



TRADE AND ENVIRONMENT ISSUE
IN THE WTO
INDIAN EXPERIENCE

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Introduction

International trade and environment have been the issues at debate ever since industrialization brought in quick prosperity to the western world. In its haste to amass wealth, the natural resources are being literally exploited. The result is what we witness today. The cities and towns are too crowded, too noisy and extremely unhygienic for healthy human living. The lands are denuded leading to increased disturbances in the weather and water table. Oceans are not only polluted but are getting them of their natural wealth through human over-exploitation. The atmosphere is beset with the looming danger of depleting ozone layer. The earth through over exploitation is losing its fertility. Issues like conservation of wild life and bio-diversity and health and safety standards have become quite important today. All these environmental issues have occupied priority in global agendas and have had a major impact on the conduct of international trade and commercial negotiations.

International trade and environment need not be looked upon as contradictory but as complementary. Both are necessary for growth of human society, and of nature. A balanced and buoyant environment is fundamental not only for continued development efforts, but also for ensuring quality of life. A cleaner environment means less pollution, less sickness, less misery and hence would result in greater productivity that would lead to greater trade.

After decades of debate with higher and higher rates of economic growth, the global society has now come to realize that

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what is needed is sustainable development. However, sustainable development can be achieved only when all or at least majority of countries cooperate with each other in matters relating to it. There are also potential trade-offs and conflicts which are difficult to reconcile. For example, preservation of rain forests is a matter of grave concern to the entire mankind as it is a key environmental resource. But for a country like Malaysia, which has the rain forest reserves, the same is considered as an economic resource and being utilized for the country's economic development. Malaysia, therefore, is being asked to sacrifice its economic resource for global benefit. Such conflicting opinions are raised when the world prepares itself to attain sustainable development.

In fact many of the major Multilateral Environmental Agreements (MEAs) have specific trade provisions. It would be in the interest of the developing nations like India to study the nuances of such Agreements in greater details and evolve proactive strategies to meet the challenges of the growing green agenda in the new millennium. Before looking into the specific trade provisions of some of the important agreements which can provide useful guidelines for the policy-makers in the developing countries, it may be worthwhile to look at some of the developments in the area of trade and environment at World Trade Organization (WTO).

Trade and Environment in the WTO

The issue of trade and environment was not included for negotiations in the Uruguay Round, but certain environmental concerns were nevertheless addressed in the final results of the Uruguay Round negotiations. The Preamble to the WTO Agreement includes direct references to the objective of sustainable development and to the need to protect and preserve the environment. The new Agreements on Technical Barriers to Trade and on Sanitary and Phytosanitary Measures take explicitly into account the use by the governments of measures to protect human, animal and plant life and health and the environment. The Agreement on Agriculture exempts direct payments under environmental programmes from WTO member commitments to

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reduce domestic support for agricultural production, subject to certain conditions. The Agreement on Subsidies and Countervailing Measures treats as a non-actionable subsidy government assistance to industry covering up to 20 per cent of the cost of adapting existing facilities to new environmental legislation. And both the TRIPS and the Services Agreements contain environment-related provisions. More generally, and as recognized in the results of the UN Conference on Environment and Development in 1992 (the Earth Summit), an open, equitable and non-discriminatory multilateral trading system has a key contribution to make to national and international efforts to better protect and conserve environmental resources and promote sustainable development.

The WTO Committee on Trade and Environment has brought environmental and sustainable development issues into the mainstream of WTO agenda. The Committee's first Report, which was submitted to the WTO Ministerial Conference in Singapore, was devoted to the issue of building a constructive relationship between trade and environmental concerns. Trade and environment are both important areas of policy-making and these should be mutually supportive in order to promote sustainable development. The multilateral trading system has the capacity to further integrate environmental considerations and the capacity to further integrate environmental considerations and development without undermining its open, equitable and non-discriminatory character.

The Marrakesh Ministerial Decision on Trade and Environment

Trade Ministers in Marrakesh agreed to establish a WTO Committee on Trade and Environment (CTE) with a broad-based membership of all members of the multilateral trading system - goods, services and intellectual property. The CTE has been given both advisory and prescriptive functions to identify the relationships between trade and environmental measures in order to promote sustainable development, and to make recommendations on whether any modifications to the provisions of the multilateral trading system are required.

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Two important parameters have guided the CTE's work. One is that the WTO competence for policy coordination in this area is limited to trade and to those trade-related aspects of environmental policies which may result in significant trade effects for its members. In other words, there is no intention on the part of WTO to form an environmental agency, nor is there any proposal for WTO to get involved in reviewing national environmental priorities, setting environmental standards or developing global policies on the environment that will continue to be the task of national governments and of other intergovernmental organizations better suited for the purpose.

The second parameter is that if problems of policy coordination to protect the environment and promote sustainable development are identified through the CTE's work, steps taken to resolve them must uphold and safeguard the principles of multilateral trading systems for which the governments spent seven years strengthening and improving through the Uruguay Round negotiations.

The CTE's work programme was set out initially in two areas. A start on the work programme was made soon after the Marrakesh ministerial meeting, under the authority of the WTO Preparatory Committee, and from 1 January 1995, with the coming into force of the WTO Agreement, the Committee on Trade and Environment was formally established to continue work in this area. The CTE process has been driven by proposals from individual WTO Members on issues of importance to them. The CTE adopted its Report on 6 November 1996 and it was forwarded through the General Council of Ministers at the 1996 Ministerial Conference in Singapore.

A brief review of the items of the CTE's work programme is given below.

The relationship between the provisions of the multilateral trading system and trade measures for environmental purposes, including those pursuant to multilateral environmental agreements. A range of provisions in the WTO can accommodate the use of trade-related measures needed for environmental

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purposes, including measures taken pursuant to MEAs. The provisions relating to non-discrimination (MFN and national treatment) and transparency are of key importance. Beyond that, and subject to certain important conditions, the exceptions (cases contained in Article XXIV of the GATT) allow a WTO Member legitimately to place its public health and safety and national environmental goals ahead of its general obligation not to raise trade restrictions or to apply discriminatory trade measures. These provisions have been a major focus of work of the CTE and will be kept under review in the future work programme.

Trade Measures Applied Pursuant to MEAs. A focus in the CTE's discussions has been the relationship between the WTO provisions and trade measures applied pursuant to MEAs. It has been clear throughout the discussions on the issue in the GATT/WTO that the preferred approach for the governments to adopt in tackling trans-boundary or global environmental problems is to seek cooperative, multilateral action under an MEA. That was the approach endorsed by political leaders at the highest level in 1992 at the UNCED, and its appeal is quite evident from the point of view of the WTO which is dedicated to finding cooperative, multilateral solutions to problems in the area of trade. In the Report which the CTE has forwarded to the Ministerial Conference, the WTO Members state that the WTO supports multilateral solutions to global and trans-boundary environmental problems and unilateral actions in this context should be avoided.

While some MEAs contain trade provisions, the Report mentions that trade restrictions are not the only nor necessarily the most effective policy instrument to use in MEAs, but in certain cases they can play an important role. It also states that the WTO already provides broad and valuable scope for trade measures to be applied pursuant to MEAs in a WTO-consistent manner. Till date, few MEAs contain trade provisions and no provision has been included in the WTO over the use of trade measures applied pursuant to MEAs. A number of proposals have been put forward in the CTE to broaden the scope available under WTO provisions for the use of trade measures applied pursuant to MEAs, including

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some that would create an "environmental window" for the use of discriminatory trade measures against non-parties to MEAs, but these proposals have not attracted consensus support in the CTE.

Dispute Settlement. A related item concerns the appropriate forum for the settlement of potential disputes that may arise over the use of trade measures pursuant to MEAs in the WTO, or in the dispute settlement mechanisms that exist in the MEAs themselves. There is general agreement that where a dispute arises between the WTO Members who are parties to an MEA over the use of trade measures they are applying among themselves pursuant to the MEA, they can consider in the first instance to resolve it through the dispute settlement mechanisms available under the MEA. However, if there is a dispute with a non-party to an MEA, then the WTO provides the only possible forum for the settlement of that dispute.

In the Report, it is mentioned that better policy coordination between trade and environmental policy officials at the national level can help prevent situations from arising in which use of trade measures applied pursuant to MEAs could become subject to dispute. Furthermore, it is also mentioned that problems are unlikely to arise in the WTO over trade measures applied pursuant to MEAs. However, if there is a dispute with a non-party to an MEA, the WTO dispute settlement provisions can tackle any problems which arise in this area, including where expert environmental expertise is needed.

WTO Transparency Provisions. WTO transparency provisions fulfil an important role in ensuring the proper functioning of the multilateral trading system in helping to prevent unnecessary trade restrictions and distortions from occurring, in providing information about market opportunities and in helping to avoid trade disputes from arising. They can also provide a valuable first step in ensuring that trade and environment policies are developed and implemented in a mutually supportive way. Unilateral environmental measures should not be required to meet more onerous transparency requirements than other

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measures that affect trade. The CTE Report states that no modifications to WTO rules are required to ensure adequate transparency for trade-related environmental measures. The WTO Secretariat will compile from the Central Registry of Notifications all notifications of trade-related environmental measures and collate them in a single database which can be accessed by the WTO Members.

Issues of the Export of Domestically Prohibited Goods. Concerns were raised by a number of developing countries in the mid-1980s that certain hazardous or toxic products were being exported to them without making them fully informed about the environmental or public health hazards that the products could pose. In the late 1980s a GATT Working Party examined ways of treating trade in goods which are severely restricted or banned for sale on the domestic market of the exporting country. A key consideration was that the importing country should be fully informed about the product it was receiving and has the right to reject them if it felt they would cause environmental or public health problems.

Trade Liberalization and Sustainable Development. Further liberalization of international trade flows, both in goods and services, has a key role to play in advancing economic policy objectives in Member countries. In that respect, the WTO Member countries have already made an important contribution to sustainable development and better environmental protection worldwide through the conclusion of the Uruguay Round negotiations. This contribution will steadily increase as the results of the Round move towards full implementation. The UNCED also recognized an open, non-discriminatory trading system to be a prerequisite for effective action to protect the environment and to generate sustainable development. This is based on the perspective that countries, particularly the developing countries, are dependent on trade as the main source of their continued growth and prosperity. It has been pointed out in its Report by CTE that the removal of trade restrictions and distortions, particularly in high-tariffs, tariff escalation, export restrictions, subsidies and non-tariff barriers, has the potential to yield benefits for both the multilateral trading system and the environment.

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Trade in Services and TRIPS. The Ministerial Decision calls for the CTE to examine the role of the WTO in relation to the links between environmental measures and the new trade agreements reached in the Uruguay Round negotiations on services and intellectual property. Discussions on these two items of the work programme have broken new ground since there was very little understanding of how the rules of the trading system might affect or be affected by environmental policies in these areas.

With respect to the General Agreement on Trade in Services (GATS) and the environment, the Report mentions that discussions in the CTE have not led to the identification of any measures that members feel may be applied for environmental purposes to trade in services which are not already adequately covered by GATS provisions, particularly in Article XIV(b).

In the case of intellectual property, the WTO Members state in the CTE Report that the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) plays an essential role in facilitating access to and transfer of environmentally-sound technology and products. However, they feel that further work will be required in this area, including clarifying the relationship between the TRIPS Agreement and the Convention of Biological Diversity.

Eco-Labeling, eco-labeling programmes are important environmental policy instruments. Eco-labeling has attracted the attention of both trade and environment experts in the recent years. Policymakers for environmental protection consider eco-labeling as a market-oriented mechanism for promoting environmentally products and processes. Trade experts, especially those from the developing countries, on the other hand perceive eco-labeling as an emerging trade barrier.

Eco-labeling essentially is a type of product certification, either by a private organization or by a mixed public-private body. The certificate indicates that the certified product is environmentally more eco-friendly compared to other non-certified products in

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the identical category. Since the labelling programmes provide additional information to potential customers who would like to purchase environment-friendly products, these schemes can help promote use of eco-friendly products. Since the certification procedures also sometimes look at the production processes, it may also promote manufacturing processes which are considered to be more eco-friendly. The International Standards Organization (ISO) has tried to clarify the various types of eco-labeling programmes in the following three categories:

- (1) The first type of labelling involves voluntary multiple criteria based programmes, administered by a third party which assesses the environmental impact of products over their life-cycle. Life-cycle analysis, which also sometimes known as cradle to grave approach, takes into consideration the major environmental effects of the production process, distribution, use and disposal of the products. This type of labelling aims at relieving the buyers from the task of evaluating competing environmental claims and deciding which is more important, as it certifies some products to be more eco-friendly than others.
- (2) The second type of labelling falls into the category of self-declaration of environmental claims by firms. For example, claim by a company that a product is "bio-degradable" or "recyclable". In these cases, there is no verification of the claim made by a third party. There are also no criteria which the products must conform to for making the claims.
- (3) The third type of labelling provides information on environmental performance of a product based on several factors relevant to the product category evaluated by a third party. This type of label provides information on the principal environmental aspects of a product but it does not actually compare products as to their eco-friendliness as in the case of first category labelling. Therefore, this category labelling provides only information to buyers so that they can make their own judgment as to the environmental characteristics of each product.

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Except a few cases where labelling is mandatory, as in the case of technical standards set by the national governments, eco-labeling programmes are voluntary in nature. The programmes are also open to both domestic and foreign manufacturers. If a particular programme becomes successful in terms of wide spread consumer acceptance, manufacturers would feel inclined to meet the criteria, required to gain the label as this might help them to secure a higher market share of appropriate price premium.

Eco-labeling has been discussed extensively in the GATT, and that laid the basis in the CTE for a detailed examination of the issues involved. The key requirement from the WTO's point of view is that environmental measures that incorporate trade provisions or that affect trade significantly do not discriminate between home-produced goods and imports, nor between imports from or exports to different trading partners. Non-discrimination is the cornerstone of secure and predictable market access and undistorted competition. It guarantees consumer choice and gives producers' access to the full range of market opportunities. Subject to that requirement being met, the WTO rules place essentially no constraints on the policy choices available to a country to protect its own environment against damage either from domestic production or from the consumption of domestically produced or imported products.

The CTE Report states that well-designed eco-labeling programmes can be effective instruments of environmental policy. It notes that in certain cases they have raised significant concerns about their possible trade effects. An important starting point for addressing some of those trade concerns is by ensuring adequate transparency in their preparation, adoption and application, including affording opportunities for participation in their preparation by interested parties from other countries. Further discussion is needed on how the use of eco-labeling programmes of criteria based on non-product related processes and production methods should be treated under the rules of WTO Agreement on Technical Barriers to Trade.

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Eco-labeling programmes have been initiated mostly in the developed countries. As of now, there are about 20 eco-labeling programmes, either in operation or in the process of being developed. The oldest programme is the Blue Angel programme in Germany which became operational in 1977. During the late 1980s and 1990s, a large number of new programmes were initiated mostly in the OECD countries. The developing countries which also took some initiatives include Singapore, Republic of Korea and India. In India, eco-labeling programme, called "Ecomark", was started in 1991.

There are number of ways in which trade barriers could be raised through an eco-labeling programme. These are:

- (a) **Extra Jurisdictional Requirements.** The requirement that all businesses (exporters) must meet the environmental or other related laws of the country in which the programme operates (the importing country).
- (b) **Accessibility to the Label.** Allowing the authorized use of the label to only domestic companies.
- (c) **Transparency of Process.** Any guideline on criteria development process for securing the label which is not transparent, making access to relevant information difficult for the prospective foreign exporters.
- (d) **Open to Consultation.** Not using technical inputs from foreign exporters for developing the guidelines.
- (e) **Production and Process Methods (PPMs).** Programmes which have criteria or guideline requirements related to PPMs, as opposed to only the use and disposal aspects of the product to be certified.
- (f) **Additional Costs.** The application and securing the foreign eco-label impose an additional burden on foreign exporters.
- (g) **Market Fragmentation.** Multiplicity of national eco-labeling programmes fragments the world market which again militates against operating efficiency.

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Recently, ESCAP has conducted a study to find out as to how much trade can be affected by such environmental regulations. Since data were not available for all the ESCAP countries, the Study covered only 14 countries, of which India was one. Other countries included in the Study are Bangladesh, Brunei, China, Taiwan, Hong Kong, Indonesia, Republic of Korea, Malaysia, Pakistan, Philippines, Singapore, Thailand, and Vietnam.

The Study revealed that 13 per cent of exports from the ESCAP region to the OECD markets are environmentally sensitive. However, the South Asian countries are the worst off. Their share is as high as 30 per cent. The countries most vulnerable are Bangladesh (8%), Pakistan (3%), Vietnam (4%) and India (2%). The Study also showed that trade with the EU, particularly Germany, has the highest proportion of exports subject to environmental measures, while trade with the USA has the lowest. It can, therefore, be concluded that those countries which have the EU as the dominant trade partner are most vulnerable to exports being disrupted due to environmental restriction. South Asian countries, again are badly affected because 73 per cent of their exports to the EU are environmentally sensitive. As to the type of products covered, textiles, food products and some labour-intensive manufactures appear to be the most vulnerable categories.

The question arises as to how exporting firms will respond to this ecological requirement. This will depend upon a number of factors. First, the market(s) demands that eco-labeling should be a part of the corporate export strategy. If these markets are not critical for the company's survival and growth, it may simply decide to shift to other markets. Secondly, it will have to work out the additional investment requirement and its ability to access such funds. This is where majority of small and medium manufacturing units are expected to face difficulties. State intervention in terms of disseminating information on eco-friendly technology, creating industry level R&D facilities and making finance available at a lower cost for technology upgradation are increasingly called for.

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Unfortunately in India, consciousness for environment and demand for eco-friendly products are still abysmally low. The "toxinism" introduced in India a few years back has been a total failure so far. Demand for eco-friendly products is correlated with the affluence of consumers. These products are costly and therefore, only people with higher purchasing power are willing to pay the premium price for such concerns towards environment. Even in the western world, demand for eco-friendly products is not rising at a very fast pace. Therefore, there is not much hope that the Indian market will be any different. This puts the Indian firms at a disadvantage in their efforts to go for eco-friendly production processes in a bid to retain export markets. Fiscal incentives such as duty-free imports of capital goods for environment-friendly production, accelerated depreciation, etc., can be considered to take care of this problem.

In the period since the GATT Working Party ended its discussions, several MEAs have been negotiated to deal with the problems of trade in environmentally hazardous products. A brief look into the specific trade provisions of a few important MEAs, by which India as a party, can provide useful guidelines for the policy-makers in the developing world.

The Montreal Protocol

The Protocol was necessitated through discovery by leading scientists that the ozone layer is depleting far more rapidly than had been forecast due to emission of ozone-depleting substances (ODS), particularly chlorofluorocarbons (CFCs) and halons. These result in increased ultraviolet radiation which can increase cases of skin cancer, cataracts, depress the human immune system and seriously damage the environment. CFCs have been used in a wide variety of applications including refrigeration and air conditioning, foam production and aerosol propellants, whereas halons are used in fire extinguishers. Global cooperation for the protection of the ozone layer was institutionalized by the Vienna Convention in 1985 and the Montreal Protocol which was signed by 24 countries in 1987 came into force only from 1 January 1989. By then, countries representing about 90 per cent of the world's

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CFC consumption had ratified it. According to the agreement, parties committed themselves to reduce the emission of these substances by at least 50 per cent of 1986 levels by 1995. The five most commonly used CFCs were to be phased out by 1996 in the developed countries. The Protocol permits the developing countries with an annual level of consumption of the controlled substances lower than 0.3 kg to delay the phase out by 10 years. The protocol also provides for financial support being made available for conversion to new substances and technologies. India falls under this category of low consumers and is, therefore, entitled to a longer phase out period. The World Bank has recently approved two important projects in India for the development of substitutes of ODS and related issues. However, the positive incentives of the Montreal Protocol in the form of technology transfer and aid have not come to India in any substantial form.

The Protocol was amended substantially at the second meeting of the parties held in June 1990. The strengthened Protocol called for the phase out of CFCs by 2000 and of other major ODS by 2005. The Protocol lays down a schedule for the reduction in stages of production and consumption of such substances. It has been assumed as a consequence that the trade of controlled substances among the parties will be reduced and will be eliminated automatically. Trade provisions apply to non-parties only, which were as follows.

Imports of controlled substances from nations, not members of the Protocol were banned from January 1993. By 1993, the ban was extended to the developing countries from exporting any controlled substances. Within three years of the agreement, a ban was introduced on products which contain controlled substances from nations which are not members of the Protocol. These products include refrigerators, freezers, aerosol products, insulation boards, panels and pipe covers, etc. Parties signatory to the Protocol are expected to discourage the export of technologies used for controlled substances to nations, not members of the Protocol.

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The Basel Convention

The landmark international convention on the control of transboundary movements of hazardous wastes and their disposal was held in Basel, Switzerland on 22 March 1989. It was adopted by 126 countries, including India, and it came into force on 5 May 1992. Since then four conferences of parties have been held and the fifth will be held in Basel in the first week of December 1996.

The objective of the Basel Convention is to control transboundary movements of hazardous wastes and their disposal in other countries, notably the developing world. The Convention seeks to ensure the environmentally sound management of the wastes and their disposal as close as possible to the sources of generation. At the second meeting of the Convention held in March 1994, it was decided to immediately prohibit transboundary movements of hazardous wastes which are destined for final disposal from OECD to non-OECD countries. Another resolution was adopted to phase out transboundary movements of hazardous wastes for recycling or recovery purpose by 31 December 1997.

The Convention also imposes certain minimum obligations on the parties trading in hazardous wastes. For instance, it seeks to ensure that transboundary movement takes place only if (a) the wastes in question are required as raw material for recycling or recovery industries in the State of import; (b) the transboundary movement is in accordance with other criteria to be decided by the parties, provided those criteria do not differ from the objectives of the Convention; and (c) industrialized countries have an obligation to assist the developing countries in technical matters related to the management of hazardous wastes. The trade provisions in regard to this convention are given below.

The Basel Convention states that every country has the sovereign right to ban import of hazardous wastes or other wastes, and as a consequence, no State should allow transboundary movement of hazardous wastes or other wastes to a State which has prohibited its import. Exports of hazardous wastes to a State which is not party to the Basel Convention and imports from a

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non-party State are prohibited, unless an agreement is reached between parties and non-parties. Before permitting exports of wastes, the exporting country has to make sure that importing country has agreed in writing to the specific import.

So far as India is concerned, it is obligatory on its part to ratify two crucial decisions of the earlier conferences which sought a ban on the movement of hazardous wastes and recyclable between countries. Essentially, the thrust is on banning such movements from the OECD countries to non-OECD countries, which includes India. By virtue of being a signatory to the Basel Convention of 1989, these decisions are supposed to be binding on India. Besides, the inter-ministerial opinion invited by the Ministry of Environment and Forests on the subject is in favour of the government endorsing these decisions.

The fourth meeting in Kuala Lumpur, Malaysia, witnessed most of the developing countries endorsing the ban on cross-border movements of hazardous wastes and recyclable. India had called for a regional conference of the South Asian Association for Regional Cooperation (SAARC) to take up a joint stand on the issue, however, it could not take place for want of the quantum on Bangladesh and Maldives declined to attend. The meeting had aimed to identify the categories of wastes and recyclable that would come under the ban. This was supposed to be done on the basis of the report of a technical committee constituted for the purpose. It is hoped that if India ratifies the decisions, it will be able to effectively stop the hitherto legal or even clandestine movements of the hazardous toxic wastes into the country.

The CITES Convention

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) was adopted on 3 March 1973 and entered into force on 1 July 1975 with the basic objective of providing guidelines and procedures to protect endangered species of wild flora and fauna against over-exploitation through international trade. The degree of control that is exercised over trade is related to the degree of threat of extinction that each animal

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or plant faces. Species covered by the Convention are categorized into the following three appendices:

Appendix I covers species threatened with extinction. Animals and plants covered in this category include whales, sea turtles, tiger, jaguar, bear, elephants of Asia and Africa, and several birds and orchids. Several orchids and cacti are also included.

Appendix II covers species which may become endangered unless trade is strictly regulated. Trade in these species must be authorized by the designated authorities in the signatory countries. It includes all cetaceans, parrots, cats, crocodiles that are not listed in Appendix I, plus a large variety of plants.

Appendix III covers species which a party has identified as being subject to regulation within its jurisdiction and for which cooperation of other parties in the control of trade is needed.

Under the Export-Import Policy, India prohibits export of species included in the Appendix I & II of CITES. Similarly, imports of wild animals including their parts and products as well as ivory are banned in India. Trade provisions in regard to CITES Convention are given below.

Trade in species that are, or could become threatened with extinction is regulated through a system of import and export permits. As far as species in Appendix I and II are concerned, exports can be totally banned (e.g. elephant products mainly ivory) or permits can be issued in exceptional cases, i.e., only if a Technical Authority has determined that the import and export of a specimen will not be detrimental to the survival of the species.

For species included in Appendix III, an export permit should be granted by states which have listed the species in the Appendix, on the basis of recommendations of a Management Authority. Exports by other states are allowed on the basis of a Certificate of Origin. Where export to a state is not a party to the Convention, or where import comes from a state not a party to the Convention,

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the import and export permits issued by the competent authorities in the non-member state may be accepted by the Parties. These permits, however, must substantially conform to the requirements of CITES.

The provisions of the Convention do not affect the right of Parties to adopt stricter domestic measures regarding the conditions for trade, taking of the possession, or transport of specimen-species, both included and not included in Appendices I, II and III or the complete prohibition thereof.

The MEAs have not been to the entire satisfaction of the environmental lobbies who felt that it had given higher priority to considerations of international trade. Also the interests of the developing countries whose trade in such items was minimal were completely overlooked in such agreements. For example, the Montreal Protocol sought to allocate quotas for further consumption of CFCs by individual nations without taking into account the fact that the developed nations have been the major consumers of such chemicals and they should have been held responsible for making any formula of future allocations.

The general opinion among the trade economists and the exporting community, particularly in the developing countries has been totally at variance with the environmental lobbies. The trade economists have felt that many of the trade provisions in the Environmental Treaties contain potential traps of protectionism, which run counter to the principles of international trade. Developing countries, on their part perceive in the environmental agreements and their various restrictions, a subtle mechanism to revert to a protectionist regime by the western nations.

The truth perhaps is somewhere in between. While conceding that the western nations are generally concerned with a fair and detouring global environment, it is also a fact that there are powerful protectionist lobbies in the developed world, who are even ready to invade some clause in the MEAs to put an embargo on exports from a weaker trading partner, usually a developing country.

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Global Conflicts

There is a strong possibility of global conflicts which may erupt in the international trade as a result of the environmental issues. This can best be appreciated by looking at the case of US import of tuna fish from Mexico. According to documented sources, the United States Administration, under pressure from domestic environmental lobbies, had placed an embargo on imports of some species of tuna from Mexico. A certain number of dolphins (an endangered species) are killed in the process of catching the tuna. In the Pacific Ocean, dolphins swim above the tuna and are caught in the tuna fishing nets. According to the US environmentalists, this has led to an 80 per cent reduction in dolphin population in the eastern Pacific Ocean. Mexico termed the embargo as arbitrary and discriminatory. The country stood to lose not only its export to the USA, but also the bulk of its markets in countries in Italy, France and Japan as the US has also stipulated that a secondary law was to be imposed on countries buying Mexican tuna and exporting it to the USA.

Mexico requested the GATT to look into the matter which had set up a panel to study the validity of the tuna ban. Mexico's argument was that the ban was not dictated by ecological but economic reasons, as it primarily sought to protect the American fishermen and not the dolphins. Apparently, the GATT panel came down in Mexico's favour, as it ruled that the US embargo was against the interests of free trade and that the USA could not put an embargo on imports of tuna from Mexico simply because Mexican regulations affecting the production of tuna did not satisfy the US regulations.

The Indian Context

Indian exporters have also felt the impact of the growing environmental agenda in the international trading arena. India has felt that new issues like environment can easily negate the gains secured through the lower of trade barriers and phasing out of the quota regime obtained through hard bargains in the Uruguay Round of Negotiations. A recent World Bank study on India has estimated that the costs of environmental damage can

be conservatively estimated at Rs 340 billion annually. The table below provides some relevant data from the study.

WORLD BANK ESTIMATES OF ENVIRONMENTAL COSTS

Profile	Impact	Low estimate	High estimate
Urban air pollution	Health	317	1,101
Water pollution	Health (eye, diarrhoeal disease)	3,076	8,244
Soil degradation	Loss of agricultural output	1,014	2,748
Forestland degradation	Loss of forestland carrying capacity	238	417
Deforestation	Loss of non-timber forest products	183	344
Timber	Decline in tourism revenues	142	283

(Source: World Bank, 1991)

Though all industries are polluters to some extent, some are more. The following industries have been identified as causing above average environmental pollution:

- (i) Primary metallurgical producing industries including zinc, lead, copper, aluminium and steel
- (ii) Paper, pulp and newspaper
- (iii) Pesticides/insecticides
- (iv) Fertilizers
- (v) Textiles
- (vi) Dyes
- (vii) Leather tanning

- (i) Foyon
- (ii) Sodium/potassium cyanide
- (iii) Basic drugs
- (iv) Foundry
- (v) Storage batteries
- (vi) Acids/alkalis
- (vii) Plasters
- (viii) Rubber-synthetics
- (ix) Cement
- (x) Adhesives
- (xi) Fermentation industry
- (xii) Electroplating industry

Some of these industries are important for India's export trade. For example, textiles & garments, agro-based items, marine products, leather, dyes and intermediates and pharmaceuticals. These are the sectors wherein the developed countries are also seeking to impose more stringent environmental standards and regulations. A few concrete examples can be cited in this regard.

Textiles and Garments. A study conducted by the Apparel Export Promotion Council of India some time ago found that the environmental standards in the USA and Europe will ultimately affect all stages of textile production in this country - from cotton cultivation, spinning, weaving to processing, dyeing, printing and finishing. It is also a fact that the garment exporters from India have to encounter a very serious problem when faced with the prospects of a ban by Germany, a large importer of the Indian goods, of clothing articles treated with azo-dyes. Azo-dyes were perceived as cancer causing by German consumers and, hence, the prohibition. Indian exporters had not only to ensure that future garment exports to Germany were free of such dyes but the Indian dye manufacturers are now obliged to phase out the manufacture of such dyes and develop suitable substitutes.

Agro-based items. In dual selectively with pests, fungus and weeds, etc., which can severely affect crop production and entail major losses to the farmer, there is complete reliance by some of the major foreign exchange earning sectors like tea and coffee on various pesticides and fungicides. Since items like tea are basically edible commodities, western countries do not permit pesticide residues in edible articles beyond a specified level. While the WHO/FAO Codex Alimentarius, which determines international food standards has set safe limits in this context, the Environment Protection Agency of the USA has apparently adopted a different specification and Germany has even more stringent requirements. Indian exporters of food and beverage to developed markets therefore need to be fully tuned to their health related needs, if they wish to expand their export basket of processed food items.

Marine Products. Indian exporters of shrimps to the USA had to face a major crisis recently when the USA stipulated that it would not import any shrimp from India, if during the process of catching the fish, the endangered species of sea turtles (mentioned in the CITES Convention) are in any way harmed. Many Indian exporters have now been forced to use marine vessels fitted with Turtle Excluder Devices at considerable extra cost in order to gain access to or retain a foothold in the US market.

In addition to the measures which are being introduced in response to the pressures being exerted by the developed countries, some action has been taken on India's own initiative. For example, aquaculture industry emerged as an important source of foreign exchange in the recent past. However, it can cause environmental damage in the coastal areas of Andhra Pradesh and Tamilnadu where aquaculture industry is mostly concentrated. Through a judicial verdict, further growth of aquaculture has been brought to a halt. Tamilnadu Government has passed an Act which stipulates that all new fisheries projects will have to be cleared by a district committee, comprising the District Collector, pollution control board representative as well as other concerned officials. Similarly, a large number of factories in Tamilnadu has been closed down through a court order because of environmental damage being caused by them.

The basic inference that can be drawn from above examples is that the Environmental Agenda will have ever ending priority in all future negotiations on international trade and the Indian exporters as well as the promotional agencies and the government organisations concerned with country's export effort need to adopt proactive strategies instead of evading half-hearted responses to rapidly changing situations.

The Indian response on a larger time could be fashioned at various levels. At the governmental level, it can be in the form of developing a system of tax incentives and tax rebates for manufacturers of eco-friendly products. On the part of the industry there is a greater responsibility to step up the pace of R&D in the country and set up quality testing laboratories with international assistance if needed, if its products are to gain greater acceptance in foreign markets. The various non-governmental organisations (NGOs) in the country could be roped in to step up consumer awareness and education regarding eco-friendly processes and products starting from the school and college levels. A system of green rating of companies and establishing of different products have been suggested by some of the leading environmentalists in India on the basis of a company's observance and enforcement of environmental standards. Higher the rating, greater should be the assistance and incentives to be provided by the Indian government.

There is no doubt that the Indian industry has to go for higher level of environmental standards in future because the country's environmental protection needs such standards as well as the demand of the important trade partners. To conclude one can say that environmental consciousness has to be considered as part of the globalization process, and any future international trading strategy has to take this factor invariably into account.

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