

Committee on Trade and Environment

REPORT OF THE MEETING HELD ON 21 MARCH 2002

Note by the Secretariat

1. The Committee on Trade and Environment (CTE) met on 21 March 2001. The CTE confirmed the appointment of Ambassador Oğuz Demiralp (Turkey) as Chairman, and adopted the agenda in WTO/AIR/1740.

Organization of work

2. It was agreed that the MEA Information Session on 13 June would focus on technical assistance and capacity building. The schedule of meetings for 2002 is attached as an annex.

3. The Chairman said the Committee had a heavy workload in preparation for the 5th WTO Ministerial Conference in 2003. In this respect, the CTE had a clear mandate following the Doha Ministerial Conference in November 2001. In pursuing work on all items on its agenda within its current terms of reference, paragraph 32 of the Doha Ministerial Declaration instructed the CTE to give particular attention to three issues. At the same time, Ministers recognized that the CTE had a regular work programme to address as well. Not least, Ministers set out that the Committee shall report to the next Ministerial Conference in 2003, and make recommendations with respect to future action, including the desirability of negotiations. Thus, the CTE should submit a report in little over a year. Further, the Doha Declaration set out a parallel process for negotiations on specific aspects of trade and environment in Special Sessions of the CTE. The first Special Session will take place on 22 March. The intention was to hold CTE meetings and the Special Sessions back-to-back, so as to facilitate the participation of capital-based delegations at both. To ensure that the CTE was productive, the Chairman had been, and would continue to, discuss with delegations informally.

4. The representative of New Zealand said the post-Doha CTE would have to operate differently from the post-Marrakesh and post-Singapore CTE, as the context had changed. There was a Ministerial Declaration, with negotiations across a broad agenda on a three-year timetable. Thus, for many Members, the focus of the next three years would be to secure broader market access in agriculture, industrial products, and services. Ministers had given the CTE a new mandate to report to the 5th Ministerial Conference in Mexico. The CTE also faced the challenge of separate negotiations in the Special Sessions. Thus, it was not business as usual for the CTE. The Doha process had highlighted differences in the WTO on the treatment of trade and environment issues, which had not gone away. The environmental mandate put together in Doha was developed in circumstances that made it difficult for many to regard it as a true consensus mandate. Therefore, common ground must be found in the short time before the 5th Ministerial Conference. The CTE should not lose sight of the core purpose of the WTO – trade liberalization within a rules-based system, a carefully negotiated balance between competing interests. The CTE also had to acknowledge that the WTO had responsibilities in respect of the wider multilateral system and could not operate in isolation. The WTO was not an environmental organization; it could not be expected to be the primary vehicle for responses to environmental problems. Equally, the WTO should not impede responses, especially multilateral ones, to significant environmental issues. New Zealand suggested that for each of the issues before the CTE, ranging from fisheries to MEAs, it should be kept in mind whether the solutions lay in the WTO, or in other fora. New Zealand felt the CTE should continue to emphasize the "trade" elements, which offered genuine opportunities to contribute to sound environmental

outcomes from reduced trade distortions. Also, special weight should be given to the development dimension. Given its broad agenda, the CTE should look at specific trade and environment problems on their merits. Some basic elements might help the CTE decide how to proceed. For example, was the issue trade-driven; was it serious; did it meet a "materiality" test; was there scope to develop a response without compromising core WTO principles, and without damaging the balance of rights and obligations; was WTO action the first and best option; and could solutions be found consistent with the balance in the Doha mandate. There were some difficult issues ahead as Members considered how to report to Ministers in Mexico; the above guiding principles and tests might help.

MARKET ACCESS

PARAGRAPH 32(i) OF THE DOHA MINISTERIAL DECLARATION

The effect of environmental measures on market access, especially in relation to developing countries, in particular the least-developed among them, and those situations in which the elimination or reduction of trade restrictions and distortions would benefit trade, the environment and development

5. The representative of India said the Preamble to the Marrakesh Agreement establishing the WTO laid down as objectives the raising of living standards, full employment, increasing incomes and expanding production of, and trade in goods and services, in accordance with the objective of sustainable development. Greater market access for developing country products was key to this objective. Various countries, including India, had in their submissions cited examples of environmental measures affecting their market access by increasing compliance costs, which was supported by case studies. India's earlier submissions had stated that emerging environmental policies and requirements could, and increasingly would, adversely affect developing countries' market access. While it was for government and industry in developing countries to exploit their comparative advantage, particularly for environmentally friendly products, in order to increase their share in environmentally conscious markets, it was equally important to safeguard existing market access against unjustified environmental requirements. Developing countries should identify sector-specific examples of environmental requirements adversely impacting on exports. Having identified sectors and products, positive measures such as capacity building, technology transfer and technical assistance could be strengthened. Compliance costs for small and medium-sized enterprises, (SMEs) needed special consideration, including collective initiatives for cost effective solutions. Infrastructural investments to mitigate environmental problems were also needed. Information dissemination about new environmental requirements to exporters was crucial, as well as participation in standard setting in export markets to safeguard developing country interests.

6. In this connection, India put forward some proposals for discussion. It was the responsibility of importing countries, while developing and applying environmental measures, to ensure *inter alia* longer time frames for compliance to safeguard developing country exports. Rio Principle 11 stated that "environmental standards, management objectives and priorities should reflect the environmental and developmental context to which they apply. Standards applied by some countries may be inappropriate and of unwarranted economic and social cost to others, particularly developing countries." Thus, there was a need to acknowledge that, while certain measures would achieve environmental objectives in the importing country, similar or greater environmental objectives could be achieved by other measures in the exporting country. Such products which did not conform to the environmental requirements of the importing country, but achieved similar or greater environmental objectives in the exporting country, should not be affected by the requirements of the importing country. In designing environmental measures, importing countries should permit exemptions, while exceptions should be made by exporting countries which would be equivalent in effect to the environmental measures of importing countries. This would achieve environmental objectives while mitigating negative market access effects, especially through providing additional market access to developing countries. India intended to submit a paper on this subject.

7. The representative of Brazil supported New Zealand's statement, an appropriate framework for CTE efforts. The linkages between trade and environment were well known, as both had a global dimension calling for a multilateral approach to the complex issues faced by countries at the national, regional and international levels. While trade matters were dealt with in the WTO, environmental policies often needed to be discussed at multilateral level in the appropriate fora, given the transboundary effects of national economic activities. Cooperation was key to enhancing global environmental protection and to including all countries, particularly developing countries, in multilateral efforts, including in the WTO. Trade liberalization had the potential to generate resources that could be applied to implement sound environmental policies. Brazil believed in the mutual supportiveness of the trade and environmental agendas, which was the basis for Brazil's domestic efforts to promote sustainable development. The environmental benefits of increasing market access, especially for developing country exports, could not be overestimated. The CTE Report to the Singapore Ministerial Conference stated that "improving market access opportunities and preservation of the open equitable and non-discriminatory nature of the multilateral trading system is essential for supporting countries in their efforts to ensure sustainable management of their resources."

8. Removing trade restrictions and distortions, particularly tariff peaks, high tariffs, tariff escalation, export restrictions, subsidies and non-tariff measures, would benefit the multilateral trading system and promote sustainable development. As production and trade distortions were reduced, world prices would tend to increase, with positive effects for the incomes of producers and exporters from non-subsidizing countries. Thus, sound environmental management policies had a better chance of being successfully implemented. As noted in Brazil's paper, WT/CTE/W/109, "trade liberalization *per se* did not lead automatically to environmental protection, it should be accompanied by sound environmental policies and practices. Trade liberalization, however, was certainly a decisive step towards the implementation of appropriate environmental policies and practices." An example was the successful use of non-tillage methods in soya, corn, millet and sorghum in Brazil, which demonstrated how an increase in rural incomes as a result of trade liberalization enabled more sustainable production. Based on paragraph 6 of the Doha Declaration, Brazil considered agricultural trade liberalization to be part of the reform process envisioned in the Uruguay Round and essential to pursue sustainable development, as set out in the Preamble to the Marrakesh Agreement. As such, Brazil proposed that the CTE discuss the developmental and environmental aspects of the negotiations, with particular attention to agricultural negotiations, in line with paragraph 51 of the Doha Declaration. The objective was to ensure that sustainable development was appropriately reflected throughout the negotiations, with attention to agriculture, textiles, fisheries, forest products, and tropical products.

9. The representative of Canada expressed interest in India's comments on the way forward, and on the relevance of equivalency in the SPS and TBT Agreements. It was important to keep in mind work in other WTO Committees, as well as other fora, such as the OECD and World Bank. In North America there was a new twist on environmental measures and market access – green electricity. There were variations its definition, which caused internal trade barriers; as export markets were liberalized, trade barriers would disappear. Canada would provide further information. Canada looked forward to preparing a substantive report for Ministers on market access issues.

10. The representative of Japan said that as to the effect of environmental measures on market access, Japan supported the sector-by-sector approach adopted by the CTE in the past.

11. The representative of the European Communities said the Doha Development Agenda differed from any previous Ministerial orientations for WTO work. The development agenda was multi-layered. Under paragraph 32 of the Ministerial Declaration, the CTE's duty was to add value, and to identify issues where guidance could be provided to the 5th Ministerial as input to the negotiating process, while avoiding duplication of efforts in other WTO bodies. In this respect, India's statement, although perhaps not all of it met the tests that New Zealand had suggested, was helpful. India's remarks would help the CTE to understand that, even if an environmental measure

were justified in WTO terms, it could create compliance costs and market access problems. While this was not related to a breach of WTO obligations, solutions could be found through the WTO in technical assistance or additional market access. Thus, the EC agreed with India that technical assistance, capacity building and technology transfer were part of the solution. This was a focus for business and NGOs in the run-up to the Johannesburg World Summit on Sustainable Development. On India's call for additional market access for developing countries, this was already being discussed and under negotiation under the non-agricultural and services mandates, which were confirmed in Doha. The EC was ready to look at ways of structuring market access deals so as to give advantage to the flow of goods of environmental value in terms of their process of manufacture and final use.

12. The representative of Korea said the sectoral analysis undertaken since the Singapore Ministerial Conference had increased the understanding of the effects of environmental measures on market access. As India had noted, the focus of Item 6 was on granting greater market access to developing countries in areas of comparative advantage. Until now, however, priorities had been accorded to narrowly defined "win-win" situations. Thus, concrete analysis of the effects of environmental measures, particularly on developing country market access, would contribute to the discussion. Korea looked forward to further contributions from Members. Korea agreed with India that compliance costs to meet environmental requirements created market access obstacles for developing countries. Korea supported Canada's suggestion to use studies from other organizations.

13. The representative of Norway underscored that improved market access was one of the most important factors in promoting development. Thus, Norway had devised one of the most liberal preference systems for developing countries. As of July 2002, every product from least-developed countries would benefit from zero tariff or no quota treatment. Such preferences may unintentionally be jeopardized by national non-tariff legislation. Norway had presented a plan to fight poverty that addressed, *inter alia*, the need for coherence in national policies towards developing countries, and the obstacles that developing countries may encounter on the Norwegian market due to health and environmental legislation directed at safeguarding consumers and citizens. Health and environment were of concern to all countries, and all WTO Members sought, within their means, to protect their populations against health and environmental hazards. The answer to developing country concerns was not to weaken these standards, but to enable them to meet the requirements. Norwegian legislation applied to national and imported products and was non-discriminatory in conformity with the WTO. However, these legislative measures may have side effects detrimental to developing country imports. Norway looked forward to India's submission on market access.

14. Norway was studying early warning mechanisms on the trade consequences of governmental decision-making, particularly for SPS and TBT. Such procedures would only be of limited value if they were not followed up by concrete measures. In some cases, coherence policies would lead to reassessment of the proposed legislation. In other cases, market access barriers would not be overcome only by information, but would require improvements in the products in question. In order not to compromise Norway's health and environmental standards, new market entrants would be required to meet the same standards as incumbent participants, as exemptions could undermine health and environment and backfire on developing country exports. If these standards were beyond what was currently achievable, particularly for LDCs, Norway would offer technical assistance. Trade-related technical assistance was multifaceted, and, for TBT and SPS, demanded advanced technical expertise on legislation, infrastructure, product and control methods. It could also facilitate developing country participation in international standard-setting organizations. Technical expertise should be made available when developing countries embarked on new industrial and agricultural exports. Ministers had agreed in Doha to more specific modalities on notifications and to follow-up on TBT and SPS legislation in the context of implementation. Thus, exporting countries should react when legislation was introduced in importing countries that would disrupt their exports.

15. The observer of Saudi Arabia recalled the hesitancy of developing countries to adopt the Doha trade and environment agenda, given its potential to hinder developing country market access.

Environment was still a luxury in developing countries, as poverty alleviation was the priority. Promises of technology transfer to developing countries were not the solution to environmental problems. He cautioned against being too ambitious as to what the CTE could achieve for the next Ministerial in 2003. There were many contentious points to which developing countries could not agree, especially when such issues were market access barriers to developing country exports. MEAs should be respected and the CTE should avoid duplicating their work. Capacity building was essential to ensure that trade and environmental experts, especially from developing countries, were well informed during the negotiations. Saudi Arabia appreciated the UNEP Workshop on Capacity Building, and hoped that such events could continue to inform developing country negotiators.

16. The representative of Malaysia said that, in view of the Doha Ministerial Declaration, the CTE had a heavy work schedule for 2002 and 2003. Malaysia recalled the Preamble of the Marrakesh Agreement with respect to sustainable development. Malaysia welcomed New Zealand's statement that the CTE should not lose sight of the core purpose of the WTO – trade liberalization within a rules-based system, which should not be undermined by environmental measures. Malaysia thanked India for its proposals, and noted the importance of identifying sector specific environmental measures; discussing their WTO consistency; determining if they met the tests of Article XX; and assessing their transboundary nature and market access impact. As India noted, equivalence of measures could serve to reduce compliance costs and market access impacts. Developing countries were concerned about the market access impacts of environmental measures, which did not conform to WTO rules. Where environmental measures may be necessary, their market access effects should be considered. Malaysia welcomed an approach that included technical assistance and capacity building, coupled with access to technology to help meet compliance requirements. Transparency was also a necessary step towards resolving such issues for developing countries. Malaysia welcomed Saudi Arabia's comment on the need for information gathering at this stage.

17. The representative of the Philippines supported India's proposals and looked forward to its paper. With respect to the Doha Ministerial mandate in paragraph 32(i), the effect on environmental measures and market access was related to the situation of developing and least-developed countries. He noted the limited time to fulfill this mandate. Canada's proposal to focus CTE work should be taken up. It would be important to define which environmental as well as other measures impaired developing country market access. The Philippines hoped that New Zealand, India and others would put forward focused proposals on priorities to ensure a productive outcome.

18. The representative of Mexico felt the CTE would obtain results by the 5th Ministerial Conference, including a report with recommendations. As New Zealand noted, the parameters of CTE work had changed, requiring a review of subjects which had been discussed for the past seven years. Paragraph 32(i) had to be viewed from two perspectives. First, the effect of environmental measures on market access of developing countries, particularly the least developed. Mexico asked how to handle certain environmental measures, whether justified or not, for the mandate did not address their justification. Second, the CTE had to address where the elimination of trade restrictions and distortions would benefit trade, environment and development. Mexico supported India's proposals, and shared Brazil and Malaysia's views.

19. The representative of Australia said the CTE had contributed to the wider dialogue on trade and environment pre-Doha. Ministers at Doha had indicated that the CTE should continue work on its mandate; Australia looked forward to a constructive dialogue focussed on areas of genuine concern to all WTO Members. Australia appreciated the UNEP Workshop on Capacity Building as a useful forum to discuss the importance of coordination between trade and environment officials. It was vital that trade-related environmental measures were not crafted without an understanding of WTO rules. Australia also welcomed the opportunity for dialogue with environmental officials in the CTE.

20. The representative of Hungary agreed that the context of CTE work had changed in the light of the Doha Ministerial Declaration. Besides the negotiations in the CTE Special Sessions, Hungary

looked forward to a meaningful debate in the CTE regular sessions and to the report to the 5th Ministerial Conference on the three issues in paragraph 32. These aspects were at least as important as those under negotiation in paragraph 31. As India noted, environmental regulations might have negative effects, for example, on market access and might increase production and compliance costs. This was a reality which Members had to face. India had commented on unjustified environmental regulations - a more difficult issue. Whether a measure were justified or not was guided by the general disciplines of Article XX. While these principles were clear, practical examples led to suspicions about whether some measures were necessary or were merely disguised trade barriers. The CTE should thus examine the relationship between environmental regulations and market access, in order to identify legitimate objectives. Hungary referred to the applicability of measures and whether they should be applied selectively, whereby developing countries should be temporarily exempt or given transition periods to allow producers to meet new standards. A permanent double standard for environment-related measures, however, did not meet the criteria for a "win-win-win" situation, as continued access of certain products would not be environmentally beneficial; there might be further trade distortions, especially for producers faced with high environmental compliance costs, resulting in competitiveness concerns. Analysis of these issues and of the effects of selective application of measures was necessary. Hungary supported India's suggestion to improve market access for countries willing to meet environmental requirements. To address competitiveness concerns, GSP tariff preferences was an answer. Hungary provided duty free and quota-free access for all products from least-developed countries. Capacity building and technical assistance, especially for LDCs, would enable them to meet higher environmental standards.

21. The representative of Pakistan recalled that environmental negotiations and the Doha Declaration had been a source of heated debate between the trading community and governments, especially in Pakistan. Discussion topics ranged from market access to poverty alleviation. Most developing countries looked at these negotiations with scepticism. Mexico's questions on paragraph 32(i) of the Doha Declaration were an eye opener. The Preamble to the Marrakesh Agreement was summed up by New Zealand's statement that the CTE should not lose sight of the WTO mandate – economic development and trade liberalisation. Pakistan agreed with most parts of India's statement and looked forward to analysing the Indian paper in the near future.

22. The representative of Venezuela sought clarification on statements by the EC, Mexico and Hungary. The EC commented on the importance of focusing on what had already been negotiated, avoiding repetition. Mexico said the CTE was discussing, not negotiating. Hungary said negotiations had already started. The Doha Declaration clearly set out that negotiations were to start immediately. Thus, Venezuela asked whether the CTE was already in negotiations or only in discussions. If the CTE were discussing, Venezuela supported India's position on market access. High environmental barriers aimed at protecting less competitive internal markets had seriously affected Venezuela. Venezuela looked forward to India's paper and supported Saudi Arabia's request for the Secretariat to summarize the achievements in the CTE so as to focus the discussions.

23. The representative of Thailand said that, given the importance of this issue and the limited time-frame to report meaningful results to the 5th Ministerial Conference, more meetings of the regular CTE were necessary, including flexibility to call for informal meetings. Thailand was one of the major agricultural exporting countries which had faced numerous environmental requirements from developed country trading partners. Thus, Thailand attached importance to market access, supported India's comments on compliance costs to developing countries, and looked forward to India's paper and a fruitful discussion on this issue.

24. The representative of Egypt supported India's comments. Egypt also supported Saudi Arabia's comment that technology transfer and technical assistance were *sine qua nons* with respect to market access; market access should be the very first condition.

25. The representative of the United States acknowledged the thought-provoking interventions under this item, including the contribution of trade liberalisation to environmental protection, problems of developing countries in seeking market access, and the importance of technical assistance to meet environmental requirements. The United States would reflect further on these issues.

26. The representative of Peru underscored New Zealand's comments that CTE work should be refocused. The CTE should identify the opportunities for sustainable growth offered by the relationship between market access and environmental requirements. Attention should be given to those situations in which the elimination or reduction of trade restrictions and distortions would benefit trade, environment and sustainable development, based on case studies. The CTE should prioritize this aspect and work with other organisations to identify specific measures so they could be addressed with greater clarity.

27. The representative of Indonesia felt that the adverse market access effects of environment measures was a real problem faced by developing countries. Indonesia supported the statements by India, Malaysia and Saudi Arabia on equivalence and the effects of unjustified environmental requirements on market access. Indonesia looked forward to India's paper.

28. The observer of UNCTAD said the market access effects of environmental measures were of key concern. In response to Canada's request, UNCTAD was willing to conduct studies to contribute to CTE work. The UNCTAD Commission on Trade in Goods and Services and Commodities had decided to convene an expert meeting on environmental requirements and international trade on 2-4 October 2002. UNCTAD was also undertaking studies on the effects of environment and health-related requirements in South Asia, Central America and Southern Africa to strengthen developing country capacity to respond to environmental standards. This work was being coordinated with the OECD to maximize synergies with its project on development, trade and the environment.

29. The observer of the OECD referred to Canada's comments on the analytical work in other fora in support of CTE work. The OECD Joint Working Party on Trade and Environment had been analyzing trade and environmental issues for the past ten years, the results of which were available on its website and publications, such as the recently released document entitled *The Doha Declaration and past OECD work*. At its next meeting in June 2002, the Joint Working Party would determine how to support the discussions post-Doha. The OECD would keep the CTE informed on its work.

Sectoral analysis

Agriculture

30. The representative of the Czech Republic said that at the Doha Ministerial Conference the Czech Republic had supported new multilateral trade negotiations, with attention to agriculture and trade and environment. The Czech Republic had established an Intersectoral Steering and Coordination Commission for WTO Affairs to ensure its active participation. For several years, the Czech Ministry of the Environment had cooperated with the Ministries of Industry and Trade, and Agriculture; this cooperation would be intensified as farming and environmental conservation were closely linked. Today's agricultural systems should promote environmental values by maintaining landscape, conserving biodiversity and protecting historical features. Society demanded that farmers manage their land in ways which also provided environmental services to the community. Besides food production, farmers should care about the quality of public goods, such as rural landscape (recreational value, benefits to tourism). Consumers were also demanding organic farming products, which did not use synthetic inputs, such as fertilizers and pesticides.

31. The Czech Republic was a small country with a diversified landscape. Agricultural land represented 54.3 per cent of the total area, of which 72 per cent was arable land, with half of that located in less favoured or mountainous areas. The significance of agriculture in the national

economy was low and gradually decreasing. The contribution of agriculture to GDP had decreased from 5.4 per cent in 1990 to 3.8 per cent in 2000, with its contribution to employment combined with the forestry sector having decreased from 11.8 per cent in 1990 to 4.6 per cent in 2000. Although significant structural landscape changes, such as agricultural collectivisation, had taken place in the 1950's, the former socialist Czechoslovakia only marginally considered the environmental aspects of agriculture prior to 1989. Agricultural collectivisation had negative environmental impacts, such as reducing the ecological elements in the landscape; loss of biological diversity; and damage to natural habitat. Other practices also contributed to environmental damage, such as inappropriate agro-technical methods relying on high fertiliser and pesticide use. The contribution of Czech agriculture to the total emissions of the main greenhouse gases (CO₂) as about 3.4 per cent of the total of 137.7 million tons per annum; a decrease of 35 per cent from 1990.

32. After 1989, agricultural policy had sharply changed with emphasis on support for non-production functions, including improving rural environment, rural living standards, and cultural landscape. Projects were undertaken to analyze complex agricultural activities and their environmental impact, such as the project by the Institute for Economic and Environmental Policy (Prague) to evaluate the externalities caused by agricultural products, completed in November 2001. The most important task for Czech agriculture was to prepare for association with the European Union in 2004. Czech farmers should be competitive with those in the EU, which was a difficult task. The system of financial support for agriculture had changed significantly, with support orientated to maintain grasslands, bee keeping, and arable land. Targeted support on impaired areas for cattle farming was also favoured over other methods for the disposal of biomass to maintain permanent grasslands. Cattle farming was ecological and produced the least amount of biodegradable waste, as well as preserving rural employment. Enhanced environmental protection would be achieved through the use of economic mechanisms that compensated farmers. Environmental objectives were a priority for Czech agricultural policy. Environmental protection should be clearly defined, easily controllable and implemented in no more than minimally trade-distorting ways, with flexibility for economies in transition. Information was available at http://www.env.cebin.cz/_nav/index_hp_en.html.

33. The representative of Australia reiterated the importance of agricultural trade liberalisation for environment and development, and recalled the wide spread recognition of this linkage in Doha. This item most starkly demonstrated the WTO contribution to sustainable development. When Governments sought to promote positive and suppress negative environmental effects, they should do so through policies that did not create new non-tariff barriers. Trade and production-distorting subsidies had a negative effect not only in the countries that applied such policies, but also on the environment of third countries, particularly developing countries. Such subsidies drove down and increased the instability of the international price of agricultural commodities. This in turn reduced returns from agriculture in developing countries and discouraged production and investment. Lower agriculture returns were linked to poverty - a major cause of environmental degradation. For example, lower incomes reduced the financial capacity of developing country farmers to maintain sustainable farming practices and may encourage environmentally unfriendly farming practices. These problems could be intensified if environmental restrictions were used to justify market access barriers. Trade and production-distorting support and environmentally-restrictive trade barriers were bad trade policy and bad environmental policy. Agricultural trade reform offered a "win-win" opportunity for the environment - in terms of land conservation, sustainable management of renewable resources, and biodiversity preservation - provided governments implemented effective environmental policies. Effective environmental policies required environmental support policies to be pursued through decoupled, targeted and transparent agricultural measures that met specific environmental objectives. Australia looked forward to continued CTE dialogue on this issue.

34. The representative of New Zealand said her delegation had long argued the importance of agricultural reform as a means of reducing distortions that affected trade, environment and development. Higher domestic prices from subsidies and other support had encouraged excessive use of inputs and environmental damage from intensive production methods in many developed countries.

With reform, higher international prices and greater trade by developing countries would enable them to promote sustainable development. While others may argue that broadly based agricultural support could indirectly encourage the provision of environmental benefits associated with agriculture, New Zealand felt this was an ineffective policy approach. The most effective measures were those that directly targeted and addressed environmental objectives.

35. The representative of the European Communities said the real challenge for the CTE was to add value to the discussions. The mandate for agricultural negotiations, confirmed in Doha, covered non-trade concerns, which would be incorporated in the EC negotiating position. The question was what the CTE could contribute in addition.

36. The representative of Thailand echoed the statements made by Australia and New Zealand.

37. The observer of Saudi Arabia supported Australia and others on the relevance of subsidies to CTE discussions, particularly given the links between agricultural reform and the environment.

38. The representative of Mexico supported Thailand's statement.

Energy

39. The Chairman recalled that the Secretariat had circulated a paper on the energy sector at the October 2001 meeting in WT/CTE/W/200.

40. The observer of Saudi Arabia said there were subsidies in some OECD countries that hindered developing country exports and were environmentally unfriendly. These subsidies, particularly to the most polluting fossil fuel - coal, should be a focus of CTE discussion.

Fisheries

41. The representative of New Zealand introduced his delegation's paper, WT/CTEW/204, which contained the findings from a recent research paper that was relevant to CTE discussions on fisheries subsidies (Munro and Sumaila (2001), *Subsidies and their potential impact on the management of the ecosystems of the North Atlantic*). The EC raised an interesting issue as to how the CTE could add value in areas where WTO negotiations were underway. Although negotiations on fisheries subsidies would take place in the Rules Negotiating Group, the CTE should continue to give attention to this issue in the context of paragraph 32(i). Part of the response to the EC question lay in the debate on the importance of different measures – trade and non-trade – in contributing to overfishing. The research paper raised some questions about subsidies that were thought to be environmentally benign. The conclusions also challenged the argument that the answer to overfishing lay primarily in better fisheries management. The paper concluded that, even with apparently sound regimes in place, the addition of subsidies could destabilize fisheries management and thereby threaten stocks. New Zealand introduced a note of caution in translating the conclusions of the study into CTE work, and noted that it did not really address market impacts; the narrow range of scenarios examined should also be kept in mind. With these caveats in mind, the findings went against some of the prevailing assumptions about the benign or damaging nature of subsidies. To the extent they challenged the environmental benefits of certain subsidies, the results reinforced the case for improving WTO disciplines on subsidies with negative trade impacts. New Zealand would contribute a further paper.

42. The representative of Korea said that New Zealand's submission introduced recent economic analyses of the impact of subsidies on fisheries management and sustainability; economic theory argued that revenue-enhancing or cost-reducing subsidies led to overfishing. However, the real world was not so simple. It was generally accepted that the main cause of the global fisheries problem was poor fisheries management and open-access fisheries, which created economic incentives to overfish. Thus, overcapacity would occur regardless of subsidies. The OECD study in 2000 found economic

theory to be relevant when applied to overcapacity in the 1970s and early 1980s, when OECD countries were developing their fisheries. However, the OECD pointed out that government financial transfers in OECD countries had changed, and that assessing the relationship between subsidies and overcapacity had become more complex. Thus, it was not surprising that no direct link had been established between the subsidies provided in recent years in the OECD and the deterioration in fisheries resources. The OECD study also indicated that many government transfers were devoted to fisheries infrastructure to ensure sustainable use of fish stocks and marine ecosystems, and to research and enforcement. Korea welcomed the FAO plan to convene a second Expert Consultation in 2002, which would provide information and insight. Given the negotiations on fisheries subsidies in the Rules Negotiating Group, it was sensible to avoid duplication in the CTE.

43. The representative of the United States said his delegation was pleased with the Doha Declaration mandate as a reflection of Ministers' concern for overfishing. Ministers had mandated negotiators to address the situation through clarifying and improving WTO disciplines on subsidies, taking into account developing country concerns. The US looked forward to taking this up in the Rules Negotiating Group, to which it would provide input. There was also a continuing CTE role, as set out in paragraph 32(i). The US welcomed New Zealand's contribution; the research paper contained complex, theoretical analysis, which the US would consider further. The US suggested that the Secretariat compile a bibliography of CTE documents on fisheries subsidies in order to provide information to negotiators in the Rules Negotiating Group.

44. The representative of Chile thanked New Zealand for drawing attention to recent research. Fisheries subsidies were damaging even with fisheries management policies. Chile argued that, in some cases, subsidies distorted trade, harmed sustainability and distorted fisheries management. New Zealand's contribution was an important input to the discussions and the mandated negotiations. There should be a way for the CTE to contribute to the Rules Negotiating Group, and to avoid an isolated CTE discussion. This could be achieved through paragraph 51 of the Doha Declaration. Chile supported the US idea for the Secretariat to compile a list of fisheries documents for the use of negotiators in the Rules Negotiating Group, in order to bring in the environmental component.

45. The representative of Iceland said the Doha Ministerial decision to negotiate on fisheries subsidies had been largely based on CTE analysis. Iceland was confident that the CTE would continue to play a progressive role in deepening the analysis of the implications of fisheries subsidies. Iceland thanked New Zealand for the contribution of recent research, which reinforced the case for improving WTO disciplines on fisheries subsidies. Iceland did not share Korea and Japan's views. The Doha Declaration committed Members to clarify and improve WTO disciplines on fisheries subsidies. While these negotiations were to take place in the Rules Negotiating Group, the CTE continued to have a role in gathering and analyzing information on current studies of fisheries subsidies. Iceland understood that the Secretariat would continue to review other organizations' work, as in WT/CTE/W/167, and to update SCM notifications, as in WT/CTE/W/80.

46. The representative of Peru welcomed New Zealand's contribution, which would assist negotiations on fisheries subsidies in the Rules Negotiating Group. Peru supported the US suggestion for the Secretariat to compile a list of fisheries documents, and update SCM notifications.

47. The representative of Mexico thanked New Zealand for its contribution to an issue of importance for Mexico's development. Developed countries were applying subsidies that distorted trade and harmed the environment. Fisheries was an example of where the WTO could contribute to the environment and to MEAs concerning measures which must be put in place before trade sanctions were applied. Mexico found the discussions useful, while keeping in mind that they should not duplicate those in the Rules Negotiating Group, where efforts should be focused. The research in New Zealand's paper was not yet available. On paragraph 15, the CTE should take into account that, while fisheries management may be part of the problem, subsidies had environmental effects and distorted trade. Certain arguments to the effect that overfishing was linked solely to fisheries

management were not sustainable; subsidies had considerable environmental effects for they led to overfishing. Mexico supported the proposals for the Secretariat to compile fisheries documents and update SCM notifications.

48. The representative of the European Communities said that the suggestions for Secretariat work merited reflection. Transferring such work to a negotiating group established under the Doha mandate should only be considered, once the CTE had decided that it would be of genuine use to negotiators elsewhere. Noting that negotiators in the Rules Negotiating Group would also be aware of other organizations' work in this area, he asked if this information would add value.

49. The representative of Australia said that, as demonstrated by the analysis cited by New Zealand, there was considerable work on fisheries subsidies. Nevertheless, the CTE would provide a forum for discussion and input to the Rules Negotiating Group. The Secretariat updates, as suggested by the US and Iceland, would be helpful.

50. The representative of Jamaica said that, as pointed out by New Zealand, the recent research on fisheries subsidies was preliminary. Given that fisheries subsidies were applied in developed countries and larger economies, special consideration should be given to developing countries. Jamaica supported Japan's call to use the work of other organizations, such as the FAO, particularly to enhance the understanding of the special situation faced by developing countries in this sector.

51. The representative of the Philippines said her delegation appreciated the inclusion of fisheries subsidies in the Doha mandate, given its economic significance to developing countries and the opportunities for a "win-win" situation in the synergy between trade and environment. New Zealand's paper offered insights, which also merited consideration in the context of paragraph 28 of the Doha Declaration. While sound fisheries management was essential in reducing overcapacity, subsidies could impede the latter objective. There should be no *a priori* assumption that even "good" subsidies would reduce capacity.

52. The representative of Argentina said that WTO negotiations on new disciplines on fisheries subsidies were important. While substantive negotiations would take place in the Rules Negotiating Group, this should not preclude CTE discussions. Argentina welcomed New Zealand's contribution, and supported the US proposal to update existing documentation. The forthcoming negotiations on this complex subject should not lose sight of the environmental and developmental elements.

53. The representative of Japan welcomed New Zealand's contribution, but was not convinced that the research paper provided a credible counter argument to prevailing assumptions that certain fisheries subsidies were benign or had no damaging effects. In initial CTE discussions, some delegations felt that only five per cent of subsidies were "good", and ninety five per cent "bad". As information from other intergovernmental organisations, such as the OECD and FAO, were presented, this understanding began to change to include a higher percentage of "good" or at least not environmentally "bad" subsidies. Unfortunately, New Zealand's paper returned to some original assumptions by stating that what used to be considered "good" subsidies were not necessarily so. Although some common ground had been developed, New Zealand's paper sent a warning signal for caution. As to "good" subsidies, Japan had several vessel buy-back programmes; the key point was not whether, but how, to use subsidies for vessel buy-back. Given the political reality, subsidies had to be used to reduce capacity. The point was to make those programmes effective. One reason why past programmes had failed was that they only scrapped licenses, not fishing vessels. Thus, vessels moved to different fishing grounds. Following this negative experience, Japan had conducted large-scale vessel buy-back programmes for its distant water tuna long-line fishing vessels; over 100 vessels had been scrapped through subsidies. All fishing vessels and licenses were scrapped, and the number of licenses for other vessels was limited, so that those fishermen who were deprived of licenses would not invest in, or move to, other fisheries. In light of Japan's experience, vessel buy-back programmes would work effectively in reducing overcapacity.

54. Japan recalled its paper, WT/CTE/W/173, in October 2000 and reiterated the importance of further studies on the effects of fisheries subsidies in international fora, such as the 2nd FAO Expert Consultations in December 2002. Japan recalled its contribution to the UNEP Fisheries Workshop on bigeye tuna stocks in the Indian Ocean, which had been decreasing mainly due to increased catches by non-members of the Indian Ocean Tuna Commission. This rise in catch was a result of increased demand on the Japanese market, higher prices in dollar terms due to the yen appreciation. To curb increased tuna catches, it may be necessary to regulate non-members through the use of trade measures. This case illustrated the linkages between trade and sustainable fisheries.

55. The observer of Saudi Arabia supported proposals to gather information. Documents should also be revised in the light of the Doha mandate. For example, the Secretariat Note on the energy sector, WT/CTE/W/200, should be revised. OECD studies were undertaken for OECD countries and thus could not be the only studies reflected in CTE documents. The CTE should be comprehensive in gathering information, particularly for developing countries. For example, the International Energy Agency was not the only provider of information on energy.

56. The observer of UNEP briefed the CTE on its *Workshop on the Impacts of Trade-Related Policies on Fisheries and Measures for Sustainable Fisheries Management*, Geneva, 15 March 2002, which was organized in consultation with the WTO, FAO and the OECD to provide an open forum for governments, intergovernmental and non-governmental organizations to explore approaches to reform policies with a view to sustainable fisheries management. The workshop was attended by 80 participants, including 55 trade and environment officials and 25 representatives from international organizations and NGOs. The Workshop emphasized the need to distinguish between subsidies that contributed to overfishing and those that had positive social or environmental impacts, such as those needed to support small-scale, artisanal fisheries in developing countries. The Workshop emphasized the need for a holistic and integrated approach, addressing not only the impacts of subsidies on resource sustainability, but also the role of fisheries agreements and fisheries management systems. There was great potential for "win-win-win" scenarios for trade, environment and development by designing WTO rules with a view to securing sustainable fisheries management. The Chairman's summary was circulated as WT/CTE/W/205.

57. The observer of the FAO recalled that the FAO Fisheries Department had provided information on its fisheries subsidies work since October 1999. The 24th Session of the FAO Committee of Fisheries - COFI (Rome, 26 February - 2 March 2001) had reviewed the Report of the FAO Expert Consultation on Economic Incentives and Responsible Fisheries (December 2000) and agreed that future work should determine the quantitative and qualitative effects of subsidies on trade in fish and fish products and on fisheries resources sustainability. The trade study should be technical and coordinated with the WTO. A 2nd expert consultation was scheduled for 3-6 December 2002 to comprise a wider range of experts with relevant practical and multidisciplinary experience in fisheries management and trade, and reflect a regional and topical balance. Governments would be consulted in the selection of experts. The *Ad Hoc* Meeting with Intergovernmental Organisations on Fisheries-Related Work Programmes (Rome, 21-22 May 2001) had been attended by the FAO, OECD, SADC, UNEP and the WTO to identify opportunities for cooperation. The first opportunity was on country studies; it was agreed to keep each other informed of future studies. The FAO approach would be to undertake country studies with the approval of the Government concerned. The FAO welcomed offers from countries willing to participate in a study of their fisheries subsidies, keeping in mind the need for confidentiality of information. The second opportunity for collaboration was in organizing a workshop on fisheries subsidies to be hosted by UNEP. A third opportunity lay in establishing an information databank on subsidies. Due to its large membership and Secretariat resources, the FAO would be the centre for information gathering. A fourth opportunity was the 2nd FAO Expert Consultation in December 2002. A major challenge was to develop a common methodology. The *Ad Hoc* Meeting had suggested that knowledge about subsidies be easily accessible to policymakers and fisheries managers who were neither fisheries specialists, nor economists. Cooperation amongst intergovernmental organizations would be enhanced through regular interagency meetings.

58. The Chairman noted the Secretariat paper on fisheries subsidies, including a list of CTE documents, WT/CTE/W/167, and the standing request to update the CTE on ongoing work in other fora on fisheries subsidies, as well as to update the subsidies notified under the SCM Agreement.

Item 3(a): The relationship between the provisions of the multilateral trading system and charges and taxes for environmental purposes

59. The observer of Saudi Arabia said countries were imposing high taxes on imported commodities, such as oil, from developing countries to further environmental protection; Saudi Arabia would submit a paper on this issue.

60. The representative of Venezuela supported Saudi Arabia's comments relating to unjustifiably high taxes on petrochemicals to protect the environment, and looked forward to its paper.

PARAGRAPH 32(ii) OF THE DOHA MINISTERIAL DECLARATION: The relevant provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs)

61. The Chairman recalled that this Item would be the focus at the June meeting.

62. The representative of the United States referred to his delegation's recent submission to the TRIPs Council following up on aspects of the relationship between the Convention on Biological Diversity and the TRIPs Agreement (IP/C/W/341), which provided an example of how the US constructively engaged in discussions on access to genetic resources and benefit sharing. It described the practices of the US National Cancer Institute in collecting genetic material for screening for potential therapeutic uses related to cancer and sharing the benefits of its research.

PARAGRAPH 32(iii) OF THE DOHA MINISTERIAL DECLARATION: Labelling requirements for environmental purposes

63. The Chairman recalled that this Item would be the focus at the October meeting.

64. The representative of Canada agreed that substantive discussions on paragraph 32(iii) on eco-labelling would occur at the October 2002 meeting. He noted Canada's recent submission to the TBT Committee, *Labelling and Requirements of the Agreement on Technical Barriers to Trade: a framework for informal structured discussion* (G/TBT/W/174), which CTE Members may wish to review for ideas as to how to deal with its mandate under paragraph 32(iii). Canada had made suggestions as to how a structured discussion might take place and how the TBT Committee might organize informal seminars to enhance eco-labelling discussions.

65. The representative of the European Communities welcomed Canada's paper. In view of the mandated report to the 5th Ministerial, CTE work should take account of work in the broader TBT context. On non-product-related process and production method (PPM) labelling issues, addressed in paragraph 13 of Canada's paper, these issues arose with respect to the environment, but also in other non-trade policy areas. Thus, it was not obligatory to have a "one size fits all" approach. This was the case for non-product-related policy issues in the European domestic setting. The degree to which such issues were taken into account in public policy varied in accordance with relative social values as between one policy area, such as environment, and others. Although controversial, these issues should be covered. The EC was attracted to informal discussions involving TBT and other expertise. The Secretariat could consider collaborating with other Committees. The advantage of an informal approach would be to update Members' understanding of ISO work. A salient change had been the finalisation by ISO of standards for voluntary life cycle eco-labelling, an important element from the CTE perspective. With the help of TBT expertise, it would be necessary to understand the implications of such standards for the WTO. The EC encouraged the organization of an informal occasion, in sufficient time to allow the CTE to finalise its report to the 5th Ministerial.

66. The representative of Saudi Arabia said eco-labelling and standards were sensitive issues for developing countries, as they could restrict market access.

67. The representative of Mexico welcomed Canada's paper and recalled Mexico's statement in the TBT Committee. Mexico supported paragraph 5 of the paper, where it was clear that it was not necessary to modify the TBT Agreement. He recalled that the definition of technical standards in the TBT Agreement did not take non-product-related PPMs into consideration. The TBT Agreement recognized only those PPMs related to the characteristics of the product, which did not touch on social or other values that might vary between countries. Whatever the production process, it must be product-related.

68. The representative of Japan appreciated Canada's contribution. Further debate on eco-labelling should be promoted taking into account the discussions in relevant Committees, in order to ensure transparency in view of heightened concerns in civil society about environmental protection. It must be ensured that eco-labelling did not become an unnecessary trade barrier.

69. The representative of Brazil welcomed Canada's paper, which could be further discussed at the October CTE meeting. The CTE should benefit from the discussions in the TBT Committee, as well as from work in the ISO and other standard setting organisations. However, a distinction should be made between the CTE mandate and the reasons why labelling was being discussed in the TBT Committee. The CTE mandate was limited to voluntary eco-labelling, while the TBT discussions were more general and informal, including the difference between mandatory and voluntary measures.

70. The representative of Australia said there was merit in discussing this issue at the October CTE meeting. Work in the informal process of the TBT Committee was important. Given the limited resources of delegations, Australia did not see merit in holding another informal process before October 2002, at least to go over ground already being covered in TBT. In order to avoid duplication, it would be best to await developments in the TBT process.

71. The representative of Korea appreciated Canada's paper. Korea felt labelling should be discussed in light of consumer information and the need to ensure that labelling requirements were not misused for protectionist purposes. While this issue was also being discussed in the TBT Committee, the CTE mandate was to report on eco-labelling to the 5th Ministerial. Korea requested the Secretariat to prepare a paper on the results of labelling sessions in the TBT Committee. Korea hoped that Canada's proposal for an informal workshop would involve TBT, CTE and SPS experts, with the objective of examining current labelling practices through specific examples and case studies. Korea supported a workshop, without prejudging its outcome or scope.

72. The representative of Malaysia supported the proposal to hold the eco-labelling discussions at the October CTE meeting. The Doha Declaration gave the CTE a clear mandate to give particular attention to labelling requirements for environmental purposes. The TBT Committee discussions had just begun on an informal basis. Canada's paper would guide TBT discussions. To date, there had yet to be substantive discussions. Thus, it was premature to discuss any collaboration with the TBT Committee. The CTE should concentrate on the Doha mandate from Ministers.

OTHER ITEMS ON THE CTE WORK PROGRAMME

Items 1 and 5: The relationship between the provisions of the multilateral trading system and trade measures for environmental purposes, including those pursuant to MEAs; and the relationship between the dispute settlement mechanisms in the multilateral trading system and those found in MEAs

73. The Chairman noted that the Secretariat had circulated a revised Note on *GATT/WTO dispute settlement practice relating to GATT Article XX paragraph (b), (d) and (g)* in WT/CTE/W/203.

74. The representative of the European Communities welcomed WT/CTE/W/203, which constituted a compendium of relevant case law, as well as bringing out some salient points. The general message was that there had been striking evolution in the way that these policy measures were being examined by the WTO; this was encouraging. He noted in particular the evolution that the paper tracked in the interpretation of the "necessity" requirement – a helpful concept to underline. This should also receive attention outside the CTE. The paper helped to set the parameters for upcoming work in the CTE Special Sessions.

75. The representative of Australia welcomed WT/CTE/W/203, especially in view of the complexity of the issues. Given the limited time to examine it prior to the meeting, Australia requested that it be included on the agenda for the next meeting.

76. The representative of Canada thanked the Secretariat for WT/CTE/W/203. It would also be useful to prepare a more user-friendly document for those environmental negotiators who were unfamiliar with WTO jurisprudence to use in environmental negotiations, such as biosafety and persistent organic pollutants, where trade expertise had been lacking.

77. The representative of Brazil thanked the Secretariat for WT/CTE/W/203, and supported Australia's request to include it on the agenda of the next meeting. The Secretariat paper confirmed that the evolution of WTO jurisprudence favoured the environment, an additional reason why environmentalists should be more at ease with the ability of the WTO to address environmental concerns.

78. The representative of Venezuela welcomed WT/CTE/W/203. The case that best reflected the trends in jurisprudence was *United States – Gasoline*, which showed that the WTO could place limits on a country which raised environment-related trade barriers to protect its domestic market.

79. It was agreed that WT/CTE/W/203 would be included on the agenda of the next meeting.

Item 10: Input to the relevant bodies in respect of appropriate arrangements for relations with intergovernmental and non-governmental organizations referred to in Article V of the WTO

80. The Chairman noted that the WTO would be holding a two and a half day public symposium entitled *the Doha Development Agenda and Beyond* from 29 April to 1 May, a session of which would be devoted to trade and environment after Doha.

81. The observer of UNEP underlined the importance UNEP attached to securing observer status for intergovernmental environmental organisations in the forthcoming WTO negotiations on trade and environment. In the past, UNEP and the MEA Secretariats had engaged in a constructive collaboration with the WTO on sustainable fisheries management and capacity building on trade, environment and development. UNEP felt that many WTO Members shared the view that this cooperation should be maintained and further strengthened. The UNEP Workshops on 15 and 20-21 March, back-to-back with the CTE regular and Special Session, represented concrete examples of the contribution this collaboration could provide to WTO Members and the negotiating process. UNEP would continue to undertake such activities in a spirit of open and flexible multidisciplinary cooperation. To maximize the utility of such events, and to accurately inform the WTO negotiations, UNEP believed that it must be granted observer status in the CTE Special Sessions. This also applied to MEA Secretariats, particularly as negotiations would relate to the legal relationship and information exchange between MEAs and the WTO. The UNEP Executive Director had written to the WTO Director-General on this issue in his capacity as Chairman of the Trade Negotiations Committee. This statement sought to underline the urgency of this request to CTE Members.

82. The representative of the European Communities noted that the subject of UNEP's statement was being discussed in informal consultations; the EC position in support of maximum openness was well known. The issue of observership was an urgent matter, given that, in paragraph 6 of the Doha Declaration, Ministers had committed to improving WTO networking with other bodies in the run-up to the World Summit on Sustainable Development. The EC also requested details on the WTO public symposium, in order to ensure maximum participation of Members.

83. The observer of Saudi Arabia said balanced representation of intergovernmental organisations was essential, including from developed and developing countries, with specific reference to OPEC.

84. The representative of Jamaica said that, given the significant role of UNEP in the discussions, UNEP should be granted observer status.

85. The representative of the Secretariat said an information note on the WTO Symposium had been circulated and could be accessed on the WTO website (WT/INF/47).

PARAGRAPH 33 OF THE DOHA MINISTERIAL DECLARATION

On technical assistance and capacity building for trade and environment

86. The observer of UNEP said the Doha Ministerial Declaration recognised the importance of capacity building and technical assistance to maximize the benefits that developing countries and those with economies in transition could secure from trade liberalisation. UNEP had organised a *Workshop on Capacity Building on Environment, Trade and Development*, over the two days preceding this CTE meeting. This Workshop, organised in close collaboration with the WTO, provided an open forum for governments, intergovernmental organisations, regional and sub-regional organisations, policy research institutes and NGOs to assess emerging needs and current approaches to capacity building. Some 200 participants, including 96 Government representatives attended the Workshop. Presentations were made on the capacity building activities of the WTO, UNCTAD, the UNEP-UNCTAD Capacity Building Task Force on Trade, Environment and Development, and a World Bank regional programme in the Mediterranean. Experts on capacity building from the OECD Development Centre and ICTSD provided critiques. Yugoslavia, Tunisia, Tanzania and Jamaica provided country and regional perspectives, and a regional organisation based in Costa Rica. Presentations were also made by four MEAs (CITES, and the Basel, Ramsar and Stockholm Conventions), and the WTO and UNEP on capacity building to enhance synergies between them. The Chairman's Summary of the Workshop was circulated as WT/CTE/W/206.

87. The observer of UNCTAD said that, following the Doha Ministerial Conference, UNCTAD had designed a comprehensive programme on technical assistance and capacity building for developing countries, especially LDCs and economies in transition, in support of their participation in the post-Doha work programme. The UNCTAD Secretary-General presented this programme at the recent session of the Commission on Trade in Goods, Services and Commodities, and at the WTO Pledging Conference in March. UNCTAD would work closely with UNEP on the trade and environment component, as well as the WTO focussing on deepening the understanding of the negotiations and their development implications. UNCTAD's programme was demand-driven and tailored to national and regional needs; it was evolving in consultation with Members. At this stage, UNCTAD had been requested to brainstorm on the negotiating mandate on trade and environment with respect to developing a positive agenda, enhancing the development aspects of policy instruments in MEAs, and studying negotiations between agriculture and environment, environmental goods and services, environmentally-preferable products, market access, and training. UNCTAD would keep the CTE informed of its capacity building activities on the environmental window of its work programme, as well as the UNEP-UNCTAD Capacity Building Task Force.

88. The representative of Venezuela congratulated UNEP on its Workshop on Capacity Building, which had permitted fruitful, open discussion between countries, NGOs and intergovernmental organizations. Venezuela hoped that the CTE would discuss as openly. Venezuela appealed to intergovernmental agencies to develop capacity building programmes that created capacity for developing country negotiators. It was not enough to build capacity to carry out public environmental policies. For twenty-four years, Venezuela had had a Ministry of the Environment at cabinet rank, including biologists, foresters, agronomists and environmental law specialists. Clearly, this expertise should be available during the negotiations.

89. The representative of Brazil thanked UNEP for organizing the Workshop on Capacity Building, which was essential in generating confidence in the multilateral trading system at the outset of a new round of trade negotiations. Many had stressed the importance of assisting developing countries so that they were able to participate in, and benefit from, the rules-based system. While agreeing with this view, Brazil felt capacity building and technical assistance by themselves would not ensure better access for developing country exports, nor would they necessarily lead to a more equitable set of WTO disciplines. Core issues for developing countries were fairness and market access in areas of comparative advantages, including agriculture, textiles and clothing, footwear and steel. Financing was also critical for promotion of development. There were lessons to be learned from the past: (i) Aid did not replace trade; this round of trade negotiations must deliver new market access opportunities for developing country products; (ii) Coordination between donors needed to be improved, including intergovernmental organizations and specialized agencies; (iii) Assistance should be oriented to developing country needs; (iv) There was a need to concentrate on specific areas in light of the challenges faced in infrastructure, lack of technology, training, and participation in international standard-setting, among others; (v) Creative approaches to technical assistance were essential, such as South-South cooperation. For example, developing countries at similar development levels could "cooperate," exchange information and share common expertise.

90. Brazil was engaged in South-South cooperation, and together with partners in the Americas, Africa and Asia had carried out a significant number of projects in different fields. Brazil had developed programmes in environmental management of SMEs. The Brazilian Agency for Agricultural Research (EMBRAPA) provided technical assistance to small farmers for sustainable agriculture, such as organic and non-tillage methods. These experiences could be shared with others with similar environments, mainly in sub-Saharan Africa. Brazil agreed with UNEP that developing countries should: (i) increase awareness and understanding of the linkages between environment, trade and development; (ii) enhance understanding of the implications of trade liberalization; (iii) capture environment-related opportunities offered by trade; and (iv) engage effectively in trade and environment negotiations. To this end, capital-based officials should attend CTE meetings.

91. The representative of Canada welcomed the UNEP Workshop on Capacity Building, and the cooperation between UNEP, UNCTAD and the WTO, as well as MEAs. The focus of capacity building was on knowledge and know-how, in order to be able to operate in the international environment. Canada noted the lack of coherence that remained between environment and trade policies; Governments were sending different messages in different fora. Thus, Canada encouraged activities which brought together trade and environment officials. At the WTO Pledging Conference, Canada had contributed Cdn\$1.2 million, of which Canada hoped some would be used for trade and environment. Canada was also contributing to various workshops, most recently in Jamaica. NGO outreach was also essential. It would be useful to have side events to the CTE on issues such as labelling. What had changed the views in the CTE and helped to close the gap between trade and environment, was the influx of information, particularly from the environmental side.

92. The representative of the Philippines appreciated the UNEP Workshop on Capacity Building and the brainstorming organized by UNCTAD. At this turning-point in CTE work, there should be greater emphasis on preparing developing countries for the negotiations in Geneva and in capitals. It was not surprising that environment and trade policies had developed on different tracks. However,

sustainable development would bring them together, but not at this stage. Developing countries had difficulties with the interface between environment experts, who had to be sensitized to WTO matters, and trade experts, who were not familiar with the environment or with sustainable development. This interface should be considered in the UNEP and UNCTAD work programmes in order to bring the two sets of officials together in a synergistic way, particularly those from developing countries. Coherence was also an issue for IGOs and NGOs. The Philippines welcomed UNEP's initiative to provide a framework for increased cooperation and policy coherence. The purpose of capacity building should be to integrate developing and least-developed countries into the multilateral environment and trading systems. This issue was also important for the World Summit on Sustainable Development in respect of infrastructure, technology transfer and efficient agriculture.

93. The representative of Costa Rica thanked UNCTAD and UNEP for reporting on their activities and for the Workshop on Capacity Building. The Doha mandate on technical assistance and capacity building on trade and environment was important, particularly with respect to cooperation with international organizations as set out in paragraph 6. The role of UNCTAD in raising the development dimension was crucial. Costa Rica felt that the WTO, UNCTAD and other international agencies should work hand in hand with Governments. Each country had a role to play and a responsibility to shoulder in technical assistance and capacity building. The definition of the two components should be arrived at on the basis of a national and regional assessments of country needs, as well as evaluation and assessment of national priorities.

94. The representative of Norway thanked UNEP for its Workshop on Capacity Building, which had been a success. Its holistic approach that took account of the environmental, developmental and trade elements was sound. Norway was pleased that environmental and trade experts and officials participated in an actual dialogue, as opposed to a statement of positions. Norway hoped to see more environmental officials present in the CTE. Norway agreed with the comment from the Philippines on the difficulty of domestic policy coordination and coherence in this area. This was particularly worrisome in light of the World Summit on Sustainable Development. Norway supported UNEP work, particularly on environmental assessments. The focus of work on paragraph 33 should focus on the issues under negotiation. Norway looked forward to the MEA Information Session in June – another example of increased cooperation between the WTO, UNEP and MEAs.

95. The representative of Switzerland said technical assistance and capacity building were important. Switzerland would inform the CTE of its related activities. Switzerland appreciated the UNEP Workshop because it had identified the lacuna in current activities.

96. The representative of the United States said that, in agreeing to the Doha Development Agenda, Members recognized the critical role that technical cooperation should play in ensuring that developing countries participate fully in the negotiations and in maximizing the potential benefits to them of a successful conclusion. The UNEP Workshop highlighted the need to maximize the synergies between technical assistance from the WTO and other IGOs, as well as bilateral assistance. The US appreciated the UNEP, WTO, and MEA Secretariat collaboration. Activities undertaken for this purpose should begin with efforts to better understand individual developing country needs, and with a view to developing partnerships between donors and recipients. The benefits of the Doha negotiations should be kept in mind, for example greater market access for environmental goods and services, which could generate the resources needed to sustain gains made through capacity building. The US had provided more than \$1.3 billion in funding for trade-related capacity building activities in developing countries and transition economies in the last three years, with \$80.4 million for environment-related activities. The US had pledged \$1 million to the Doha Development Agenda Trust Fund. The US gave priority to specific trade-related capacity building under the Doha mandate. In this respect, the WTO Secretariat had put together a proposal for regional trade and environment seminars in 2002. More was needed to ensure that developing countries had the resources and capacity to engage fully in, and make contributions to, progress on the Doha mandate. For example, given the desirability of involving environment officials from capitals, it may be important to allocate

funding to ensure that trade officials and environment experts from non-resident Members could attend WTO seminars and meetings. The UNEP and UNCTAD sectoral studies in developing countries to identify "win-win-wins" highlighted how to strengthen a particular sector, while protecting the environment and conserving natural resources.

97. The representative of Jamaica congratulated UNEP for its Workshop on Capacity Building, which identified the need for change in the concept of what constituted capacity building and its delivery. The Workshop was testimony to the benefits of bringing all stakeholders to engage in open dialogue. Jamaica endorsed Norway's suggestion to duplicate this approach. Thirteen CARICOM nations, facilitated by the WTO regional seminar on trade and environment in St. Lucia in January 2002, had identified the CARICOM region's capacity building priorities premised on the reality that sustainable development was the main force behind their involvement in MEAs and the WTO, as well as implementation of *Agenda 21* and the Barbados Programme of Action. CARICOM viewed sustainable development as the goal, supported by a tripartite approach with environmental sustainability, economic development and social progress as its pillars.

98. The representative of Japan said that, as the largest provider of development aid, Japan also funded WTO-related capacity building. Based on its experience, Japan said technical assistance should be focussed and needs clearly identified in order to provide tailored assistance to developing countries. As trade and environment was a broad area, focus was essential if technical assistance were to be effective. Ownership on the recipient side was important. As noted by Jamaica, the capacity building provided by various international organisations and countries should be coherent. In addition, there should be capacity building in the private sector. The promotion of foreign direct investment was an effective engine for building capacity in developing countries.

99. The representative of Peru said that technical assistance should be related to the Doha mandate, particularly on trade and environment. Peru thanked UNEP for the Workshop on Capacity Building, which identified shared benefits that could be obtained in trade and environment. Peru suggested that, when MEAs participated in the CTE, their interventions should focus on those areas where benefits resulting from trade and the environment synergies could be shared.

100. The representative of Tunisia thanked UNEP, as well as UNCTAD and the WTO, for the Workshop on Capacity Building, and for enabling developing countries to participate. Capacity building was key to any development programme, particularly in the context of sustainable development. The Workshop identified shortcomings in the provision of capacity building; national and regional institutions in developing countries could assist UNEP in developing training and technical assistance programmes adapted to national specificities.

101. The representative of India thanked UNEP and UNCTAD for their efforts in technical assistance and capacity building. Technical assistance and capacity building should be focussed in order to meet the specific requirements of developing countries.

102. The representative of the European Communities said that the attention paid to this issue underlined its central importance, and that the work of UNEP and UNCTAD had already borne fruit. The EC had devoted considerable efforts to technical assistance in this field and was ready to do more. Specific requests would provide ideas as to what would help beneficiary countries. The EC was integrating trade and environment particularly in its bilateral programmes. The WTO Technical Assistance Division should be present at such discussions. The EC hoped trade and environment would figure even more prominently in WTO work in cooperation with UNEP and UNCTAD.

103. The observer of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) supported the UNEP statement on observer status and capacity building cooperation. In view of the scope of the Doha Declaration, CITES considered that the participation of MEA Secretariats and UNEP would enable negotiators to complete the tasks mandated under

paragraphs 31, 32 and 51. Cooperation between MEAs, UNEP and the WTO would add value to that process, create "win-win" opportunities, and build bridges with the Johannesburg World Summit on Sustainable Development. CITES reaffirmed its commitment to participate in the development of practical synergies related to capacity building. It was important to clarify the main trade-interfaces between MEAs and the WTO and to increase mutual understanding of the rules and goals of these two equal and complementary regimes. Sustainable wildlife trade could be a powerful tool for development, and was an important economic instrument for the conservation of certain species.

On environmental reviews at the national level

104. The representative of the United States said that Paragraph 33 also encouraged information sharing and capacity building to assist Members wishing to perform environmental reviews at the national level. The United States had been working over the last two years to develop and implement a set of domestic guidelines for conducting environmental reviews of trade agreements. Others had also made progress in developing their own assessment frameworks and methodologies, from which the US benefitted. UNEP, UNCTAD and the OECD were engaged in valuable work, assisting countries to develop appropriate and tailored frameworks for conducting such analyses, and assisting developing countries in particular to gain the capacity to perform assessments. This momentum should be continued.

105. The representative of India said that environmental reviews at the national level, besides being voluntary, should be consistent with a country's priorities. Environmental reviews should be carried out in the light of national requirements, capacities, level of development, expertise, and local situation. The task of developing countries should not be made more onerous by harmonizing review procedures.

106. The representative of the European Communities said his delegation supported UNEP work on environmental impact assessments. The EC supported India's comments on the need to take that work forward without seeking to harmonise the necessarily national nature of the endeavour.

107. The observer of UNEP said that, to contribute to the sharing of expertise on environmental reviews at the national level, encouraged in paragraph 33 of the Doha Declaration, UNEP wished to update the CTE on its work on integrated assessment of trade-related policies. The final reports from the national teams in six countries (Argentina, China, Ecuador, Nigeria, Senegal, and Tanzania) would soon be completed. A synthesis report was also in preparation. The *Reference Manual on Integrated Assessment of Trade-Related Policies* was being translated into French and Spanish, and would be available shortly. Recently, UNEP had launched four country projects assessing the environmental and related economic and social effects of trade liberalisation in the rice sector. These assessments focussed on the effects of the WTO Agreement on Agriculture, and aimed at an *ex ante* assessment of trade liberalisation expected to result from the agricultural negotiations. The scope of those projects depended on the extent to which UNEP could secure funding. More information on these country projects was available at www.unep.ch/etu.

PARAGRAPH 51 OF THE DOHA MINISTERIAL DECLARATION

The Committee on Trade and Development and the Committee on Trade and Environment shall, within their respective mandates, each act as a forum to identify and debate developmental and environmental aspects of the negotiations, in order to help achieve the objective of having sustainable development appropriately reflected

108. The representative of the European Communities said that paragraph 51 was an important element in the Doha Development Agenda (DDA); it reaffirmed the Preambular objective of having sustainable development reflected in the negotiations and asked the CTE and CTD to act as a forum to identify and debate developmental and environmental aspects of the DDA negotiations, within their

respective mandates. It was not too early to identify the questions that needed to be answered in order to respond to this mandate. On the question of timetable, the Trade Negotiation Committee (TNC) would report to the 5th Ministerial on progress in implementing the DDA, and the CTE would need to enable the Chair to report to the TNC ahead of the 5th Ministerial on any environmental aspects of the negotiations we may identify and debate. While it was not worthwhile to begin this process until the negotiations were underway, by October the CTE should be ready for a substantive exchange. By the June meeting, the CTE could envisage developing broad guidelines as to how to address this mandate.

109. On the basis of what input should discussion be based, the EC said that Members would bring to the CTE any aspects that they wished to identify. Some additional possibilities merited consideration: might work be structured to cover the work of certain fora (for example, agriculture, services, market access) at the October meeting, with others being addressed in early 2003? Might the Chair and the Secretariat provide a checklist of papers emerging from the work of other fora, as a common point of reference for the discussion? Might the Chair and the Secretariat liaise with those of the CTD? More ambitious still, might it be possible to envisage a common meeting of the two Committees, in order to act in a coherent manner in the pursuit of sustainable development?

110. On how the CTE could signal to the outside world what it was doing in this area, the EC said that paragraph 51 was a unique instruction under the DDA that referred to how to contribute to the achievements of other for a. This had particular resonance in the light of the World Summit on Sustainable Development. Thus, the outside world was interested in this work. The EC felt it would be worthwhile to ask the WTO Director-General to consider holding, between Johannesburg and the 5th Ministerial, a public event along the lines of the discussions in 1998 on environment and development. Such discussions could contribute to CTE work on paragraph 51, as well as provide an opportunity for the WTO to demonstrate its interest in the outcomes of Monterrey and Johannesburg, and to sustain the engagement of WTO non-members in the run-up to the next Ministerial. The EC was interested in reactions to these ideas, and hoped this issue could be addressed informally.

111. The representative of Canada welcomed the EC suggestions, and said that paragraph 51 was an intriguing part of the Doha Declaration. It was increasingly difficult to separate development and environment as they were intricately linked, particularly in the context of the World Summit on Sustainable Development. Thus, Canada encouraged cooperation with the CTD. The process of identifying and debating the environmental aspects might well enable environmental assessments of the negotiations to contribute preliminary results. UNEP activities in this area could also contribute.

112. The representative of Venezuela attached importance to the CTD where special and differential treatment was being discussed, as set out in paragraph 44 of the Doha Declaration. The CTD had asked all WTO committees to inform it of any discussions on special and differential treatment. The way in which to deal with special and differential treatment was through trade preferences and enhanced trade liberalization. Venezuela wished the CTE to identify the relationship between special and differential treatment and the environment.

113. The representative of Brazil said the mandate in paragraph 51 could be useful to identify "win-win" scenarios, such as agriculture, TRIPs, market access for non agricultural goods, and services, highlighting aspects that could contribute to sustainable development. Given its expertise on trade and environment, the CTE could inform other negotiating bodies and receive feedback from them. Brazil would consider the EC suggestion on how to use the mandate for external transparency.

114. The representative of India took note of the suggestions by the EC and others. Paragraph 51 indicated that the CTE should discuss environmental aspects of the negotiations with a view to promoting sustainable development in the negotiations. Given that the negotiations were in their early stages, India would reflect on this matter once the negotiations had proceeded further.

115. The representative of the United States said that an important means for Members to demonstrate their commitment to sustainable development, as reaffirmed in Doha, was the CTE role in identifying and discussing environmental aspects of the negotiations under paragraph 51. This would inform Members' positions in the negotiations and foster a greater dialogue between Ministries, which had been a theme in the discussions on technical assistance and capacity building. These discussions should be Member-driven. Since the scope of the negotiations was broad, work should be structured in order to foster focussed and productive dialogue. The ideas put forward by the EC were useful, and the US would study them, for it had shared objectives on this issue. Brazil had mentioned several negotiations of relevance to the mandate in paragraph 51, such as agriculture, non-agricultural market access and services. Another important area was fisheries in the Rules Negotiating Group. National environmental reviews of the Doha negotiations could also prove useful.

116. The representative of Norway appreciated the constructive suggestions by the EC, as well as Canada, Brazil and the US. In order to structure the various ideas, Norway asked the Chairman to pursue this matter in the June meeting, so as to obtain results by October.

117. The representative of Mexico supported India and, to a certain extent, Brazil's comments. Paragraph 51 contained a specific, limited mandate to identify and debate the environmental aspects of the negotiations in order to achieve sustainable development. This did not entail modifying, amending, or tampering with negotiations in other bodies; it pertained to information exchange. Mexico welcomed the EC proposals, although it was rather early in the negotiations. Mexico was open to informal discussions on this matter.

118. The representative of Hungary agreed that paragraph 51 was an important element in the Doha agenda, and welcomed the suggestions of the EC and others. In considering how to respond to the mandate, it would be useful to elaborate guidelines prior to the June meeting.

119. The representative of Cuba supported Venezuela's comment that the CTE should analyse special and differential treatment for developing countries in order to comply with paragraph 6.

120. The representative of Malaysia said that informal consultations would be necessary on how to carry out this mandate. The EC had proposed some ideas on how to proceed. However, negotiations were still at a preliminary stage. Reflection at a later stage would thus be preferable. As to external transparency, Malaysia doubted that the mandate extended that far. Malaysia supported India and Mexico's comments, and felt the CTE should explore Venezuela's proposal.

121. The Chairman noted the importance Members attached to paragraph 51. Clearly paragraph 51 covered a vast area, which only served to increase the need to have a structured debate. The Chairman would consult informally with delegations on this matter.

122. It was agreed to include paragraph 51 as a standing item on the agenda of the CTE.

ANNEX

COMMITTEE ON TRADE AND ENVIRONMENT Work programme and schedule of meeting for 2002

1. The following schedule of meetings gives particular attention to one of the issues identified in paragraph 32 of the Doha Ministerial Declaration at each meeting, while allowing Members to address all the other items on the work programme of the CTE, as well as paragraphs 33 and 51 of the Doha Ministerial Declaration. The possibility of scheduling a fourth meeting should be kept in mind as the discussions proceed.

2. The CTE meeting of **21 March** will address items relevant to market access, with particular attention to:

- **Paragraph 32(i) of the Doha Declaration** – "The effect of environmental measures on market access, especially in relation to developing countries, in particular the least-developed among them, and those situations in which the elimination or reduction of trade restrictions and distortions would benefit trade, the environment and development";
- Other items in the market access cluster of the work programme of the CTE: Items 2, 3, and 4;

Following this debate, Members will have the possibility to raise other issues in paragraph 32 of the Doha Declaration, and other items of the work programme of the CTE; as well as:

- Paragraph 33 of the Doha Declaration on technical assistance and environmental reviews; and
- Paragraph 51 of the Doha Declaration on identifying and debating developmental and environmental aspects of the negotiations, in order to help achieve the objective of having sustainable development appropriately reflected.

3. At a meeting on **13-14 June**, the CTE will hold an **MEA Information Session** on technical assistance and capacity building, and discuss those items related to the linkages between the multilateral environment and trade agendas, with particular attention to:

- **Paragraph 32(ii) of the Doha Declaration** – "The relevant provisions of the TRIPs Agreement";
- Other items in the linkages cluster of the work programme of the CTE: Items 1, 5, 7, 9 and 10;

After this discussion, Members will have the possibility to raise other issues in paragraph 32 of the Doha Declaration, as well as other items of the work programme of the CTE; as well as:

- Paragraph 33 of the Doha Declaration on technical assistance and environmental reviews; and
- Paragraph 51 of the Doha Declaration on identifying and debating developmental and environmental aspects of the negotiations, in order to help achieve the objective of having sustainable development appropriately reflected.

4. On **8-9 October**, discussion in the CTE will give particular attention to:

- **Paragraph 32(iii) of the Doha Declaration** – "Labelling requirements for environmental purposes";

Following debate on this issue, Members may address other issues in paragraph 32 of the Doha Declaration, and other items of the work programme of the CTE; as well as:

- Paragraph 33 of the Doha Declaration on technical assistance and environmental reviews;

- Paragraph 51 of the Doha Declaration on identifying and debating developmental and environmental aspects of the negotiations, in order to help achieve the objective of having sustainable development appropriately reflected; and
 - Report of the CTE in 2002.
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