institutions on "a fresh start of informal cooperation" could prove a part of the framework. The newly-proposed Standing Conference on Trade and Environment could offer another avenue for forging the missing international architecture.

An upcoming issue of major importance is the 1999 review of the TRIPs Agreement and its relationship with the Convention on Biological Diversity (CBD). The challenge will lie in ensuring that the TRIPs provisions on plant variety protection and biotechnology products support the CBD's provisions on compensation for traditional knowledge and custodianship, as well as benefit-sharing from products based on genetic resources. On the day following the Symposium, NGOs initiated dialogue with the Secretariats of the WTO and the World Intellectual Property Organization (WIPO) in preparation for the review of Article 27.3.(b), which deals with intellectual property protection for plant varieties.

Subsidies: Reflecting talks in the CTE over the past three years, much of the Symposium's "win-win" discussions revolved around subsidy reduction, particularly in agriculture but also in the fisheries and mining sectors. The CTE has identified subsidy reductions as one way to advance the environmental agenda while benefiting freer trade, but has not clearly recommended that the WTO should therefore concentrate on subsidy reductions in future negotiations. The Symposium highlighted the complexity of the issue: subsidy reduction may cause severe social and, in some cases, environmental damage. Furthermore, there might be some scope for using subsidies to achieve environmental benefits. Should the CTE be able to reach a recommendation, it is still doubtful to what extent - if at all - that recommendation would be taken into account when governments start negotiations on the ultra-sensitive agricultural front.

Processing and production methods and unilateral trade measures: Import bans or other forms of discriminatory treatment based on processing and production methods (PPMs) are not allowed under WTO rules. Dispute settlement panels have consistently ruled against such unilateral actions as violations of the obligation of non-discrimination for "like products" on the one hand, and as efforts to extend domestic legislation beyond national borders on the other. While most speakers agreed that MEAs offered the best approach to addressing global environmental concerns, many stressed the difficulty of reaching such agreements, or providing them with stringent and enforceable dispute settlement mechanisms. In the absence of those, trade measures - even unilaterally taken - were sometimes necessary to reach a desired environmental goal, the latter argued.

Many speakers pointed out that one the key components in setting the world on a sustainable development path involves changing the way goods are produced (or commodities grown, harvested or extracted). While NGOs seem to have generally accepted that GATT provisions are unlikely to be changed in this respect, several suggestions were made to initiate discussions on a possible side agreement or

other ways of making PPM-based trade restrictions GATT-compatible under certain circumstances. A suggestion was made to possibly allow favorable tariffs for products made with methods that promote sustainable development. While to most Northern advocates the PPM issue is essentially an environmental one, Southern participants saw the need for legitimate product differentiation based on their artisanal and culturally appropriate production.

LOOKING FORWARD

Several participants referred to the potential of the Kyoto Protocol to influence the trade and sustainable development interface. If scientific evidence keeps mounting on the existence and consequences of global warming, pushing governments to adopt increasingly stringent mitigation strategies, including trade measures, the Protocol could become "the most important economic treaty since the creation of the GATT," and as such a WTO test case regarding trade restrictions imposed for environmental purposes.

Civil society is likely to seek avenues to take forward Professor Cottier's suggestion to open up the WTO dispute settlement mechanism by allowing public hearings and *amicus curiae* briefs submitted by NGOs. Measures such as these would make the system more transparent, as well as contribute to making panel rulings more acceptable to the public. A much longer-term goal might be the establishment of a WTO Parliament, suggested by Professor Cottier as a way to further the "democratic legitimization" of the world trading body.

Many of the participants praised the technical expertise that characterized interventions on such subjects as the relationship between the TRIPs agreement and the Convention on Biological Diversity, the revision of the WTO's dispute settlement mechanism or ways to advance the PPM debate. Mechanisms might be found to address some of these issues. Another major challenge, however, needs equal attention: the effects of globalisation on vulnerable populations in the poorest countries, already marginalized in the global trading system. Until the international trading system addresses the real needs of those populations, it will not truly achieve "the objective of sustainable development," as mandated by the Preamble of the Marrakesh Agreement establishing the WTO.

THINGS TO LOOK FOR

OECD: The Meeting of the Environment Committee at Ministerial level will be held from 2 - 3 April 1998. The High-Level Meeting of the Development Assistance Committee will be held from 8 - 9 April 1998. The OECD Council at Ministerial level will be held from 27 - 28 April 1998. For information contact: OECD, 2 rue André Pascal, 75775 Paris Cedex 16, France; tel: + 33 (0)1 45 24 81 19; fax: +33 (0)1 45 24 80 07; e-mail: news.contact@oecd.org.

SECOND SUMMIT OF THE AMERICAS: The Second Summit of the Americas will be held from 18 - 19 April in Santiago, Chile. For more information contact: Organization of American States, Foreign Trade Information System - SICE, 1889 F Street NW, Washington, DC 20006, USA; tel.: +1 (202)458-3725; fax: +1 (202) 458-3907; e-mail: forum_m@sice.oas.org; Internet: <http://www.sice.oas.org/>

COMMISSION ON SUSTAINABLE DEVELOPMENT: The Commission on Sustainable Development (CSD) will hold its sixth session (CSD-6) in New York from 20 April - 1 May 1998. For more information contact the Division for Sustainable Development; tel: +1 (212) 963-3170; fax: +1 (212) 963-4260; e-mail: dpcsd.org; Internet: <http://www.un.org/esa/sustdev/>.