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## From the Director's Desk



K.T. Chacko

Growth of international trade is recognized to be a significant tool in attaining sustainable development. Acceleration of trade therefore requires creation of new markets, exposure of domestic firms to international practices, introduction of new investment and adoption of new technology. While it is

understood that such initiatives would create opportunities for sustainable growth and development, whether application of such technology and investment becomes eco-compliant and environment friendly or not remains a matter of concern. It is argued that adoption of new and more efficient technologies help in reducing pollution, reduction in production of waste, but in increasing the efficiency of resources and consequently expansion of trade.

Today the issue of trade and sustainable development faces number of challenges. The magnitude of unresolved trade and sustainable development issues at multilateral, regional and bilateral fora, coupled with the challenge of implementing an equitable, rules-based global regime which factors the developmental needs of Developing Countries is proving difficult to achieve.

There is an urgent need to generate capacity and strategy to pursue sustainable development within the context of trade and investment policy and practice. Developing countries need a huge technological leap where access to technology at most affordable rates are the most crucial variables. Hence barriers to technology transfer need to be removed along with establishing a regime where such transfers take place at affordable costs. There is a need to undertake research and capacity building for policy makers of developing and developed countries which would enable them to design policies that address social issues such as poverty alleviation, increased access to health, education and income opportunities while ensuring environmental management that works in balance with economic and trade development. Such effective handling of the environmental challenges would eliminate serious environmental and associated social impacts. Such impacts, if unmitigated, inevitably affect the poorest, thereby rendering trade unsustainable.

In a world of increasingly globalized economic activity, huge environmental degradation and widening income inequality, achieving sustainable development will critically depend on pro-active resolution of the issues at domestic and international levels.

# Trade and Sustainable Development

## What Does the Global Discourse Say?

*Nitya Nanda, Anandajit Goswami and Saswata Chaudhury \**

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*Trade and sustainable development is one of the important issues in WTO negotiations. While benefits of trade are well recognized for economic and social development, the impact of trade liberalization on environment is a matter of great concern. How to arrive at a trade off between the two has assumed critical proportions. Developed and developing countries are deeply engaged in discussions of liberalizing trade without facing serious challenges of environment. This paper makes an attempt to suggest the key issues involved in the debate and provides an in-depth analysis regarding the issue of trade and environment.*

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### Introduction

THE genesis of the definition of sustainable development lies in the Brundtland Commission Report which highlights the notion sustainability as meeting today's needs without compromising on the needs of future generations. In the context of today's global perspective, trade and sustainable development discourse is put forward through the following focus lenses - (a) how trade can act as a catalyst of growth of countries, (b) how it leads to higher demand for better environmental amenities and services in the society which thereafter affect the environmental policies and social welfare, and finally (c) how trade affects the social indicators like - employment, equity and gender empowerment.

These relationships cater to environment, economy and social dimensions of sustainable development. This article will therefore ponder over each of these pillars of sustainable development and discuss how trade can affect each of these pillars. The first section will deal with the trade and environment aspects followed by trade and growth, trade and its effect on society which are being dealt in the subsequent sections.

### Trade and Environment

Discussions on trade and environment issues came to the forefront in 1971 (Industrial Pollution Control and International Trade by GATT). During this time, main concern was that trade should not suffer because of environmental concerns. However, over time that discourse has got reversed and use of non tariff barriers for getting market access through environmental and health protection instrument has become common in many countries.

Sustainable Development was recognized as an important objective in 1994 Marrakesh Agreement. However, one needs to find out how the sustainable development term enters into trade arena through the GATT principles which are the guiding mechanisms for carrying out trade in goods and services between countries. The GATT text in the exceptions Article XX recognizes the need to make a departure from the objective of free trade by member countries of the WTO if that can be justified with a cause for protecting plant, human and animal health. Plurilateral standards code of 1979 also substantiates this by mentioning that no country can be prevented from taking measures for protection of human, animal and plant life or health.

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\* The authors are with Centre for Global Agreements, Legislation and Trade at The Energy and Resources Institute (TERI), New Delhi.

The term sustainable development received wide publicity and acceptance during the 1992 UNCED at Rio De Janeiro. Agenda 21 of the Rio Summit talked of an action programme for promotion of sustainable development. Parallely, there were ongoing discussions of Uruguay Round during 1986-1994 which overlapped with debates on sustainable development raised by UNCED.

Viewpoints on sustainable development were being taken up by the sub committee on Trade and Environment of the WTO preparatory committee. This was reflected in the preamble of the WTO when it was established after the conclusion of the Uruguay Round. WTO 1994 stated that pursuit of expansion of trade and production of goods and services will allow for sustainable development by protecting and preserving environment. Moreover, the Doha Agenda includes reduction and elimination of tariff and non tariff barriers on environmental goods and services.

One of the critical issues has been a lack of definition of environmental goods and services as it entails a wide range of equipment and services to "measure, prevent, limit, and correct environmental damage to air, water, soil, and ecosystems." Most of these goods have been spread across sectors like chemicals, architecture and design, research and development, consulting and management, etc. Many of them have multiple usages. This led to a debate between developed and

developing countries where developed countries tried to push for market access of environmental goods in developing countries.

Debate has been intensified owing to lack of definition that helped developed countries to push for their commercial interests by seeking access to environmental goods market in developing countries. This notion is further validated by the facts about environmental goods and services market as described by Table 1.

The above table highlights that most of the large environmental corporations are from Germany, France, UK, US and Japan. US controls 33 per cent of the global market. Environmental goods market grew by more than 15 per cent during 1996-2002, and was estimated at US\$652 billion in 2005. Major part of this market lies in developed countries. However, saturation has

developed in the environmental goods market of developed countries whereas the market size in the developing countries is gradually growing. Developed countries have shown competitiveness in environmental service segments. This is because environmental service industry started growing in mid 1970s in developed countries and by 1990s it had matured.

One of the reasons behind this could be explained by Environmental Kuznets Curve. This is because developed countries were far ahead in the developmental ladder in comparison to the developing countries of South, South East Asia, Asia Pacific and there was a higher demand for better environmental goods and quality that led to the establishment of a matured environmental industry. Consumer awareness on better environmentally benign goods and services played a key role towards development of an environmental goods and services

**TABLE 1**  
**ENVIRONMENTAL GOODS MARKET**

Region	2003	2004	Growth (%)	(Value: US\$ billion)	
				2003 exports	2003 imports
US	228.7	240.8	5.3	24.7	21.9
Western Europe	172.4	180.0	4.4	37.5	30.2
Central & Eastern Europe	11.8	13.0	9.7	0.3	3.8
Japan	96.1	98.8	2.8	16.9	5.8
Rest of Asia (India)	33.6 (3.96)	38.0 (4.67)	13.1 (17.4)	1.3	9.4
Mexico	4.1	4.4	9.1	0.05	1.64
Rest of Latin America	11.0	12.1	10.3	0.2	4.4
Canada	16.0	16.5	2.9	1.65	2.13
Australia/New Zealand	9.6	10.1	5.3	1.8	1.1
Middle East	8.3	9.4	13.6	0.1	2.2
Africa	4.6	5.5	19.4	0.0	2.1
Total	596.0	628.5	5.5		

**Source:** Environmental Business International Database 2005.

industry in the developed country. Enforcement of stringent environmental standards and regulations facilitated this growth of the environmental goods and services industry.

However now, countries in Latin America and the Asia-Pacific region, particularly China and India are showing vibrant growth in the environmental markets as they are catching up in the income ladder. But this Environmental Kuznets Curve driven justification for such development should be taken with a pinch of salt. This is because it might not hold in case of global commons like climate change and it doesn't consider several domestic issues like domestic industry and policy barriers that can counter this hypothesis.

Holistically, trade has both positive and negative effects on environment. These are categorically been seen through following dimensions: (a) Scale effect, (b) Structural effect (risk of pollution havens), (c) Product and technology effect, and (d) Regulatory effect.

Scale effect suggests that as trade between two countries grows, size of GDP can grow leading to a rise in the pollution. Structural effects deal with the pollution haven hypothesis in which owing to trade, polluting industries can be shifted to developing countries where the goods are produced and then they are sent back to the developed countries.

Trade theorists suggest that trade in goods and services can create clean technology transfers

from developed to developing countries and can help in the reduction of environmental pollution in developing countries. Regulations can be created guiding and protecting environmental and ecosystem resources that can be dampened from production of certain goods that are traded. Trade can help in protecting environment unlike the structural effect of trade where it has a negative effect on environment owing to trade between two countries.

Since, trade involves shipping of products across regions/countries, greenhouse gas emissions from shipping is associated with trade. In EU, emissions from all sources are more or less stable or falling, but in transportation sector it is increasing significantly. Similarly, EC (European Commission) estimates that by 2020, emissions from shipping will be more than all other sources of transportation combined. Thus, it is of major concern for people dealing with these emission aspects related to trade. On one hand trade promotes growth and sustainable development whereas on the other, trade causes environmental damages which can hinder sustainable development. In current context, where most countries are somewhat bound/planned to reduce emissions, expansion of trade poses challenges to them.

Thus, it raises the question whether "expansion and free flow of trade is a big threat for environment and climate change?" This is linked with the fact whether "it is possible to restrict trade without restricting

development and balancing the needs of the environment, climate?". In this context, "intra industry trade" which is very common in current trade regime, raises more concerns. In "intra industry trade", countries are importing (leading to emission through shipping while the import happens) same type of goods with different varieties to cater to preference of a section of population whereas the same product is produced within the importing country itself. Thus, consumption and variety preference of individual and environmental implications of importing goods to meet those preferences are contradicting to each other, viz. objective of trade promotion on one hand and the saving of emissions from trade promotion, on the other.

To address this issue, countries may think of imposing tax on these types of import when similar goods are abundantly available locally. This can have a beneficial effect on the environment by reducing the level of imports. Conclusive case specific studies on this have to be done in future to get a further direction on the domain of "Trade and Sustainable Development". Sections 2 and 3 further look onto the other domains of trade and its effect on economy, society to capture the issues within the economic, social domains of trade and sustainable development. The so-called technology effect has also been cited as the justification for advocating reduction and elimination trade barriers of environmental goods and services which has already been discussed.

Structural effects have been cited as the justification for introducing some common minimum environmental standards. Though such standards have not been accepted at the WTO some of the regional trade agreements did introduce such standards. However, there is little evidence for such pollution haven hypothesis. The rise in flow of FDI that has gone into energy intensive pollution generating industries has been higher in developed countries compared to developing countries except in mining, quarrying, petroleum and coke (Table 2). However, it may also be noted that mining and quarrying can happen only in places where there are resources. So investment flows in such industries may not be linked to pollution haven hypothesis.

### Trade and Economic Growth

Economic growth is another pillar of sustainable development. Trade can foster such economic growth and can help in promotion of sustainable development with the trickling

down of the growth to the communities meeting their developmental needs.

Classical theories suggest that trade is caused by comparative advantage of resources in countries and leads to growth and economic prosperities in the trading countries promoting sustainable development. But there is debate regarding the driving force of trade: whether trade is comparative advantage driven or is it efficiency driven or whether it depends on the product differentiation of traded goods. This depends on consumer behaviour and preference over various differentiated products. Since, a large component of current global trade is intra-industry type, thus other explanations of drivers of trade between countries are very important.

Moreover, how the efficiency of producing certain types of same goods with specific characteristics changes over time is important. It has to be seen with a comparison of how local efficiency frontier of good production moves in parallel to the global production efficiency

patterns of the same goods. Such changes in the efficiencies will determine how countries will have economic gains from trade and how those gains will percolate to their sustainable development.

Additionally, it will depend on the positioning of the countries in terms of globalization and openness to trade. Econometric studies have not been able to prove this hypothesis empirically. Studies by Dollar & Kraay (2001) show that developing countries which are post 1980 globalizers have grown faster than non globalizers. Globalizers have been defined as the top 30 per cent of the countries in terms of their trade to GDP ratio between 1975-1995. If one has to go by this definition of "globalizers", then, according to their (Dollar and Kraay 2001) own analysis, "non globalizers" are more globalized in terms of their trade to GDP ratio as well as in terms of tariff barriers (Nanda 2008). All these facts raise further question of what is the ideal definition of a globalizer when we analyze the historical context of trade.

TABLE 2: INWARD FDI STOCK IN 1990 AND 2008

	Developed countries			Developing countries			World		
	1990	2008	% change	1990	2008	% change	1990	2008	% change
Mining, quarrying and petroleum	157.33	854.24	442.98	24.49	192.63	686.67	181.81	1109.20	510.08
Coke, petroleum products and nuclear fuel	55.91	88.78	58.80	3.37	43.36	1185.00	59.28	136.21	129.77
Chemicals and chemical products	134.15	703.31	424.27	50.62	159.13	214.38	184.77	869.86	370.79
Rubber and plastic products	14.25	61.05	328.33	2.03	8.59	322.28	16.29	71.33	337.99
Non-metallic mineral products	17.72	128.89	627.55	3.15	17.86	467.34	20.86	154.13	638.75
Metals and metal products	54.47	294.94	441.51	16.42	42.18	156.87	70.89	365.67	415.84
Total of above six industries	433.82	2131.21	391.27	100.08	463.74	363.37	533.90	2706.39	406.91
Total inward FDI	<b>1698.26</b>	<b>11788.57</b>	<b>594.16</b>	<b>383.53</b>	<b>3384.94</b>	<b>782.58</b>	<b>2081.78</b>	<b>15491.18</b>	<b>644.13</b>
% share of above six industries	25.54	18.08		26.09	13.70		25.65	17.47	

**Note:** Figures are in US\$ billion unless mentioned separately.

**Source:** World Investment Report 2010.

Historical context of trade shows that American manufacturers have been creating tariff protection against the European rivals in which they never had any comparative advantage. Further natural resources, consumer goods had a free access to American market whereas in technological goods like computers, biotechnology and aircraft the US always had an edge over other trade partners. Economic and technological growth of globalizers like US had a role to play in their trade relationship which further contributed to their sustainable development. However, today, the US collects more tariff revenue from Cambodia than from Singapore. It buys about US\$40bn worth of goods a year from Britain and \$10bn from Indonesia, but Indonesian exporters to the US pay \$200mn more in tariffs than their British counterparts. Likewise, business in Philippines pay substantially more than those in France; and Bangladesh pays three times as much as Spain.

These facts about trade counter question whether in today's world trade between developed and developing countries promotes growth and leads to sustainable development of developing countries. We do not have substantial answers to these questions as trade between two countries is very context specific and driven by several political, social and economic factors. An explanation of trade between developed and developing countries leading to growth and sustainable development of developing country partner might not always

be true. Further, such trade can have differential implications on the society of developing countries depending on the social construct of the trade partnering countries. Next section describes some of these effects of trade on society.

### Trade and its Effects on Society

An area where trade and sustainable development has an effect on society is through its impact on gender empowerment, inequality, livelihoods, employment. For example, Ghosh (2004) points out, in export-oriented manufacturing and semi-industrialized sectors of developing countries, trade liberalization and global outsourcing has led to a jump in women's share of paid employment.<sup>1</sup>

Many South Asian countries are experiencing this phenomenon. While this restructuring of workforce has improved employment potential of women, financial status and bargaining power of women in the society has not been improved. This happened because usually women workers are preferred in the export sector as they can be forced to work in inferior conditions of work and with lower wages in comparison to their male counterpart. Empirical evidences suggest that women are more prone to job losses (Oxfam 2002). In the agriculture sector, there are indications that, in developing countries, trade liberalization and increased commercialization of agriculture are likely to have negative effect on women

employment (Cagatay, 2001). This is so because, in the agriculture sector of developing countries, particularly in South Asian countries, many women act as unpaid family workers, landless labourers or marginal farmers engaged in subsistence land farming.

One important aspect of achieving MDG through trade is to reduce overall inequality in the economy. Reduction in inequality of two partnering countries owing to trade between them can address the social goals of sustainable development. Literature suggests that trade can affect income distribution and bring a change in inequality levels of a country (Krugman 2008). Way back in 1980s, when the US was facing a rise in inequality along with large rise in skill differentials, it was thought that high growth in the import of labour intensive goods from low wage countries was a factor behind such rising inequality. It was suggested that trade with labour abundant countries led to a reduction in the relative price of labour intensive goods which reduced the wage of un-skilled workers. This led to rising inequality by changing the income levels of skilled relative to un-skilled workers and contributed to widening of inequality within the country.

But the data of North South trade during 1990s show that effect of such trade on inequality levels of trade partners was modest. Soon the shift of analysis switched to how trade created outsourcing of services in the developing countries and raised the levels of inequality in the

developed countries with rise in income of educated skilled workers with a subsequent fall in the income of the less educated workers (Krugman 2008).

Therefore, it is important to analyze whether trade in services contributes to the social goals of inequality reduction, enhancement of quality of life and generates sustainable development for the trade partners. It is of course difficult to analyze the impact of trade policy on social inequality with full confidence. Changes in inequality can be impacted by many factors and policies other than trade policy and there is no fool proof methodology to segregate such impacts. Overall, we see that there has been rise in inequality in both within and across nations over the years when countries have gone for greater trade liberalization. Thus it could be safe to conclude that trade policy needs to be managed well along with other policies of country otherwise such increase in inequality may not be averted.

One more area where developing countries have been notably affected by trade liberalization is with respect to intellectual property dealt by the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS).<sup>2</sup> TRIPS can have significant adverse impact on access to healthcare in general and access to medicines in particular. This is now well recognized as during the Doha Ministerial meeting a decision was taken to make amendment to TRIPS to facilitate better access to medicines. But several related concerns still exist. The next

segment looks on how trade in certain important services like health and tourism can impact sustainable development.

### Trade in Services and Sustainable Development

Sustainable development of a country can be effected through trade in services (e.g., health and tourism services) by bringing a change on employment and livelihoods of local community through trade. Growth in tourism trade which is very common in many developing countries could have an impact on the sustainable development of local people by generating more income. For example, post 2003 tourist arrivals have gone up to a large extent in India owing to the *incredible India* campaign and driven by many proactive state policies. In this regard, Kerala, Rajasthan have played an active role in promoting tourism in their states.

Local communities have been tapped and engaged in promotion of local cultural heritages. They have been exposed to global tourists and revenue from tourists has trickled down to the communities leading to income earning of communities through state driven policies. Similarly, trade in health service is important in Indian context. Many South-East Asian developing countries and some developed countries are engaged in this trade with India. However, does this mean that an enhanced trade in tourism sector, health services sector has led to an overall development of the people of India by improving their quality of living?

The picture is not so clear in many regards because one cannot say that trade in health services in India has improved the basic quality of life indicators of the people of India. This fact is more evident when we observe that though Kerala performs well in terms of Infant Mortality Rate, many large states of India like Uttar Pradesh (UP), Madhya Pradesh, perform ridiculously in indicators. UP in 2000 accounted for 20 per cent of the infant deaths. This picture is true although India's trade in tourism and health services have gone up. In 2002, India earned more than US\$60 million exporting IT enabled services for the health sectors in developed countries. Most of the trade gains have occurred in medical billing and transcription. During 1998-2006, India is amongst the highest recipients of H1A and H1B visas in the US. Large outflow of health professionals from India has taken place due to pull factors of wage differentials, infrastructural conditions and push factors like lack of recognition.

But at the backdrop of all this basic needs of access of common people of India to doctors is an unresolved issue although trade in health services has increased. According to Adkoli (2006), there has been one Indian doctor for every 1,325 Americans in the US whereas it has been one Indian doctor for every 2,400 Indians in India. So although trade has improved in health and tourism services, it is still questionable that how far such trade gains have resulted in improvement of sustainable development of people of India.

## Conclusion

Trade has a potential to impact sustainable development of developing countries by affecting lives of the people of those nations through an increase in their income, environmental parameters, living standards and access to quality health care. All of these effects can affect the environment, economic and social domains of sustainable development. An assessment of the effects of trade on each of these domains opens up several questions. While there is a continuous push by developed countries to get market access in the growing environment market of developing countries, the success of developing countries towards getting market access in the developed markets have been low. It has happened as the competitive advantages (in terms of technology and finance) have lied with the companies of developed countries. Developing countries have not been able to tap the growing demand of consumers of developed countries in environmentally benign products.

Additionally, developing countries have started facing non tariff barriers in their exportable goods owing to high carbon intensity and emission levels associated with the exports. Further, literature also shows that effects of North South trade on inequality of developing countries have not been significant and has stayed mostly at a modest level. Moreover, the debate regarding North South trade in goods has gradually switched to the effects of North South trade in services on social aspects of developing

countries. In this regard, much needs to be done in the area of trade in health and tourism services between North and South though these two services sectors have shown potential to generate local benefit in the developing countries through trade. For full scale realization of that potential, domestic reform measures also have to be implemented in the countries of South while they continue their service trade with the North bloc of countries.

Hence, the effects of trade on sustainable development are mixed. In certain aspects some positive outcomes have been achieved whereas in some other domains there is still a lot of room for improvement. This leaves scope for more future research on the essential linkages of trade on the pillars of sustainable development to arrive at an indicative direction on the global discourse of trade and sustainable development. While the trade environment or trade and sustainable development linkages cannot be denied, it is difficult to justify that trade measures are the appropriate instruments to deal with them.

## NOTES

<sup>1</sup> However, evidence from East Asian countries seem to suggest that there has been a decline in women's employment in this sector during the 1990s (Joekes 1999).

<sup>2</sup> WTO TRIPS Agreement, Globalization and Gender Briefs Series No. 2. Common Wealth Secretariat and ILO. [www.ilo.org/dyn/empent/docs/F1599852333/No%202%20-%20TRIPS.pdf](http://www.ilo.org/dyn/empent/docs/F1599852333/No%202%20-%20TRIPS.pdf)

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## India Opposes Trade Barriers on Environmental Grounds

INDIA has strongly opposed any unilateral trade measures (UTMs) such as tariff and non-tariff measures by developed countries seeking to combat climate change.

It wants a specific prohibition of use of any UTMs by developed countries on environmental grounds. UTMs include tariff, non-tariff and other fiscal and non-fiscal border trade measures that may be taken by developed countries against goods and services from developing countries.

India has proposed the inclusion of UTMs as an additional item in the provisional agenda of the 17<sup>th</sup> Conference of Parties (COP 17) of the United Nations Framework Convention on Climate Change to be held at Durban later this year.

Besides, it has also proposed inclusion of the accelerated access to critical mitigation and adaptation technologies and related intellectual property rights (IPRs) and equitable access to sustainable development on COP 17's provisional agenda.

"Parties should expressly prohibit use of UTMs on environmental grounds as they will have negative environmental, social and economic consequences for developing countries and will compromise the principles and provisions of the Convention," India said in an explanatory note on the proposed additional agenda.

At Cancun last year, countries had agreed to promote a supportive and open international economic system. They had decided that measures

taken to combat climate change including unilateral ones should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade.

Last April, countries such as Italy and France had urged European Union to consider a carbon tax imports from developing countries.

India believes that recourse to UTMs on any grounds related to climate change, including protection and stabilization of climate, emissions leakage and/or cost of environmental compliance would be tantamount to passing mitigation burden onto developing countries.

"This would clearly contravene the fundamental principles and provisions of equity, common but differentiated responsibility," India said.

Further, India felt that an effective and efficient global regime for accelerated access to IPRs of critical climate friendly technologies is essential for the global efforts for development, deployment, dissemination and transfer of such technologies.

"In the absence of such an arrangement, the objective of advancing the nationally appropriate mitigation and adaptation actions at the scale and speed warranted by the Convention cannot be met effectively and adequately," India said.

The Conference of Parties should urgently decide on addressing the issue of treating and delivering climate technologies and their IPRs as public good in the interest of global goal of early climate stabilization, India said.

*(The Hindu Business Line, 17 June 2011)*

## Climate Change to Hit Global Food Output: UN

GLOBAL food output may be hurt as climate change brings more extreme weather over the next decade, with China likely set for harsher droughts and North America getting heavier rain, said the World Meteorological Organization.

“Extreme events will become more intense in the future, especially the heat waves and extreme precipitations,” Omar Baddour, a division chief at the United Nations’ agency, said in a phone interview. “That, combined with less rainfall in some regions like the Mediterranean region and China, will affect crop production and agriculture.” The more extreme weather - including in the US, may disrupt harvests, possibly cutting production of grains, livestock and cooking oils and boosting prices. Global food costs reached a record in February, stoking inflation and pushing millions into poverty.

“We foresee with high confidence in climate projections that intense precipitation in some parts of the world will be more intense, and drought will be more intense,” said Mr. Baddour, who has tracked the subject for more than two decades. Extreme heat waves “will also be more intense and more frequent.”

The UN Food and Agriculture Organization’s world food price index, which tracks 55 food-commodity items, rose nine times in the past 10 months, with the gauge peaking at 237.24 in February. The index climbed to 232.07 last month.

Food costs are at “dangerous levels” after pushing 44 million people into poverty since June, World Bank President Robert Zoellick said February 15. That adds to the more than 900 million people around the world who go hungry each day, he said.

“Climate change, high-and-volatile food and energy prices, population and income growth” will put intense pressure on land and water and challenge global food security as never before, according to Mark Rosegrant, Director of Environment and Production Technology at the International Food Policy Research Institute. Agricultural research is needed to adapt

farming to climate change, Olivier de Schutter, the United Nations’ special adviser on the right to food, said.

(*The Financial Express*, 28 May 2011)

## Expert Group to Evaluate Impact of Economic Growth on Environment

TARGETING a 9 per cent plus growth rate in the Twelfth Plan period, the Government has initiated an exercise to assess the impact of economic growth on the environment.

An expert group, headed by environmental economist Partha Dasgupta, will provide a road map for Green National Accounting (GNA) system to evaluate impact of economic growth on environment by 2015. The committee will include economists Nitin Desai, Vijay Kelkar and Kirit Parikh, Pronob Sen, TCA Anant and Kanchan Chopra. The group is set up jointly by the Planning Commission and Environment Ministry.

“This expert group will provide a road map for GNA. By 2015, we would report Gross Domestic Product (GDP) after taking into account environmental costs. The expert group will soon start to make what are the environmental and ecological implications of high GDP growth on ecology and biodiversity,” Environment Minister Jairam Ramesh said.

Economists estimate GDP as a broad measure of national income and Net Domestic Product (NDP) accounts for the use of physical capital. However, there is no generally accepted system to convert GDP into green domestic product, which would reflect the use of depletable natural resources in the process of generating national income. The GNA system would help Government bringing out GDP growth data co-relating it with impact on the environment. Shri Jairam Ramesh had recently questioned the country’s 9 per cent growth reports, contending that if the impact on ecology had been taken into consideration, the growth would have been only around 6 per cent. Given the escalation over the economic growth versus environment debate, the idea of a green domestic product, alongside the conventional GDP takes on greater significance. By reporting both gross domestic

product and green domestic product, it will be possible to get a better picture of the trade-offs involved in the process of economic growth. Planning Commission Deputy Chairman Montek Singh Ahluwalia said, "I fully endorse the view of Jairam Ramesh that growth should be sustainable and it is desirable that we should reduce emission intensity."

(*The Economic Times*, 11 May 2011)

## OECD Indicators Point to Divergent Trends in Global Growth

ALTHOUGH overall global economic growth is on track, the latest OECD composite leading indicators (CLIs) are currently pointing to some divergence in the pace of economic activity across major economies.

As compared with the previous month's assessment, the CLIs for March 2011 point to a slow or stable pace of expansion in most EU countries and continued expansion in North America, China and Russia, a press note from Paris-headquartered OECD said. Although the OECD as a whole is showing signs of expansion and the US too is in an expansion mode, the growth cycle outlook for EU area is stable pace of expansion. Among the BRIC nations, both Brazil and India are slowing down and China has regained growth momentum while Russia continues to be in the expansion mode.

These leading indicators are designed to provide early signals of turning points in business cycles - fluctuations of economic activity around its long-term potential level. Focussing on turning points (peaks and troughs), the approach results in CLIs that provide qualitative rather than quantitative information on short-term economic movements. The positive relationship between economic growth and consumption of growth-led commodities such as energy products and industrial metals is, of course, well known. Going by signals from the latest CLIs, it is clear the world may witness increased consumption of crude, steel, copper and so on, albeit at a slow pace.

(*The Hindu Business Line*, 10 May 2011)

## Reaching Deficit Target More Challenging for India: IMF

THE International Monetary Fund (IMF) has said reaching a deficit target for 2011-12 would be a more challenging task for the Indian Government.

The Government, which stepped up expenditure to battle economic slowdown after financial crisis, had to streamline and contain spending in key spending targets, Anoop Singh, Director of Asia and Pacific at IMF, told reporters after interaction with the Reserve Bank of India. The Government has set target to bring down the fiscal deficit to 4.6 per cent of gross domestic product (GDP) for 2011-12, down from the estimated 5.1 per cent for 2010-11.

In India, as in many other economies, fiscal policy can play a very helpful role in stabilizing the economy and inflationary expectations. The Budget for this year (2011-12), seeking further consolidation, would significantly help to address overheating and demand pressures, he said.

Referring to task to manage inflation, IMF said against backdrop of strong growth and signs of overheating, the need to tighten macroeconomic policy stances in Asia has become more pressing now than it was six months ago.

The Washington-based international funding agency said further monetary tightening was necessary in economies that were facing generalized inflation pressures, as interest rates remain generally below levels that are consistent with stable growth and low inflation. In many cases, interest rates were still negative in real terms, IMF said.

(*Business Standard*, 10 May 2011)

## Services, Not Manufacturing, Best Bet for Nations to Fight Poverty, Says Research

INDIA'S service-led growth model seems to be scoring over the manufacturing-led Chinese model as the way to go for developing countries. A new research concludes that though manufacturing has been widely held as the model for poor countries due to its ability to create jobs and uplift the masses, services may offer a better model.

The paper, "Service with A Smile: A New Growth Engine for Poor Countries", by Ejaz Ghani and Arti Grover, both from the World Bank, and Homi Kharas from the Brookings Institution says globalization of services has enabled developing countries to tap into a new source of growth.

"Globalization of services provides many opportunities for late-developing countries to find niches where they can be successful...Services may provide the easiest and fastest route out of poverty for many poor countries," say the authors.

They studied the contribution of services and industry to the growth of gross domestic product, a measure of economic growth, in the last 30 years for rich and poor countries. They found that the contribution of services to growth is higher than the industry's contribution. In poor countries, services and industry have contributed more to growth than in rich countries.

Relying on data of 94 countries, they concluded that in 58 countries productivity growth in services exceeded that in industry.

The paper recommends that poor countries, especially those smaller and less populated, can take advantage of a trend that India has pioneered. By comparing labour productivity across sectors, they also show that the rise in services' contribution to growth is linked to a rise in productivity growth in the sector. Labour productivity growth in rich countries has been higher in services than in industry, and it remains positive.

That, the study says, "implies that the global technology frontier for services is still shifting out, while that for industry has stagnated. At the same time, productivity growth in poor countries in services is accelerating and appears to have outstripped productivity growth in industry".

Development in information and communication technology has made modern services more tradable for all countries, but especially for the poor ones, the authors contend. While conceding that India is the popular example of a major modern service exporter, they show that during the last decade poor countries such as Rwanda, Swaziland and Burundi have experienced growth rates in aggregate service exports that are

higher than India's. "For the period 1990-2009, poor countries' exports of modern commercial services have grown by 14.6 per cent per year. Excluding India and China, the figure is still a respectable 9.1 per cent."

The Indian growth model, apart from its thrust on services rather than on manufacturing, is distinct from the Chinese model in other ways as well. For instance, it relies more on domestic consumption rather than exports, and private enterprise rather than State-owned companies and their investments.

(*The Hindu Business Line*, 10 May 2011)

## Jairam for Growth, Emissions Trade-Off

AS the Planning Commission eyes high growth in the 12th Five-Year Plan, Environment Minister Jairam Ramesh cautioned that some amount of give-and-take between rapid economic expansion and environmental concerns would have to be made in the next Plan period, which starts from 2012-13.

The Planning Commission is likely to peg economic growth at 9-9.5 per cent annually in the next Plan.

Shri Ramesh, reportedly under fire over the issue of economic growth and environment, said, "Low-carbon pathway will have some trade-offs, some choices to make." He said the country should be kept abreast of these choices. He also announced the constitution of a panel, to be chaired by noted environmental economist Partha Dasgupta of Cambridge University, to precisely study the impact of high growth on environment and ecology.

"This expert group will provide a road map for 'green' National Accounts. . .By 2015, we would report gross domestic product after taking into account environmental costs," Shri Ramesh said after releasing an interim report on low-carbon strategies for inclusive growth.

Meanwhile, Kirit Parikh submitted an interim report to the Planning Commission on low-carbon strategies for inclusive growth. He told reporters later that India could reduce the growth of carbon

emissions by up to 35 per cent by 2020 over the 2005 levels if it gets international finance and technology.

(*Business Standard*, 10 May 2011)

## Gulf Countries Shifting Focus to Emerging Markets: EIU Report

THE Arabian Gulf countries are shifting their trade and investment emphasis to emerging markets, especially in Asia, according to new research by the Economist Intelligence Unit. The shift from developed to developing countries as trading and investment partners is explored in a report from the EIU, *GCC Trade and Investment Flows: The Emerging-Market Surge*.

The report from EIU, the business-to-business arm of The Economist Group, which publishes *The Economist* newspaper, says emerging markets will contribute to two-thirds of the world's economic growth in the next five years. By 2015, these markets are projected to account for 41 per cent of global GDP, against an estimated 31 per cent in 2011.

India, China and the Sub-Saharan Africa present massive opportunities for the GCC, which could be a base for expanding operations of multinationals in Africa and South Asia. But the GCC countries have to strengthen their labour markets and the regulatory environment.

Asia will be an important emerging-market region and China its most important economic partner by 2020. South Korea, Singapore, Malaysia and India will be important providers of technology and know-how for the GCC States. While trade with Africa will focus on agriculture as most GCC countries import most of their food.

Most GCC investments in emerging markets will focus on tried and tested areas of competitive strength, chiefly energy and services industries such as port operations, tourism, retail, financial services (especially sharia-compliant finance) and telecoms, says the report for which the research was sponsored by Falcon and Associates, a Dubai-based company, focused on trade and investment flows into and out of the GCC countries.

(*The Hindu Business Line*, 10 May 2011)

## India to Add 67,000 MW Solar Power Capacity by 2022

TECHNOLOGICAL breakthroughs and economies of scale will make solar power competitive in six years and help India add 67,000 megawatts of solar generation capacity by 2022 more than thrice the country's target, according to a report by consultancy firm, KPMG.

"The present trends indicate that the prospects are very bright for solar power to be equal to conventional electricity any time after 2017, said a senior official from the Ministry of New and Renewable Energy.

The report says solar energy can contribute 7 per cent of the total power needs of the country by 2022, helping cut coal imports by 30 per cent or 71 million tonnes a year. This would result in saving of \$5.5 billion in imports per year from 2022 onwards, it said.

The projected increase in solar capacity can reduce India's carbon emissions by 2.5 per cent, which is a tenth of the 20-25 per cent reduction India has volunteered at the international summit on climate change in Copenhagen, KPMG says.

It is estimated that solar power prices would decline at the rate of 7 per cent per annum over the next decade. Efficiency improvement due to technological advancement and emergence of low cost manufacturing are likely factors that would aid the continuing trend.

States like Rajasthan, Gujarat and Tamil Nadu are expected to take the lead in this direction reaching the grid-parity earlier. Apart from conducive policies in place, other reasons being higher insolation (measure of solar radiation energy received on a given surface area in a given time) and having little reserves of coal.

Though India may add up to 17 gigawatts (GW) of solar power by 2017, the cumulative installation between 2017 and 2022 can jump three-fold to 50 GW, the consultancy firm says. Last year, the Ministry of New and Renewable Energy had opened up competitive bidding for phase-1 of the Jawaharlal Nehru Solar Mission.

To achieve the grid-parity for solar power over the next 5 years, the Government must take

measures to sustain the momentum in growth. A fund to support states in meeting the renewable purchase obligations can take the sector to the next level.

*(The Economic Times, 9 May 2011)*

## “Do Business as Unusual”

Green Business is Good Business, Says  
Jairam Ramesh

SPEAKING at the recently held AIMA conference on Winning Strategies for Sustainable Development as the Chief Guest, Jairam Ramesh, Minister of State for Environment & Forests, Government of India was of the view that at a time when India is at the brink of launching its 12th Five-Year Plan, it is important to note the highlight of this Plan. “For the first time ever, the high GDP growth as our target will have sustainability as the main feature,” he said.

Talking about the models of growth globally, he explained why India doesn’t need to follow the example of the US or China. “Being a latecomer on the sustainability and environment scene, we have some advantages. There is no point repeating the same mistakes that those countries have done. We should instead learn from their examples and refrain from exploiting nature.”

Speaking about the need to adopt a sustainability model of growth, Shri Jairam Ramesh explained the rationale behind the same. He shared, “In a country like India, sustainability issues are livelihood issues. Wherever you see protests happening against mining or power plants, etc., there people are dependent on these natural resources. This is a bread and butter issue for them. Secondly, environmental issues also have a negative impact on the public health. You go to Bhatinda and you’d find so many people afflicted with cancer. Go to Chandrapur in Maharashtra and you’d see people suffering from respiratory disorders. These are just few of the examples, I am sure there are several more. Land, water and air pollution are serious causes of concern. Thirdly, climate change is adversely affecting all aspects of Ufa. Last but not the least, why India needs to look at sustainability is because of its increasing population.”

Economic sustainability with a 9 per cent growth is absolutely essential; he said and added that it is important for businesses to look at the matter closely. “It’s not the time to do business as usual. Instead we need to do business as unusual. Government on its part can have market friendly regulations but businesses need to play a positive role too,” he quipped.

*(The Economic Times, 9 May 2011)*

## Promoters’ Green Policy to Decide Fate of Big Projects

BIG industrial projects may face a hurdle in getting clearances if their promoters do not have a sound corporate environmental policy (CEP) in place. The Environment Ministry has decided to link clearance to projects with a company’s CEP. A ministry official said just like an internal financial audit, a green audit would protect stakeholders. The ministry has asked major companies, especially in coal, steel, cement and petroleum sectors, to have a CEP in place. The ministry, in an internal note, has asked its statutory committees to check a company’s CEP before clearing its projects.

“For all project proposals at the appraisal stage, environment appraisal committees (EACs) and forest advisory committees (FACs) will deliberate on aspects related to CEP, especially its adequacy and comprehensiveness,” says the note. An EAC grants environmental clearance, whereas an FAC clears projects in forest areas. The note said CEP would have to be part of the initial approval for conducting impact studies of projects submitted for clearance. “The move will reduce the number of violations,” said a ministry official, adding the idea behind the move was to integrate environmental concerns with corporate policies. It would be a system of self-regulation, he said.

The official said companies would have to designate a person responsible for implementing its CEP as well as the conditions imposed by the Government. The companies will have to report violations on their websites. Also, the board of directors will have to be updated on the company’s green policy and its violations, if any.

The Confederation of Indian Industry (CII) welcomed the move. “All ISO 14000-compliant

companies have environment management policies. This will be an extra burden. Still, a direction from the Government is welcome," said Seema Arora, Executive Director, CII-ITC Centre of Excellence for Sustainable Development. The industry body said the Government should recognize companies with good policies.

"While considering projects for approval, the Government should fast-track clearance for companies with good policies," she said.

Welcoming the initiative, the Chief Operating Officer of Vedanta Aluminum, Mukesh Kumar, said, "most big organizations have environmental policies in place. The ministry should give weight to a company's past performance while giving clearance. Companies which have been environmentally responsible should get faster clearances."

(*Business Standard*, 9 May 2011)

## Companies Likely to Invest More in Sustainable Development

AGAINST the backdrop of increased focus on climate change issues, corporates are likely to infuse more money for sustainable development in the coming years, says global consultancy Deloitte. "There are potential opportunities for investments (in sustainable development) and corporates are likely to invest more in such initiatives," Deloitte Global Managing Director (sustainability and climate change services) Nick Main said.

Sustainable development generally refers to growth that does not adversely impact the environment. Efforts to check greenhouse emissions, improve energy efficiency and low carbon technologies are among various initiatives to ensure sustainability. Pointing out that corporate leadership is important to take forward sustainable development, Mr. Main said existing mechanisms need to be "finetuned" especially in countries like India.

Many corporates are making millions of dollars worth investments in green technologies, apart from looking at ways to improve operational efficiency that would help our greenhouse gas emissions. According to him, comparatively challenges are different for developed and developing nations when it comes to sustainable development.

"The move (towards sustainable development) is on at various levels. There is rising focus on low carbon technologies and investment in the renewable energy sector (is increasing)," he said. In recent times, billions of dollars are flowing into green energy initiatives, especially from venture capital entities.

(*The Financial Express*, 9 May 2011)

## Obama doesn't Want India to Win Technology Race

REITERATING his administration's commitment to stay way ahead of the global race in clean energy, US President Barack Obama has said he does not want to have new technological breakthroughs and manufacturing taking place in India and China.

"We're in a competition all around the world, and other countries – Germany, China, South Korea – they know that clean energy technology is what is going to help spur job creation and economic growth for years to come," Mr. Obama said in his address to the workers at an Allison Transmission plant in Indiana.

"That's why we've got to make sure that we win that competition. "I don't want the new breakthrough technologies and the new manufacturing taking place in China and India," asserted the US President, adding he wants all those new jobs in the United States of America, with American workers, American know-how, American ingenuity.

"We're going to have a lot of jobs in the service sector because we're a mature economy, but America's economy is always going to rely on outstanding manufacturing, where we make stuff, where we're not just buying stuff overseas but we're making stuff here, and we're selling it to somebody else," he said.

"This is also where a clean energy economy is being built.

"This is the kind of company that will make sure that America remains the most prosperous nation in the world," Mr. Obama said.

(*Business Standard*, 7 May 2011)

## India Scores High on Trade Confidence Index

CONFIDENCE amongst small- and mid-market exporters and importers in India increased significantly in the second half of 2010, according to a Trade Confidence Index of The Hong Kong and Shanghai Banking Corporation (HSBC).

The index was drawn based on responses from 5,124 exporters, importers and traders in 17 markets: Australia, Brazil, Canada, mainland China, France, Germany, Hong Kong, India, Indonesia, Malaysia, Mexico, Saudi Arabia, Singapore, Vietnam, UK, US and the United Arab Emirates. The data was compiled between July and September 2010. The results used to calculate an index range from 0 to 200.

India scored 140 points (up from 133 in first half of 2010) on the index and was the most confident market among those polled globally.

Overall, trade confidence has remained firmly in positive territory at 116 (unchanged from 1H 2010). Although all markets surveyed were in positive territory, traders in emerging markets were more bullish (at 120) than their counterparts in developed markets (108).

Addressing a press conference Bhiguraj Singh, Head of Trade and Supply Chain, HSBC India, pointed out: "We are seeing a new trade paradigm characterized by stronger prospects of emerging markets trading with each other and intra-regional trade driving global trade momentum. The steady rise in confidence amongst Indian traders over the past few months appears to be well founded on the rise in the Indian economy."

*(The Hindu Business Line, 6 May 2011)*

## Green Hurdles Hold Up 10,000 cr Ports

THE Indian port sector is facing choppy waters as big-ticket expansion projects worth close to ₹10,000 crore have been stranded, awaiting environment clearances.

The major port projects stuck due to environmental clearance include the ₹3,600-crore

container terminal project at Chennai, ₹400-crore coal terminal at Marmagao Port, ₹721 crore project for iron ore export at Marmagao port that is being built as a public-private partnership project and projects worth ₹1,000 crore at Paradip. In Gujarat, Kandla Port, too, has one project worth ₹1,000 crore awaiting environmental clearance.

Choked ports are a key infrastructure bottleneck affecting India's foreign trade. Industry officials say that if these projects are cleared, it would ease the growing congestion in the major ports. Projects are stuck either with the Environment Ministry or the state pollution control boards, or both. "There are almost 27 clearances needed to develop a port. The Ministry of Shipping has suggested a single-window mechanism for obtaining environmental clearances for timely execution of the projects," said a shipping ministry official.

The Paradip port has two major expansion projects approved in 2009. These include constructing deep draught iron ore and coal berths for ₹591 and ₹479 crore, respectively. The projects received clearance from the Environment Ministry early this year, almost two years after the cabinet approval. But, they are still awaiting clearance from the state pollution board.

"The issue with environmental clearance in ports is that it is obtained after projects are bid out to private parties. Usually this takes a long time to fructify, said Rajesh Samson, Partner - Infrastructure Practice, Ernst & Young. The coal and iron-ore terminals at Paradip obtained their respective clearances this January-around two and half years after they were bid out. As a result these terminals could not achieve financial closure.

A similar case is with the 7.2 million tonnes per annum iron ore terminal at west of breakwater at Marmagao port. Cleared by the authorities in New Delhi, the ₹721 crore project is stalled as it still awaits clearance from the Goa State Pollution Control Board. The port trust has requested MoEF to appoint Central Pollution Control Board to look into the matter to avoid further delay.

*(The Economic Times, 9 May 2011)*

## Labour Reform Slips Out of List as Indian Inc has Greater Worries

ARCHAIC labour laws are not affecting India's manufacturing sector as much as problems related to land, water, licences and clearances, a government panel's study shows. With the findings of the Planning Commission study, changing rigid labour laws, so far suspected to be the main hurdle before the manufacturing sector, is likely to drop on the Government's list of priorities. The sector contributes 15 per cent to India's GDP. "Against popular perception, we have found that archaic and rigid labour laws are not among the top three problems faced by the manufacturing sector," a Planning Commission official said. The report is a conclusion of surveys conducted by the Commission ahead of the formulation the 12th Five-Year Plan to identify issues hampering growth of the manufacturing sector. The 12th Plan begins in 2012. The Commission has formed 10 working groups to help in effective policy-making for the Plan period. The working groups, which will look into various issues including labour reforms, are expected to submit their reports by November. The report says that high transaction costs because of multifarious clearance and licence norms, availability of land and water, and environment clearances are bleeding the manufacturing sector more than old labour laws.

To address the concerns of companies, one working group will explore the possibility of having single-window clearances for building manufacturing plants. At present, an average of 20 clearances are required.

On labour management and laws, the report says that most companies are recruiting labour on contract, besides providing conducive work environment and better benefits. Another reason cited for the smaller role of labour laws is the increasing contribution of technology in manufacturing.

"Labour constitutes only 10 per cent of a manufacturing plant, 90 per cent are other components. Therefore, industries have such a perspective. There is increased mechanization, and that is necessarily not in the interest of the country," said Ravi Wig, President of the Employers Federation of India. Labour reforms would continue to be important, Shri Wig added.

For the industry too, labour reforms continue to be as important as the setting up of a single-window clearance system. Both are required, one for setting a plant and the other for running it smoothly," said B.P. Pant, head of labour, employment and skills development department in the Federation of Indian Chambers of Commerce and Industry. Shri Pant said labour laws are tilted towards workers and do not facilitate job creation, or cater to the evolving needs of the consumer-centric manufacturing and services sectors. However, the Planning Commission official said a greater responsibility lay with the companies. "There are things beyond laws."

The Planning Commission's approach paper to the 12th Plan has stated the need to create 100 million jobs by 2020-25, which will help raise the manufacturing sector's contribution to the GDP to 25 per cent.

Another working group of the Commission will identify ways to make manufacturing competitive and quality conscious. "All this is intended to create jobs, and therefore, new labour laws are essential for a smooth sail. What our study shows is that companies and states have found an alternative way through effective industrial relations management," the official added.

Labour law reforms are part of the draft manufacturing policy prepared by the Industry Ministry and the national strategy for manufacturing prepared by the National Manufacturing Competitiveness Council.

*(The Economic Times, 7 May 2011)*





## BOOKS/ARTICLES NOTES

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### ARTICLES

**Manufacturing a Better Future** by Chandrajit Banerjee, *The Financial Express*, 8 June 2011, p. 9.

THIS article focuses on manufacturing sector in the context of a dynamic global manufacturing scenario as well as the imperative of creating employment. The announcement of a national manufacturing policy is to promote investments in the manufacturing sector; to increase the share of manufacturing in GDP to 25 per cent by 2022.

The Indian manufacturing sector grew at a compound annual average of over 7 in 2000-08, characterized by innovative Indian companies and high-performing entrepreneurs. However, the sector contributes a low 15 per cent of GDP as compared to comparator nations such as Thailand, China and Malaysia where manufacturing comprises 30-40 per cent of GDP.

The highlights of the National Manufacturing and Investment Zones (NMIZ) based manufacturing policy include world-class physical infrastructure, a progressive exit policy, incentives for investments in a strategic manner, especially for selected rapid-growth industries, business friendly approval and regulatory measures, and support to clean and green technologies. Hopefully, over a period of time, there would be no requirements of such demarcations and the country as a whole would have access to such an ecosystem to foster manufacturing.

The author says that the policy is essential for the prosperity of the nation and the well-being of its people. Another key stated aim of the draft policy under discussion is to promote clean and

green manufacturing. In the coming years, the necessity of sustainable development and mitigation of carbon emissions will create an entirely new industry sector leveraging green technologies. India has the opportunity to emerge as a global leader in the production of green goods and by evolving innovative manufacturing models to reduce the carbon footprint. The policy recommends special incentives for adopting green technologies in the form of low interest loans, funds for research, renewable energy use, etc.

India also needs to create depth in its manufacturing sector, which means high value addition. This is necessary in the context of globalization, so that it is less vulnerable to global shocks and can capture a greater share of the value chain. Government policy can accelerate depth creation through easier clearance and approval processes, preferential access to finance, capability building for start-ups and small enterprises, developing and promoting clusters, and building supporting infrastructure. In a dynamic global environment, emerging economies have become the new factories of the world. However, India currently has disabilities on amenities such as power and transport infrastructure, cost of funds, ease of doing business and taxation issues, in addition to high transaction costs. These render Indian goods uncompetitive in global markets and sometimes within the country when compared to imports. The author says that the new manufacturing policy should address these bottlenecks to growth and would accelerate the production of Indian goods for domestic and export markets while helping create new livelihood opportunities. In fact, it is quite possible that the price and value conscious Indian consumer would define the benchmarks for the manufactured products of tomorrow.

**Special and Differential Treatment, Trade and Sustainable Development** by Maureen Irish, Law and Development Institute Inaugural Conference, October 2010, Sydney, Australia.

THE Doha Round was intended to remedy the development deficit of the GATT Uruguay Round negotiations, which led to the establishment of the World Trade Organization in 1995. Optimism has, however, given way to frustration and disappointment.

This paper argues that the situation is not entirely bleak for the WTO law of development, at least as expressed in special and differential treatment (SDT) in favour of developing countries. The committee charged with revising the existing SDT provisions in the Doha Round has reached agreement on some clauses. More generally, SDT was reinforced when sustainable development was included in the Preamble of the newly-created WTO in the Marrakesh Agreement. This paper outlines a widely-accepted feature of sustainable development is the principle of common but differentiated responsibilities that takes into account the needs and capabilities of different countries. When SDT provisions are interpreted by WTO panels and the Appellate Body in accordance with the Vienna Convention on the Law of Treaties, existing jurisprudence on SDT obligations in favour of developing countries will be strengthened.

The paper further outlines the progress of special and differential treatment in the Doha Round and discusses the concept of sustainable development.

After a brief overview of sustainable development, this paper argues that recognition of sustainable development as an objective for the WTO affects the interpretation of these provisions. The first paragraph of the preamble of the Marrakesh Agreement Establishing the WTO adopts the objective of sustainable development.

The preamble for the new WTO adds the idea of environmental sustainability and the goal of responding to the "needs and concerns" of countries "at different levels of economic development." This commitment to sustainable

development is reaffirmed in paragraph 6 of the Doha Ministerial Declaration in November 2001.

Sustainable development was adopted as the goal of a "new and equitable global partnership" in the Rio Declaration on Environment and Development in 1992. The Declaration links economic development and environmental protection. Principle 3 affirms that the right to development must be fulfilled to "meet developmental and environmental needs of present and future generations." Principle 4 recognizes that protection of the environment constitutes "an integral part of the development process." The Rio Declaration builds on the Stockholm Declaration of 1972 and the Report of the World Commission on Environment and Development of 1987.

The author concludes that the addition of sustainable development as an objective for the WTO must be taken seriously in the legal interpretation of WTO agreements. Provisions of special and differential treatment in favour of developing countries are strengthened by the acknowledgement of common but differentiated responsibility as an element of sustainable development. The current jurisprudence of the International Court of Justice on sustainable development emphasizes the effectiveness of procedural obligations such as duties to negotiate, consult and cooperate. Proper interpretation of existing SDT provisions will reinforce such duties as obligations of conduct that can be enforced through WTO dispute settlement. Teleological interpretation will help to meet the Doha mandate of strengthening those existing provisions and making them more "effective and operational."

Differences remain, of course, over whether SDT provisions should be temporary transition periods or more reliable tools of development available for as long as the needs last. In the ongoing negotiations, the current provisions on special and differential treatment should not be underestimated. Viewed in accordance with a traditional, well-established, teleological approach to legal interpretation, the existing treaty obligations have significant legal force.

**Impacts of Trade and Environment on Sustainable Development** by Rabiul Islam, Chamhuri Siwar and Shaharuddin Mohamad Ismail, *American Journal of Environmental Sciences* 6 (1), pp. 11-19, 2010.

TRADE and environment are an important role for sustainable development. They affect directly and indirectly on sustainable development. The issues of economic growth, poverty and sustainable development are well known in the development debate during the past couple of decades.

The maintenance of the sustainability of environmental functions constitutes a community interest, so that it demands responsibility, openness and a role for members of the community, which can be channeled by people individually, environmental organizations, such as non-government organizations, traditional community groups and others, for maintaining and increasing environmental supportive and carrying capacity which becomes a mainstay of sustainable development. Development which incorporates the environment, including natural resources, is a medium for attaining sustainable development which is a guarantee of prosperity and quality of life of present and future generations.

This study investigated the issues of trade and environment on sustainable development. It has reviewed the existing literatures on trade and environment and conceptualized the economic, environmental and social effects of sustainable development. The review has six parts. *Firstly*, authors discussed the market access, barriers to trade and impediments. *Secondly*, the trade liberalization, timber trade and environment. *Thirdly*, they analyzed the agreements on tropical timber. *Fourthly*, they explained illegal logging, deforestation and pollution on trade and environment. *Fifthly*, authors study sustainable forest management; and finally, they related the sustainable development on tropical timber trade. The purpose of this study was to highlight and clarify the impacts of trade and environment on sustainable development.

Economists generally argue that the internalization of environmental externalities of economic activity is a necessary step towards sustainable development. Sustainable development

continues to be emphasized that the well-being of the present generation is not met at the expense of future generations. Economic, social and environmental aspects will be increasingly integrated into the development process. Environmental considerations are integrated into sectoral policies in order to ensure sustainable economic and social development. Besides acquiring the requisite technical capacity, the Government implements more efficient and cost-effective command and control measures to reduce and minimize pollution as well as to improve the quality of life.

The contribution of services sector as well as pollution implication of services sector for the production of different industries needs to be quantified in terms of air emission.

Trade rules may influence on the components of sustainable development, such that the effects of liberalization are felt primarily through the extent to which it accelerates or decelerates other processes. The direction and significance of impacts depends on the nature of the policy and regulatory frameworks that are under-developed.

**Clean Energy Tech: Promises Outweigh Problems** by Vinod Kala, *The Financial Express*, 24 May 2011, p. 4.

THIS article focuses on important issues on clean energy and makes an attempt to answer some of the questions on clean energy technologies. The appropriate choice for meeting the energy needs in future; can it solve the problems of energy access and energy security?

Clean energy technologies suffer from many disadvantages. The most important issues pertain to high costs and high variability. Since power can't be stored, clean energy options such as hydro, wind and solar face problems of mismatch between generation, which is dependent on climatic variables, and actual demand patterns for power.

Clean energy technologies, however, offer very attractive features despite above problems. Clean energy resources don't need replenishment and are much bigger sources, by many orders of magnitude, than fast depleting fossil fuel reserves. We have to make a shift from fossil fuels as they are simply insufficient for meeting our future energy needs.

The author mentions the real issues with clean energy technologies in the article. There are two issues, i.e. low conversion efficiency and high conversion costs. However, the costs of most clean energy technologies are falling rapidly driven by improving conversion efficiencies, low cost manufacturing and larger volumes. Wind generation costs are falling *vis-a-vis* solar energy: Solar Photovoltaic (PV) conversion efficiencies are improving. With Concentrated Solar Photovoltaic (CSPV) efficiencies go as high as 23 per cent. At the same time, the cost of manufacturing and system integration is falling. With low-cost manufacturing in India and China, the investment costs may decline, in five-eight years, from \$4/W today to <\$2.0/W resulting in unit investment costs < \$1.0/KWhr. Biomass varieties with better yield/acre and high climatic adaptability are being developed with productivity improvement of four-five times. Combined with wasteland availability, low cost manpower in developing countries, even today, biofuels could be produced at <\$0.7/litre. This may drop to <\$0.4/litre, which is competitive *vis-a-vis* fossil fuels. Biomass can be digested biologically or chemically to produce methane, liquid fuels or hydrogen, which with fuel cells, can have high conversion efficiency (45-70%) and low costs. Fuel cells: From system costs of \$1,000/KW (2002), fuel cell costs have fallen to <\$ 100/KW. The target of \$35/KW may be realized in near future. Technologies such as fermentative hydrogen production, enzymatic hydrogen generation, electro-hydrogenesis, artificial photosynthesis (recent collaboration of MIT with TATA group) are rapidly evolving, leading to reduced costs of hydrogen production and therefore overall costs of power from fuel cells.

Most clean energy solutions offer distributed generation capabilities—small scale, local generators, meeting local electrical and thermal energy needs. They can avoid costly transmission and distribution. Almost 30 per cent+ capital in modern electrical power systems is invested in transmission, and 30-40 per cent of generated power is lost in transmission to users. They also avoid environmental costs of mining, processing, transporting and consumption of fossil fuels.

As can be seen, various clean energy technologies will start to be competitive *vis-a-vis*

grid in 5-20 years time, provided appropriate policy framework supports scaling up and investments:

- Demand generation through measures such as Renewable Portfolio Obligations (RPO).
- Price support through trading of renewable certificates.
- Easy access to low-cost and long-term finance.
- Policies to help investments in technology (special funds, tax benefits) and manufacturing (special zones dedicated to manufacturing with income tax and VAT benefits)

Whereas good progress has been made in the first two areas, the last two need further work in India, the author assesses.

IPCC estimates that we can achieve 80 per cent penetration of clean energy globally, by 2050. Annual investment levels required for this are - \$500-700 billion in next decade and then \$1.0 trillion+. This is not significant in the global context where this amounts to 1-2 per cent of global GDP.

**For a Manufacturing Revolution** by Hari Shankar Singhania, *The Hindu Business Line*, 19 May 2011, p. 10.

THIS article focuses on manufacturing revolution with a different growth model in view of the public protests over land, environment and tribals. Manufacturing centres could be developed all over the country, with a thrust on the use of local resources.

The effect was immediate. Average annual growth in India's manufacturing sector, which had declined from 8 per cent during 1950-65 to 4.6 per cent during 1965-80, rose to 6.8 per cent in 1980-85 and further to 7.6 per cent during 1985-90.

Then, starting from 1991, we pursued a policy of liberalization, globalization and macro-economic (mainly fiscal) re-structuring, exposing our manufacturing sector to external competition. Following that, the sector has also undergone some significant qualitative and structural changes, in favour of capital and technology-intensive industries such as automobiles, pharmaceuticals, chemicals and petrochemicals, electrical goods, and electronics.

The small-scale sector too had re-organized and responded positively as supporting industries. Liberalization of trade and industrial policies has indeed enabled the emergence of a class of globally competitive entrepreneurs in almost every sector.

*First*, we need to appreciate that increasing the share from current 15 to 25 per cent is not a simple job that can be achieved with a mere policy for this sector. This means a significant structural transformation for the economy, the author argues.

Focus on increasing the share of manufacturing has to keep in mind the imperative of building and strengthening inter-sectoral linkages. Among others, any strategy to ensure higher share of manufacturing must have strong focus on processing of, and value addition over, products from primary sector. To be specific, it must take the interest of agriculture into account and manufacturing sector should absorb surplus labour from rural areas.

*Second*, any talk of increasing the share of manufacturing is essentially about increasing the growth in this sector. If we are talking of increasing share from 15 to 25 per cent, what is the growth rate we need for this sector? Also, how are we going to achieve that?

If we look at the period 2002-03 to 2007-08, which is the period of best growth so far since 2000-01, average annual growth in manufacturing GDP at 8.9 per cent was same as that of GDP growth, and average annual share of manufacturing in GDP was 15.8 per cent. From this, it is obvious that for the manufacturing sector to account for 25 per cent of GDP, this sector would have to achieve a very high rate of growth, an annual average of around 15 per cent. Incidentally, in the last fiscal year, industrial growth has come down to 7.8 per cent as against 10.5 per cent in 2009-10.

On obstacles to growth, the author says that in the past such as inadequate infrastructure, credit constraints, low labour productivity and high overhead costs, remain unmitigated, and now we have at least four new obstacles of insurmountable dimensions. These are: Land, Environment, Forest and Tribals (LEFT). Industry is additionally faced

with these four LEFT issues. The intensity of public protest around these issues has been increasing and raising serious doubts as to the future prospects for large industrial projects in the country.

Given the growing intensity of public intervention in matters relating to LEFT and lack of policy clarity, there is apparently no immediate way out of the impasse that we find ourselves in today. At the same time, the imperative of higher double-digit manufacturing growth cannot be postponed for long.

In this context, the author says that think of a different model of manufacturing growth. The new model of growth has to be pro-people in terms of employment, environment and better living standards. It requires that we develop a plethora of manufacturing centres all over the country, maybe one centre for each district, with a thrust on maximum utilization of locally available resources including land, raw materials and people.

He further says that there is need to redirect our focus on developing a stream of competitive small and medium scale units and encouraging development of local entrepreneurship in tune with the imperative of competitiveness, efficiency and globalization. Liberalization at the grassroots levels of administration, under the active guidance of the State governments, would go along way in ushering a manufacturing revolution in the country.

**The Green Economy: Trade and Sustainable Development Implications**, UNCTAD, 7-8 October 2010.

TRADE is a critical instrument for sustainable development, and has expanded dramatically over the last two decades. However, this continuous expansion of trade is resulting in increased price competition among developing countries. This may be an indication that there is a need to re-balance the emphasis from expanding the volume of trade to enhancing the quality of trade and its impacts on sustainable development.

For most developing countries, efforts to achieve long-term sustainable development need to strike a better balance between domestic-led and export-led growth. Such a balance may also allow growth

with equity, as labour income becomes a crucial element of aggregate demand and not merely a cost to be minimized to make exports more competitive. More balanced growth also could lead to truly sustainable development by helping to “internalize” environmental costs.

The urgency of addressing **global climate change** and its potential dramatic social, economic, and environmental impacts require a much more integrated approach to economic activity. Whether a green economy has the potential to become the basis for a new development push will depend on how its benefits are perceived and how the burden of transition costs is shared.

A successful green economy must address several challenges:

- Does it have the ability to overcome the global limitations of the export-led growth model, including enhancing its contribution to sustainable development?
- What is the role of trade as an effective instrument for sustainable development? How can trade help steer (rather than create obstacles for) the transition to a green economy?

**Sustainable trade** is not only about trading green goods and services but also about ensuring that trade contributes positively to sustainable development. It must share the domestic cost and gains of trade, and must contribute to sustainable development in those direct and indirect activities that re-linked to trade.

The concept of a green economy has emerged as a new potential development engine and this paper addresses some of its trade and sustainable development implications as well as its potential opportunities and challenges for developing countries.

In the long term, a green economy can be defined as an economy that results in improved human well-being and reduced inequalities, while not exposing future generations to significant environmental risks and ecological scarcities. It is, therefore, an enabling component of the

overarching goal of sustainable development. In a consolidated green economy consumers value the full range of benefits (basic needs, material usage, health and environmental aspects) that are associated with the purchase of goods and services.

During a transition phase, a green economy seeks to bring long-term societal benefits to short-term activities aimed at mitigating environmental risks, but that alone does not necessarily or automatically imply higher levels of output and employment when compared with a “brown” economy. It is worth noting that in the discussion of a green economy, several developing countries (for different reasons) do not consider a green economy intrinsically sustainable; nor is it considered intrinsically predevelopment or pro-poor. While the traditional development emphasis has been put in economic growth, a green economy (initially) emphasizes the environmental pillar of sustainable development. Consequently, there is an important policy-relevant work to be done in ensuring that paths to a greener economy are socially inclusive and contribute to equitable economic and social development. Simply stated, sustainable development addresses simultaneously the economic, social and environmentally sound development imperatives so that future generations can enjoy the same benefits as current ones. Trade by itself is not intrinsically good or bad for sustainable development; it all depends on how the gains and losses from trade are distributed among the members of society, and how trade impacts the use of natural resources and the quality of the environment.

Traditionally, trade-driven trade-offs between the three pillars of sustainable development have been resolved by prioritizing the economic pillar. But even in this case little attention is generally paid to compensate those sectors of society that lose with trade, i.e. due to labour displacement or bankruptcies that could result from trade liberalization. Pursuing a sustainable development agenda, implies more than macroeconomic growth, it entails a more leveled valuation among economic, social, and environmental development objectives.





## DOCUMENTS

### Committee on Trade and Environment Special Session

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## Committee on Trade and Environment in Special Session

Report by the Chairman, Ambassador Manuel A. J. Teehankee,  
to the Trade Negotiations Committee

1. This report to the Trade Negotiations Committee (TNC) provides an update of progress made in the Committee on Trade and Environment in Special Session (CTESS) since my last written report to the TNC in March 2010.<sup>1</sup> It also aims at identifying areas that will require further attention from Members to bring negotiations to a successful conclusion on all three parts of the mandate in Paragraph 31 of the Doha Ministerial Declaration. The report reflects the work undertaken pursuant to the announcement by the Chairman of the TNC in November 2010 of an intensive work programme through the beginning of 2011, and complies with his guidance for draft texts to be developed so they may appear towards the end of the first quarter of 2011.

#### I. Paragraphs 31(i) and (ii)

2. Paragraph 31(i) considers the relationship between existing WTO rules and specific trade obligations (STOs) set out in multilateral environmental agreements (MEAs). Paragraph 31(ii) considers procedures for regular information exchange between MEA secretariats and the relevant WTO committees, and the criteria for the granting of observer status.

3. I am pleased to report and attach a draft Ministerial Decision on Paragraphs 31(i) and 31(ii)

in Annex I, while at the same time express caution that this is not an agreed text nor is it in complete or final form. Everything is conditional in the deepest sense and requires further engagement and deliberations in open-ended session, consistent with the bottom-up, Member-driven process, and our customary negotiating principles of inclusiveness and transparency.

4. The format is based on Members having converged on the idea of a combined outcome under Paragraphs 31(i) and 31(ii) in the format of a Ministerial Decision. There has been important work carried out in the CTESS and the draft Ministerial Decision is an attempt to capture the progress made. The language in the draft Ministerial Decision is derived from Members' textual proposals and inputs of Members during the recent intensive process of consultations in varying configurations. In some instances, the textual language represents the Chairman's best perception of discussions and consultations held in the CTESS, particularly in the period February and March 2011.

5. The draft Ministerial Decision includes square brackets in some places to highlight options, areas of divergence or aspects requiring focused discussion. Where possible, explanations of the debate are provided in footnotes. There are also

some proposals which are contained in boxes in the draft Ministerial Decision or which are reflected in Annexes I.A or I.B which either have not yet been fully discussed in the CTESS or may still require considerable further work and discussion to arrive at a common textual formulation.

## II. Paragraph 31(III)

6. Paragraph 31(iii) of the Doha Ministerial Declaration considers the reduction or elimination of tariff and non-tariff barriers to trade in environmental goods and services. The format of an outcome under Paragraph 31(iii) is still open although stated options and components have become clearer. The draft Ministerial Decision format of Paragraphs 31(i) and 31(ii) provides a point of reference.

7. On the identification of environmental goods, much work has been done since the circulation of the compilation of environmental goods of interest in my March 2010 Report to the TNC (TN/TE/19). Annex II.A\* to this report, which contains the reference universe of environmental goods of interest to Members, is based on HS-6 lines submitted by Members as they were reflected in Annex III of the March 2010 Report to the TNC, also JOB/TE/3/Rev.1 (5 January 2011) and any subsequent submissions. This compilation of Members' submissions is without prejudice to the outcome or the debate on whether the Committee should define what an environmental good is.

8. Annex II.A\* as well as document JOB/TE/3/Rev.1 (5 January 2011), are intended to be useful to Members across all approaches.<sup>2</sup> There are six broad categories under which goods have been submitted<sup>3</sup>: air pollution control, renewable energy, waste management and water treatment, environmental technologies, carbon capture and storage and others, and these categories are all indicated in the right column of Annex II.A\*.

9. A group of Members identified, on an illustrative basis, a number of tariff lines from the reference universe, and these are reflected in Annex II.B\*.

\* See detailed document at [www.wto.org](http://www.wto.org). TN/TE/20  
21 April 2011.

Preliminary discussions on these goods showed that some of the goods included in this set could be considered by the membership as clear environmental goods, as long as they can be specifically identified in the HS classification by an ex-out or otherwise.

10. Over the years, the work on environmental goods identification has shown that a number of technical difficulties remain. Further work needs to be undertaken by delegations and their experts in this respect, including on the verification of HS description and the determination of ex-outs or sub-classifications. Such technical work should be done without prejudice to the approach and the final outcome.

11. Based on a review of all proposals on the table as reflected in the document TN/TE/INF/4/Rev.15 (28 March 2011) and subsequent submissions as well as the views of Members expressed in consultations on the structure of the outcome, there are still essentially four areas that will require Members' focused efforts to arrive at a draft outcome and modalities.<sup>4</sup> These are:

- (a) Preambular Language;
- (b) Coverage;
- (c) Treatment of Tariffs and Non Tariff Barriers, including Special and Differential Treatment; and
- (d) Cross-Cutting and Development Elements.

12. Much discussion has occurred through the years on the above four areas and the following paragraphs review, without prejudging the final outcome, the options and elements discussed in the negotiating process. These are drawn from all the approaches and proposals, which all remain on the table.

13. On *preambular language*, Members agree that a successful outcome of the negotiations under Paragraph 31(iii) should deliver a triple-win in terms of trade, environment and development for WTO Members. First, the negotiations can benefit the environment by improving countries' ability to obtain high quality environmental goods at low cost or by enhancing the ability to increase production, exports and trade in environmentally beneficial products.<sup>5</sup> This can directly improve the quality of life for citizens in all countries by providing a

cleaner environment and better access to safe water, sanitation or clean energy.

14. The liberalization of trade in environmental goods and services can be beneficial for development by assisting developing countries in obtaining the tools needed to address key environmental priorities as part of their on-going development strategies.<sup>6</sup> Finally, trade wins because these products become less costly and efficient producers of such technologies can find new markets. In addition, liberalizing trade in environmental goods will encourage the use of environmental technologies, which can in turn stimulate innovation and technology transfer.<sup>7</sup>

15. The primary area requiring delegations' urgent attention relates to agreeing on an approach to coverage.<sup>8</sup> The two most recent proposals – a hybrid approach and combined approach – were put forward in an effort to bridge the various proposals on the table and could therefore provide a starting point for structured discussions on coverage.

16. *Attached at Annex II\** is a summary of the potential structures of an outcome on coverage, based on all approaches on the table. Delegations need to engage and work on the concrete elements of coverage to which the treatment modalities would apply.

17. On *treatment*, although the treatment modalities proposed depend on the final structure considered, all proposals for options include a reduction of tariffs to zero for some products or a reduction including 0 for X and a 50 per cent cut after formula application and elimination of tariffs by certain set periods of time. During consultations, we have also touched on reducing and eliminating non-tariff barriers (NTBs) to trade in environmental goods and services. Members have noted the existence of NTBs in certain sectors and provided general ideas on how NTBs can be reduced, for instance by increasing transparency. Some general ideas for an outcome on NTBs were proposed, including in relation to transparency.<sup>9</sup>

18. As regards *special and differential treatment* for developing countries, lesser reductions, implementation delays and other forms of

\* See detailed document at [www.wto.org](http://www.wto.org). TN/TE/20 21 April 2011.

flexibilities were discussed. Product exemptions as well as the liberalization by developing country Members of a lesser number of tariff lines have also been envisaged.<sup>10</sup> For least-developed country Members and small and vulnerable economies, additional flexibilities could be envisaged.<sup>11</sup>

19. There are a number of important *cross-cutting elements* of the mandate and this relates to environmental services and to development aspects such as environmental technologies.

20. With respect to environmental services, the main work is occurring in the Committee on Trade in Services Special Session and one option is to draft textual elements cross-referring to the work there relating to enhanced commitments on environmental services. Another possibility would be that enhanced commitments on environmental services are associated with the environmental goods in the reference universe or categories or to an agreed set of environmental goods.<sup>12</sup>

21. Concerning environmental technologies, discussions have clearly highlighted the importance of these elements as being an integral part of an outcome.<sup>13</sup>

## NOTES

<sup>1</sup> As with TN/TE/19 (Report by the Chairman to the TNC, 22 March 2010), this report is circulated under the Chair's own responsibility and is without prejudice to the position of WTO Members in the negotiations.

<sup>2</sup> For instance, in the project approach, which identifies environmental activities, the reference universe contains various environmental categories or activities that may be relevant to the identified HS lines. In the request and offer, it can serve as a tool to indicate products of interest for requests and/or offers. In the combined approach, the required alpha or beta lines would be drawn from the reference universe submitted to the CTESS. In the hybrid approach, it could provide a basis for a self-selection by Members.

<sup>3</sup> As reflected in Annex III of the March 2010 Report to the TNC and in document JOB/TE/3/Rev.1 (5 January 2011).

<sup>4</sup> These proposals are reflected in document TN/TE/INF/4/Rev.15 (28 March 2011) and subsequent submissions. Members may also refer to document JOB/TE/20 which compiles the textual elements relevant to these four areas contained in Members' submissions under Paragraph 31(iii), from 2002 to date, and to a Secretariat Note compiling the various issues raised in Members'

submissions under Paragraph 31(iii) in document JOB(07)/137 (17 September 2007).

- <sup>5</sup> TN/TE/W/34 (United States, 19 June 2003), para. 3; TN/TE/W/47 (European Communities, 17 February 2005), para. 5; TN/TE/W/50/Rev.1 (Canada, 4 July 2006), para. 13; TN/MA/W/70, TN/TE/W/65 (Canada, European Communities, New Zealand, Norway, Singapore, Switzerland, and the United States, 9 May 2006), para. 2.3; TN/TE/W/57 (Switzerland, 6 July 2005), para. 4; TN/TE/W/54 (India, 4 July 2005), para. 2.
- <sup>6</sup> TN/TE/W/55 (Cuba, 5 July 2005), para. 15; TN/TE/W/42 (China, 6 July 2004), para. 2; TN/TE/W/34 (United States, 19 June 2003), para. 3; TN/MA/W/70, TN/TE/W/65 (Canada, European Communities, New Zealand, Norway, Singapore, Switzerland, and the United States, 9 May 2006), para. 2.2; TN/TE/W/49/Suppl.1 (New Zealand, 16 June 2005), para. 17; JOB(06)/140 (Canada, the European Communities, New Zealand, Japan, Norway, the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu, Switzerland, and the United States, 8 May 2006), para. 2; JOB(07)/146 (Brazil, 1 October 2007), para. 3; JOB/TE/17 (Bolivia, Venezuela, 24 March 2011), para. 3; JOB/TE/18 (SVEs, 1 April 2011), paras. 4-5; TN/TE/W/79 (China and India, 15 April 2011), para. 4.
- <sup>7</sup> TN/TE/W/34 (United States, 19 June 2003), para. 3; TN/MA/W/70, TN/TE/W/65 (Canada, European

Communities, New Zealand, Norway, Singapore, Switzerland, and the United States, 9 May 2006), para. 2.2 2.3; TN/TE/W/47 (European Communities, 17 February 2005), para. 5; TN/TE/W/74 (Argentina, 23 November 2009), para. 2; JOB/TE/5 (Singapore, 23 June 2010), para. 2.

- <sup>8</sup> Delegations are referred to Annex II as well as the compilation of textual elements drawn from all proposals (JOB/TE/20) and also the Secretariat Note compiling the various issues raised under Paragraph 31(iii) in JOB(07)/137.
- <sup>9</sup> TN/TE/W/76 (Argentina and Brazil, 30 June 2010), Annex, para. 10.
- <sup>10</sup> JOB/TE/16 and Corr. 1 (Mexico, Chile, 11 March 2011), para. 12; TN/TE/W/42 (China, 6 July 2004), para. 6; TN/TE/W/76 (Argentina and Brazil, 30 June 2010), Annex, para. 7.
- <sup>11</sup> JOB/TE/18 (Small, Vulnerable Economies (SVEs), 1 April 2011), para. 5.
- <sup>12</sup> JOB(07)193/Rev.1 (European Communities, United States, 6 December 2007), para. 3.
- <sup>13</sup> See TN/TE/W/79 (China and India, 15 April 2011), which provides further ideas on these aspects. JOB/TE/17 (Bolivia, Venezuela, 24 March 2011), para. 13. See also Part D of JOB/TE/20.

## ANNEX I

### DRAFT MINISTERIAL DECISION ON TRADE AND ENVIRONMENT

#### Introductory Comment

The main points covered in the draft Ministerial Decision below and Annexes I.A and I.B are summarised as follows:

- Members provided specific textual proposals for *preambular language* as reflected in the draft Ministerial Decision, covering such aspects as the mandate, the objective of sustainable development, mutual supportiveness of trade and environment, recognition of the different bodies of international law, and the importance of technical assistance and capacity building. A number of delegations have proposed other preambular texts for inclusion in the draft outcome, focusing on coherence and mutual supportiveness of MEAs and the WTO Agreement in the context of international law.
- The draft Ministerial Decision reflects the observation of Members in the CTESS that an *STO set out in an MEA* is understood to be one that

requires an MEA party to take, or refrain from taking, a particular trade action. The sense of the Members of the CTESS has been to ensure there is no prescriptiveness in the description of an STO, and a few Members have questioned the need at all for a definition of STOs.

- Substantially all Members agree that an outcome should highlight the importance of *coordination at the national level* in the negotiation and implementation of STOs in MEAs and the value of sharing of domestic experiences in this regard in the Committee on Trade and Environment (CTE). The draft Ministerial Decision includes a provision that the CTE shall provide a forum for continued sharing of individual Members' experiences. One suggestion, raised during small group consultations, relates to coordination at the international level.
- The basic elements on *information exchange* for inclusion in a final outcome - holding of information exchange sessions with MEA secretariats; access to

documents; and collaboration between WTO and MEA secretariats - are long established, as contained in Annex II of my March 2010 Report to the TNC.<sup>1</sup> These elements are reflected in specific textual provisions in the draft Ministerial Decision. Recent discussions among Members focused on the required level of detail in a final outcome and also whether information exchange sessions might be held not only in the CTE but also other relevant WTO committees.

- On *observer status*, consultations confirmed that two main issues remain in this area: (i) to arrive at a textual formulation that can facilitate appropriate MEA observer status in the CTE; and (ii) whether a decision may be included in a final outcome relating to pending MEA applications for observership in the Committee. On the first issue, the draft Ministerial Decision includes a textual formulation. On the issue of granting of observership to some MEA secretariats with longstanding participation in the work of the CTE, different formulations have been discussed in the CTESS and possible compromise language is reflected in the draft Ministerial Decision that will require further work among delegations.

- There is clear support and convergence that Members wish to deliver an outcome on *technical assistance and capacity building*. The draft Ministerial Decision reflects Members' proposals to give guidance to the CTE on the provision and development of technical assistance by the WTO Secretariat focused on the implementation of STOs set out in MEAs. In addition, there are proposals for the establishment of a group of experts on trade and environment to give advice on certain issues to developing country Members.<sup>2</sup> A provisional textual formulation is contained in the draft Ministerial Decision and further textual proposals are reflected in Annex I.A. This is a topic area where the proponent groups and delegations need to network further amongst themselves and with the wider membership.
- On *dispute settlement*, regarding the relationship between existing WTO rules and STOs in MEAs, the draft Ministerial Decision contains suggested compromise language largely based on the Swiss non-mandatory approach.<sup>3</sup> Further textual proposals derived from Members ideas and consultations are contained in Annex I.B, relating to the use of experts, on which divergences continue to remain.

**DRAFT MINISTERIAL DECISION ON TRADE AND ENVIRONMENT**  
**[Discussion draft based on the textual proposals and ideas of members with respect to paragraphs 31(i) and 31(ii)]**

*Ministers,*

*Recalling that:*

- Paragraph 31(i) of the Doha Ministerial Declaration called for negotiations on the relationship between existing WTO rules and specific trade obligations (STOs) set out in multilateral environmental agreements (MEAs) and stated that the negotiations were to be limited in scope to the applicability of such existing WTO rules as among parties to the MEA in question, and were not to prejudice the WTO rights of any Member that is not a party to the MEA in question;
- Paragraph 31(ii) of the Doha Ministerial Declaration called for negotiations on procedures for regular information exchange between MEA secretariats and the relevant WTO committees, and the criteria for the granting of observer status; and
- Pursuant to Paragraph 32 of the Doha Ministerial Declaration, the outcome of negotiations carried out

under Paragraphs 31(i) and 31(ii) was to be compatible with the open and non-discriminatory nature of the multilateral trading system, not to add to or diminish the rights and obligations of Members under existing WTO Agreements, in particular the Agreement on the Application of Sanitary and Phytosanitary Measures, nor alter the balance of these rights and obligations, and was to take into account the needs of developing and least-developed countries;

*Affirming* our commitment to the objective of sustainable development, as stated in the Preamble to the Marrakesh Agreement Establishing the World Trade Organization (WTO Agreement), and our conviction as stated in Paragraph 6 of the Doha Ministerial Declaration that the aims of upholding and safeguarding an open and non-discriminatory multilateral trading system, and acting for the protection of the environment and the promotion of sustainable development can and must be mutually supportive;<sup>4</sup>

Recalling also the 1994 Marrakesh Ministerial Decision on Trade and Environment which considered that there should not be, nor need be, any policy contradiction between upholding and safeguarding an open, non-discriminatory and equitable multilateral trading system on the one hand, and acting for the protection of the environment, and the promotion of sustainable development on the other;<sup>5</sup>

[Noting that the Vienna Convention on the Law of Treaties states that every treaty in force is binding upon the parties to it and must be performed by them in good faith;]<sup>6</sup> [Recognizing that both MEAs and the WTO Agreement are instruments of international law of equal standing between parties to the agreements, and that all provisions under international law should be implemented harmoniously and in good faith;]<sup>7</sup>

Committed to ensure coherence between international trade and environmental law in a mutually supportive way in order to continue to improve the architecture of international law to better cope with future challenges in an ever more interlinked world;<sup>8</sup>

Reaffirming that MEAs constitute the response of the international community to environmental problems and play an instrumental role in reinforcing the individual and collective actions of all Members;<sup>9</sup>

Recognizing the importance of technical assistance and capacity building in the field of trade and environment to developing countries, in particular the least-developed among them;

Noting the important work undertaken in the Committee on Trade and Environment in Special Session (CTESS) on Paragraphs 31(i) and 31(ii) of the Doha Ministerial Declaration;

Considering observations of Members in the CTES that:

- A specific trade obligation (STO) set out in a multilateral environmental agreement (MEA) is understood to be one that requires an MEA Party to take, or refrain from taking, a particular trade action<sup>10</sup> [a trade-related action<sup>11</sup>];
- The relationship between WTO rules and STOs set out in MEAs is working well, and no formal disputes in the WTO have arisen challenging the implementation of an STO set out in an MEA;<sup>12</sup>

• Until now STOs among parties to MEAs have not been contested in the WTO and should a situation arise of a WTO Member bringing such cases before the WTO, WTO rules would be applicable: observing also that STOs that are multilaterally negotiated, between parties and specific in nature are unlikely to be challenged in the WTO;<sup>13</sup>

- Efforts undertaken by Members at the domestic level to coordinate the views of all relevant government agencies and stakeholders when negotiating and implementing STOs [as well as WTO rules]<sup>14</sup> [and also at the international level in terms of coordination between various governmental bodies and international organizations when addressing WTO matters related to MEAs,]<sup>15</sup> have been helpful to enhancing the mutual supportiveness of trade and the environment;<sup>16</sup>
- Sharing of domestic experiences in the CTES in negotiating and implementing STOs [as well as WTO rules]<sup>17</sup> has provided useful insight into ways in which Members can work to promote mutually supportive trade and environment policies;

• Several features in the design of STOs set out in MEAs have contributed to the positive relationship between such obligations and existing WTO rules such as, careful tailoring of STOs to meet a particular environmental objective, clarity of scope and application of STOs, certain procedures laid out in the MEA that rely on objective criteria and scientific input to make decisions, and other built in procedures in the MEA for changes to its scope that are inclusive, transparent and appropriately flexible;<sup>18</sup>

Ministers,

With a view to enhancing the mutual supportiveness of trade and the environment, hereby *decide* as follows:

1. Members are encouraged to coordinate at the domestic level among relevant government agencies [and with international organizations]<sup>19</sup> when negotiating and implementing WTO rules and when negotiating and implementing STOs set out in MEAs, and to share domestic experiences in this regard in the Committee on Trade and Environment (CTE) [with a view to ensuring coherence/compatibility with rights and obligations arising from WTO Agreements and from STOs in MEAs].<sup>20</sup>

2. The WTO Secretariat, on behalf of the CTE, shall:

- (a) cooperate and collaborate with MEA secretariats, including through: increased information exchange; as appropriate, document sharing and preparation; and enhanced trade and environment-related technical assistance and capacity building activities, particularly those related to implementation of STOs set out in MEAs;
- (b) facilitate appropriate access by MEA secretariats to derestricted WTO documents on a reciprocal basis and make information from MEA secretariats available to WTO Members, including through the use of indexing and internet-based tools. Access to derestricted WTO documents by MEA secretariats shall be facilitated in accordance with the General Council Decision of 14 May 2002 on Procedures for the Circulation and Derestriction of WTO Documents (WT/L/452).<sup>21</sup>

3. While affirming that requests for observer status of international intergovernmental organizations are subject to the criteria and procedures set out in Annex 3 of the Rules of Procedure for Sessions of the Ministerial Conference and Meetings of the General Council (WT/L/161) the CTE shall, when examining requests for observer status from MEA secretariats, have particular regard to the following:<sup>22</sup>

- (a) the relevance of the MEA's scope of work to the Committee as well as the relevance of the Committee's scope of work to the MEA;<sup>a</sup>
- (b) the MEA secretariat's participation in the CTE and its prior contribution to WTO work, including workshops, capacity building activities and preparation of documents; and/or the mutual benefit that may accrue to the Committee and the MEA from the MEA secretariat's participation in meetings of the CTE.

4. The CTE shall grant observer status to MEA secretariats that have applied for such status in the Committee and have met the criteria set out in paragraph 3 above;<sup>23</sup>

<sup>a</sup> *Explanatory Note:* Examples of relevance would be whether the MEA contains provisions that have potential implications for international trade or whether the WTO Committee's work covers aspects and rules that have potential implications for the environmental issues covered by the MEA.

The CTE shall grant observer status to the secretariats of the following MEAs, recognizing that all have applied for such status and have met the criteria and procedures set out in Annex 3 of the Rules of Procedure for Sessions of the Ministerial Conference and Meetings of the General Council: (i) *Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal*; (ii) *International Tropical Timber Organization*; (iii) *Montreal Protocol on Substances that Deplete the Ozone Layer*; and (iv) *Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade*.<sup>24</sup>

5. The CTE shall:

- (a) provide a forum to continue to share experiences of individual Members pursuant to paragraph 1 of this Decision with a view to enhancing the mutual supportiveness of trade and the environment;
- (b) hold information exchange sessions with MEA secretariats on a regular basis.<sup>25</sup> The sessions will provide opportunity for two way information exchanges between MEA and WTO secretariats and their respective memberships on topics of common interest;<sup>26</sup>
- (c) oversee the provision and, as necessary, the development of technical assistance activities by the WTO Secretariat focused on the implementation of STOs set out in MEAs, drawing on the WTO Secretariat's knowledge of provisions of the WTO Agreement, as well as the relevant MEA secretariat's knowledge of particular STOs. The Committee shall ensure that such activities draw on experiences and expertise shared in the Committee on Trade and Environment pursuant to this Decision, and take into account, *inter alia*, the following important objectives:
  - (i) maintenance of the independence of the respective secretariats;
  - (ii) avoidance of duplication of resources and efforts; and
  - (iii) consideration of developing countries, and in particular the least-developed among them, as recipients of technical assistance.
- (d) [Establish][Provide for the establishment of] a group of [2] experts on trade and environment

to be elected [every three years] by the CTE based on criteria to be determined by the Committee, who shall be available on a priority basis to least-developed countries and developing countries as a complement to existing technical assistance mechanisms of the WTO.]<sup>27</sup>

- [(e) Provide for a flexible and expeditious procedure of a conciliatory and non-adjudicatory nature to assist Members with [potential] differences regarding the relationship between existing WTO rules and specific trade obligations of multilateral environmental agreements, through the offices of its Chair or a Friend of the Chair agreed upon by the parties.]<sup>28</sup>

#### NOTES

<sup>1</sup> TN/TE/19 (Report by the Chairman to the TNC, 22 March 2010).

<sup>2</sup> JOB(08)/38 (African Group, 8 May 2008); JOB/TE/14 (ACP Group, 7 March 2011)

<sup>3</sup> TN/TE/W/77 (Switzerland, 4 November 2011).

<sup>4</sup> TN/TE/W/78 (United States, 14 February 2011), preamble; JOB/TE/19 (Australia, Mexico, United States, 1 April 2011), preamble; and JOB(08)/33 (Norway, 29 April 2008), para. 7, all refer to language in Paragraph 6 of the Doha Ministerial Declaration.

<sup>5</sup> TN/TE/W/68 (European Union, 30 June 2006), preamble, includes language: "Reaffirming that MEAs and WTO rules contribute jointly to the international community's pursuit of shared objectives; and expressing our desire that trade and environment policies blend effectively to deliver sustainable development", that is reflective of the language in Marrakesh Ministerial Decision.

<sup>6</sup> Mexico as Friend of the Chair provided this formulation, which is yet to be fully discussed with the wider membership. The Chair notes Mexico has emphasized that this bridging formulation would be in lieu of other textual proposals concerning the relative standing of MEAs and WTO rules in international law.

<sup>7</sup> JOB(08)/33 (Norway, 29 April 2008), para. 6; supported by the European Union.

<sup>8</sup> Textual proposal made by Switzerland at the March 2011 consultations. This proposal requires discussion in the wider membership.

<sup>9</sup> See TN/TE/W/68 (European Union, 30 June 2006), preamble; also highlighted by the European Union during the March 2011 consultations. The European Union further proposed to give recognition that "multilateral approaches to global environmental problems are to be strongly preferred."

<sup>10</sup> The current formulation, pursuant to Members' preference, is descriptive of observations of Members in the CTESS and not a prescriptive definition.

<sup>11</sup> Textual proposal made by Japan at the March 2011 consultations and in a Non-paper circulated by Japan at consultations on 21 March 2011 - indicating its preference for "a trade-related action" and its view "that both (1) the trade measures explicitly provided for as mandatory under an MEA, and (2) "obligation de résultat" provided for in an MEA in which the trade measures are not identified should be included in the scope of STOs, and the definition of STOs should leave room for "obligation de résultat" in the scope of STOs." Chinese Taipei also supported reference to "trade-related action".

<sup>12</sup> JOB(08)/33 (Norway, 29 April 2008), para. 9; JOB/TE/19 (Australia, Mexico, United States, 1 April 2011), preamble.

<sup>13</sup> JOB(08)/33 (Norway, 29 April 2008), and Corr.1 (5 November 2010), paras. 9, 10, 11 (combined).

<sup>14</sup> The European Union and Switzerland have emphasized the need for two-way balance and have objected to language emphasizing only the negotiation and implementation of STOs in MEAs while not addressing WTO rules.

<sup>15</sup> The bracketed language requires further discussion with the broader membership and is derived from the January to March 2011 consultations where the European Union had provided a textual proposal: "Coordination between various governmental bodies and international organizations when addressing WTO matters related to MEAs is useful in enhancing mutual supportiveness between trade and the environment".

<sup>16</sup> In TN/TE/W/78 (United States, 14 February 2011) and JOB/TE/19 (Australia, Mexico, United States, 1 April 2011), a further phrase was proposed, reading (in JOB/TE/19): "...and have fostered compatibility between Members' international trade obligations and domestic implementation of STOs set out in MEAs." This aspect was considered by certain Members such as India and Norway as unnecessary or overly prescriptive.

<sup>17</sup> See footnote 14 above.

<sup>18</sup> TN/TE/W/78 (United States, 14 February 2011), JOB/TE/19 (Australia, Mexico, United States, 1 April 2011); some delegations (European Union, Switzerland, Norway, India, Chinese Taipei) viewed the proposed text as either unbalanced, as it does not refer to features in WTO rules, or unnecessary or overly prescriptive.

<sup>19</sup> See footnote 15 above.

<sup>20</sup> TN/TE/W/2 (Argentina, 23 May 2002), and highlighted by Argentina in the March 2011 consultations. Some delegations (European Union, Norway) countered with the need for balance and two-way coherence in this paragraph.

- <sup>21</sup> As supported in Paragraph 31(ii) Drafting Group consultations in January and February 2011 by India, this proposed paragraph (2(b)) is drawn from Annex II of TN/TE/19 (Chairman's Report to the TNC, 22 March 2010).
- <sup>22</sup> TN/TE/W/78 (United States, 14 February 2011) and also Annex II of TN/TE/19 (Chairman's Report to the TNC, 22 March 2010) highlighted two other criteria derived from Annex 3 of the Rules of Procedure for Sessions of the Ministerial Conference and Meetings of the General Council (WT/L/161), namely (i) the MEA's membership, e.g., whether it broadly reflects the membership of WTO; and (ii) the reciprocity provided by the MEA to the WTO with respect to access to proceedings, documents, and other aspects of observers status. In consultations, various Members noted that the reference to "whether it broadly reflects the membership of WTO" went beyond Annex 3 of WT/L/161: concerning the reciprocity aspects, it was considered by various Members that these were already covered by Annex 3 of WT/L/161 and did not need to be highlighted.
- <sup>23</sup> TN/TE/W/78 (United States, 14 February 2011), para 4, and JOB/TE/19 (Australia, Mexico, United States, 1 April 2011), para. 4, contained a textual proposal, drawn from language in Annex II of TN/TE/19 (Chairman's Report to the TNC, 22 March 2010): "Members shall also consider, in the event that they cannot reach a consensus with respect to a request from a particular MEA for permanent observer status to a WTO Committee, inviting the relevant MEA Secretariat to observe on a meeting-by-meeting basis, until a consensus on the request for permanent observer status can be reached." In consultations, some delegations expressed reservations on this proposal as it only reflects current practise which does not require a Ministerial Decision.
- <sup>24</sup> Canada as Friend of the Chair provided this formulation, which is yet to be fully discussed with the wider membership. In consultation with the CTE Secretariat, the Chair understands these are the four MEAs with pending observership requests and current *ad hoc* participation. In TN/TE/W/66 (European Union, 15 May 2006), and Drafting Group consultations, the European Union proposed the grant of observer status (automatic or by strong presumption) to MEAs with longstanding participation in the CTE.
- <sup>25</sup> In consultations, and as reflected in Annex II of TN/TE/19 (Chairman's Report to the TNC, 22 March 2010), India suggested specifying the information exchange sessions be held on an annual (or biennial) basis. Some delegations commented that the reference to "regular" would provide more flexibility to the Committee in the holding of the sessions.
- <sup>26</sup> In consultations held in the Drafting Group on Paragraph 31(ii) concerning information exchange sessions, a further suggestion was made by the European Union that upon request by other relevant WTO committees or MEA secretariats, these committees, in consultation with MEA secretariats, shall also hold information exchange sessions.
- <sup>27</sup> Proposed formulation drawn from various proposals and consultations. JOB(08)/38 (African Group, 8 May 2008), and JOB/TE/14 (ACP Group, 7 March 2011); see also Annex I.A on "Proposed Elements Relating to a Group of Experts."
- <sup>28</sup> TN/TE/W/77 (Switzerland, 4 November 2010), para 4. See also Annex I.B on "Proposed Elements on Dispute Settlement."

## ANNEX I.A

### PROPOSED ELEMENTS RELATING TO A GROUP OF EXPERTS<sup>1</sup>

*Recommitting* ourselves to protecting and preserving the environment and *recognizing* that the establishment of a specific, permanent technical assistance and capacity building instrument will assist developing country Members in strengthening the relationship between trade and environment regimes;<sup>2</sup>

1. The Committee on Trade and Environment (CTE) shall:

- [Establish [and adequately fund]<sup>3</sup> a "Group of Experts on Trade and Environment" (GETE)<sup>4</sup>, drawing on experience from technical assistance mechanisms and other expert groups in the WTO and other organizations.]<sup>5</sup>
- [Establish a permanent group of independent experts on trade and environment composed of

[x] highly qualified persons who shall be elected by the CTE.]<sup>6</sup>

2. The Group of Experts (GETE) shall:

- [Assist Members in terms of the implementation of specific trade obligations (STOs) under multilateral environmental agreements (MEAs).]<sup>7</sup>
- [Be available for consultations by any Member on the linkages between specific trade obligations (STOs) as laid out in multilateral environmental agreements (MEAs) and the WTO as a complement to existing technical assistance mechanisms of the WTO, with priority for LDCs and developing countries.]<sup>8</sup>

- [Assist in the provision of technical assistance and capacity building relating to multilateral environmental agreements (MEAs) with trade provisions, the negotiation of climate change-related MEAs with specific trade obligations (STOs), and environmental subsidies that affect international trade with developing countries, with priority for LDCs, SIDS and SVEs.]<sup>9</sup>

#### NOTES

- <sup>1</sup> The full proposals containing additional aspects can be consulted in JOB(08)/38 (African Group, 8 May 2008), and JOB/TE/14 (ACP Group, 7 March 2011).
- <sup>2</sup> JOB/TE/14 (ACP Group, 7 March 2011), para (a), and JOB(08)/38 (African Group, 8 May 2008), para. 6.
- <sup>3</sup> JOB/TE/14 (ACP Group, 7 March 2011), para. (e).
- <sup>4</sup> JOB(08)/38 (African Group, 8 May 2008), para. 7; JOB/TE/14 (ACP Group, 7 March 2011), para. (e).

- <sup>5</sup> JOB(08)/38 (African Group, 8 May 2008) also comments in para 8: "This expertise could also be drawn from international organizations such as the World Customs Organization (WCO), UNCTAD, UNEP and other organizations which provide technical assistance to Members."

- <sup>6</sup> Textual proposal by Pakistan from January 2011 small group consultations; circulated for information in a Chair's non-paper on Technical Assistance and Capacity Building at 21 March 2011 Chair's Consultations. The textual proposal makes reference in particular to the idea that the experts will be elected by the CTE and one shall be replaced each year.

- <sup>7</sup> JOB(08)/38 (African Group, 8 May 2008), para. 8.

- <sup>8</sup> Proposed textual suggestion by Pakistan from January 2011 small group consultations.

- <sup>9</sup> Drawn from JOB/TE/14 (ACP Group, 7 March 2011), para (e).

#### ANNEX I.B

#### PROPOSED ELEMENTS ON DISPUTE SETTLEMENT

The Committee on Trade and Environment (CTE) shall:

- [Encourage Members, involved in formal consultations pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes relating to a dispute regarding the relationship between existing WTO rules and multilateral environmental agreements (MEAs), to draw on the expertise of experts in the area at issue.]<sup>1</sup>
- [[Encourage Members,] [Require Members,]<sup>2</sup> who are parties to a dispute regarding the relationship between existing WTO rules and a specific trade obligation contained in a multilateral environmental agreement, to seek the advice of experts on the MEA in question; the Committee shall encourage as well disputing Members [to agree] [to request] that the dispute panel hearing their dispute utilize the procedures under Article 13 of the Understanding on Rules and

Procedures Governing the Settlement of Disputes to seek advice and information in relation to the MEA in question.]<sup>3</sup>

#### NOTES

- <sup>1</sup> Drawn from TN/TE/W/77 (Switzerland, 4 November 2010), para. 4.

- <sup>2</sup> In TN/TE/W/68 (European Union, 30 June 2006), para. 3 the European Union proposed mandatory language with respect to WTO panels seeking expertise of MEAs: Para 3(c) reads: "Where a WTO panel examines issues with an environmental content, relating to a particular MEA, the panel shall call for and defer to, in the relevant points, the expertise of the MEA in question."

- <sup>3</sup> Proposal drawn from suggestions in TN/TE/W/77 (Switzerland, 4 November 2011), and TN/TE/W/68 (European Union, 30 June 2006).

(www.wto.org.TN/TE/20 21 April 2011)



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