

# WORLD TRADE ORGANIZATION

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## Committee on Trade and Environment

### REPORT OF THE MEETING HELD ON 21-22 MAY 1997

#### Note by the Secretariat

1. The Committee on Trade and Environment met on 21-22 May 1997 under the chairmanship of Ambassador Björn Ekblom of Finland. The agenda contained in WTO/AIR/578 was adopted, with the addition of the issues of observer status for international intergovernmental organisations and rules of procedure.
2. The Chairman outlined some basic objectives of the Committee (CTE) for 1997 which were based on his informal consultations. During the course of 1997, the CTE should: (a) broaden and deepen the analysis of all Items on the work programme; (b) widen participation in support of this analysis; and (c) produce a brief factual report to be submitted to the General Council in December, with possibly recommendations on the CTE's work in 1998. The CTE's analysis would be based on the thematic clusters of market access and the linkages between the multilateral environment and trade agendas.
3. This meeting would deal with the Items on the work programme related to market access, whilst the September meeting would address those Items relevant to the linkages between the multilateral environment and trade agendas. The Chairman would hold open-ended informal consultations to discuss the format of the September meeting. He invited Members to provide suggestions on which Secretariats of multilateral environmental agreements (MEAs) should be invited to contribute to the September meeting. The November meeting would focus on Items 9 and 10 and on the CTE's report to the General Council.
4. In order to widen participation in support of the CTE's work, the WTO Secretariat, on its own responsibility, had organized a WTO Symposium on Trade, Environment and Sustainable Development ("NGO Symposium") with representatives of business, environmental and developmental organizations, on 20-21 May.
5. The representative of the European Communities said the CTE should not exclusively address matters related to market access when dealing with the Items for this meeting, but, in accordance with its terms of references, should adopt a broader perspective. The representatives of the United States and Japan agreed that the thematic clusters should not limit the discussion. The representative of Nigeria recalled that consensus had already been achieved to cluster the Items around themes. The representative of Venezuela said market access issues were important for developing countries.
6. The Chairman said the intention of structuring work around thematic clusters was not to limit the discussion, which should be able to accommodate any relevant issues delegations wished to address in order to deepen the analysis.

Observer status for international intergovernmental organizations

7. The CTE agreed to extend observer status to the African, Caribbean and Pacific Group of States, the Convention on International Trade in Endangered Species of Wild Fauna and Flora and the UN Framework Convention on Biological Diversity.

Rules of procedure

8. The Chairman said it had not yet been possible to reach agreement on the CTE's rules of procedure. At this stage, time would be better spend on a substantive discussion of the Items on the work programme. However, if any delegations had proposals which they considered would be acceptable to all, or should they find further flexibility with respect to their position, he invited them to inform him. He would keep the Committee informed of any developments on this matter.

9. The representatives of Morocco and Peru asked that documentation be available in advance of the September meeting in French and Spanish.

Item 2 The relationship between environmental policies relevant to trade and environmental measures with significant trade effects and the provisions of the multilateral trading system

10. The representative of the Environmental Protection Agency of the United States made a presentation of his delegation's experience with environmental reviews of trade agreements and policies. He said this was not the only way to carry out environmental reviews and the United States had not carried out reviews exactly the same way each time. Since the decision to negotiate the NAFTA in 1991, the United States had voluntarily undertaken environmental reviews of a number of environmental policies and agreements. Two reviews had been conducted of the NAFTA and an environmental report had been submitted to Congress when the Uruguay Round Agreements had been submitted for legislative approval. Reviews were largely procedural to ensure that policymakers considered likely environmental effects of trade policies and substantive responses in the form of mitigating steps, where necessary. These reviews had been cooperative, interdepartmental undertakings, coordinated by USTR, which had identified environmental policy issues raised by new trade policies and potential environmental benefits of removing trade distortions. Although the causal link between trade liberalization and specific environmental impacts of proposed trade policies could not always be established in advance, reviews brought to policymakers' attention the concerns of a wide range of constituencies. A transparent public process to resolve policy conflicts ensured the development of mutually supportive trade and environment policies and built public support for, and confidence in the policy approach.

11. The first review for the NAFTA, which had involved extensive public hearings, consisted of a review of the relationship of the environments of the countries involved; the principle elements of the proposed NAFTA; the environmental issues raised for the United States; and preliminary conclusions on the potential environmental effects for the United States and recommendations for policymakers. Each NAFTA Party had conducted a review of impacts within their country. A second review of the NAFTA had also been submitted to Congress. An Environmental Side Agreement to the NAFTA had been concluded which dealt in parallel with, and addressed environmental issues raised by the negotiations.

12. An Environmental Report on the Uruguay Round Agreements had been prepared in 1994, with public input on the environment and the Uruguay Round. This Report considered trade and environment issues raised by the existing GATT and looked at the new Uruguay Round provisions which potentially could have affected US environmental laws and regulations, focusing on the preamble, the SPS, TBT and Subsidies Agreements and the dispute settlement procedures. There also had been a consideration of possible general macro economic and investment effects, implications for the protection of intellectual property rights and sectoral effects in agriculture, environmental technology and services, transportation, energy and minerals. Not all environmental issues raised in this Report's preparation had been addressed in the Uruguay Round Agreements. Thus, the Report had set out how the United States could address

these issues in the future, including in the CTE. Copies of these reviews could be consulted in the Secretariat.

13. In response to the representative of Venezuela's question on whether the United States had found it necessary to have a review mechanism to verify the potential effects, the United States responded that the environmental reviews had been procedural, whereby comments had been solicited and the information received had been assessed to determine which issues to address. In response to the representative of Peru's question as to whether environmental reviews would be conducted in the future and for the sectors which had not yet been addressed, he said the United States intended to continue performing reviews although the precise format would vary. The sectoral analysis had been organized around the comments which had been received.

14. The representative of Nigeria asked what the relationship between environmental reviews and impact assessment was and whether the United States intended to make a proposal on environmental reviews. He enquired as to how the United States reconciled the issue of environmental reviews with the CTE's mandate. He enquired as to whether the United States, Canada and Mexico would consider presenting information on their environmental reviews of the NAFTA on the scope of the review; an estimate of the costs; the broad results of the review; and the methodologies employed.

15. The representative of the Environmental Protection Agency of the United States said there was no legal requirement that the United States undertake environmental reviews, but it expected to continue to do so as necessary and appropriate. Although many countries carried out environmental impact assessment and reviews were commonly performed, their application to trade agreements was a more recent phenomenon. Environmental reviews had been discussed in the context of the CSD and OECD Members had voluntarily taken on an obligation amongst themselves to undertake reviews. Although the United States had submitted a proposal on environmental reviews (WT/CTE/W/37), the purpose of this presentation had not been to reiterate this proposal but to enhance the CTE's understanding. Environmental reviews were a useful way of ensuring appropriate policy structures were in place at the national level.

16. The representative of Mexico said the WTO did not have the competence to deal with environmental reviews. The WTO's main concern was trade; therefore the CTE should examine trade reviews. One suggestion would be to examine the existing environmental agreements and those under negotiation to review their trade effects and cost effectiveness. These examinations should be carried out at the national level. As the CSD and UNEP were developing methodologies for environmental reviews, she enquired as to what the United States considered the WTO's role to be in this regard.

17. The representative of the Environmental Ministry of Mexico said the design of environmental reviews had been a useful exercise in the context of NAFTA. However, their actual elaboration had been costly and time consuming and the results were not determinant, as the reviews analysed complex factors which were dynamic and which included considerations other than the environment. The exercise undertaken in NAFTA was not necessarily a model which could be copied. However, environmental reviews could help to verify environmental concerns, such as, for example, the legitimacy of eco-labelling, whether it promoted environmental protection, and whether it was an unjustified trade barrier.

18. The representative of India said the basic issue of the linkages between trade and environment had not yet been determined. Paragraphs 48 and 181 of the Report referred to this issue by seeking further analysis on the relationship and comparability of general trade and environmental principles. India would like more discussion on these linkages and how they promoted sustainable development based on its non-paper on Item 2 (dated 23 July 1996). India's proposal dealt with trade principles in paragraphs 6 to 26 and environmental principles in paragraphs 3, 4, and 27 to 36. Several of these principles were already contained in the Report, such as in paragraphs 167, 171, 183 and 207. India welcomed suggestions for altering or adding to these principles, if it were felt that its non-paper lacked balance. India was not proposing any recommendations, but to fulfil the CTE's mandate to initially address matters relevant to trade and environment. The principles in India's non-paper were relevant to all Items.

19. The representative of Pakistan said confusion existed on the scope of Item 2 and the formulation of Item 2 should be deconstructed. It would be logical to determine what the environmental policies were and their impact on WTO provisions. He referred to paragraph 181 of the Report which noted that further work would be required on this Item, not specifically on environmental reviews, which fell outside the scope of Item 2. A productive discussion could build on India's proposal. Although he had no problem with environmental reviews of trade agreements at the national level, he failed to see where such a discussion would lead.

20. The representative of Sierra Leone asked if the United States required environmental reviews from countries with which it entered into trade agreements; what the record of mitigating environmental effects was; what mitigation depended on; and how long reviews took.

21. The representative of the United States responded that the more countries performed environmental reviews, the more likely that synergies would be possible between trade and environment. Concerning the record of mitigation, the types of problems and responses identified varied. In the initial review for the NAFTA, the United States had cooperated with Mexico to deal with changes in trade patterns along the border. The process of environmental reviews took a considerable amount of time in order to allow for public input.

22. The representative of Argentina said Item 2 had been designed to cover issues which were not covered under other Items. Although it was difficult to oppose undertaking environmental reviews at the national level, he enquired as to what the implications at the international level were. He asked if the United States would be willing to provide technical assistance to governments to carry out environmental reviews of trade agreements and whether the reviews would be limited to the provisions contained in the trade agreements, or also include trade policies applied according to relevant WTO disciplines.

23. The representative of Japan supported the need to review environmental agreements from a trade perspective. Japan's understanding of environmental reviews had been enhanced by the United States' presentation. He referred to the contribution of transparency and notification of trade-related environmental measures, which was part of Item 4. Domestic coordination was important and had been highlighted by Japan at the NGO Symposium.

24. The representative of Norway said, although the preparation of environmental reviews was primarily a task of national governments, it was on the CTE's agenda as stated in paragraph 181 of the Report. Environmental reviews were a means to check whether trade liberalization contributed to sustainable development. The CTE could discuss whether further work should develop a check list of methodologies in the WTO to assist governments in undertaking reviews. Although trade reviews of environmental agreements might be useful, MEAs were the appropriate fora to undertake them.

25. The representative of Brazil said his delegation had no difficulty in discussing environmental reviews of trade agreements as presented by the United States. He asked what the United States' view was on the role of other fora, such as the CSD, on environmental reviews.

26. The representative of Canada said the genesis of this issue was the OECD Joint Session of Trade and Environment Expert Group's recommendation on environmental reviews of trade agreements and trade reviews of environmental agreements. The issue was a matter of domestic policy coordination. Canada also had conducted environmental reviews of the NAFTA and the Uruguay Round. At the same time, when negotiating environmental agreements, Canada had considered the trade impact in order to arrive at a position which reflected domestic interests.

27. The representative of the United States said his delegation's intention had been to deepen the CTE's understanding of environmental reviews. Instead of focusing on previous proposals, it would be worthwhile to examine issues from an analytical perspective. Concerning Brazil's question on the role of other fora, he said this work should be supported. In the CSD Report to the UN General Assembly's Special Session, there was strong language calling for the use of environmental impact assessment. Work on this issue in

UNEP and OECD should not be duplicated. The CTE could endorse environmental reviews and recommend them as a useful tool at the national level. Responding to Argentina's question, he said there would not be any notification requirement. He invited delegations to submit copies of their reviews to the Secretariat for Members' consultation. As to why the focus should be on environmental reviews of trade agreements, he said the WTO was the forum in which trade agreements were negotiated. In this respect, there was much to gain from greater participation of trade policymakers in environmental negotiations. Concerning further work on the principles in India's proposal, he said these had been drawn from the trade rules and would be difficult to summarize or interpret.

28. The representative of Peru asked whether technical assistance to prepare environmental reviews was being considered. He said that the CTE could go further than just giving recommendations; it should discuss criteria which could lead to binding recommendations to evaluate environmental policies with trade effects. In this regard, he referred to the general principles in India's proposal.

29. The representative of the European Communities said the United States' presentation was useful and responded to paragraph 181 of the Report. India's proposal was not balanced as it did not include relevant environmental principles, such as the precautionary and polluter pays principles and the obligation to cooperate to protect the global commons.

30. The representative of New Zealand said the discussion demonstrated the difficulty in dealing with specific recommendations on Item 2. The general theme which had been highlighted, and which permeated all CTE work, was the importance of effective coordination between the environment and trade sides of governments. Whilst this might be the extent of agreement at this stage, proposals would remain on the table until such time as aspects could be taken forward.

31. The representative of the Philippines, on behalf of ASEAN, said the CTE should examine India's proposal.

32. The representative of Venezuela asked whether the purpose of analysing the principles in India's proposal would be to reach recommendations, such as non-binding guidelines. He proposed informal consultations to determine which principles to examine and what could be achieved.

33. The Chairman invited delegations to contribute their national experiences to advance the discussion. Given the CTE's aim this year to broaden and deepen the analysis, it might not be constructive to discuss recommendations at this stage. Although discussion could evolve to this end, the focus should be on developing a deeper understanding of the issues.

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

34. The representative of Switzerland referred to WT/CTE/W/47, which established a basis on which to discuss environmental taxes and WTO provisions. As mentioned in paragraph 66, the issue of whether WTO provisions provided for border tax adjustment of taxes on inputs incorporated or exhausted in the production process had not yet been clarified. The conclusions of the 1970 Working Party on Border Tax Adjustment that "while this area of taxation was unclear, its importance - as indicated by the scarcity of complaints reported in connection with adjustments of *taxes occultes* - was not such as to justify further examination" were no longer valid considering the importance of environmental considerations in the policies of many countries. The time had come to further the examination. These taxes were particularly interesting in the context of environmental policy since they acted on the behaviour of polluters; a polluter who had to pay for pollution emissions had an incentive to reduce pollution. This incentive would lead to the search for processes and products which were more environmentally sound for economic reasons. Eco-taxes were easy to apply and were a logical supplement to the regulations already adopted. On 1 July 1997, Switzerland would introduce incentive taxes on volatile organic components and extra light heating oil to combat air pollution. WTO provisions had been taken into account when these instruments had been drawn up. Switzerland was prepared to make a presentation on these taxes at the September meeting.

35. The representative of Japan said WT/CTE/W/47 could be further developed to deal with non-product-related production and processing methods (PPMs). In view of the implications of border tax adjustment for competitiveness, the paper could incorporate trade and environmental policy perspectives, particularly in light of the forthcoming meeting of the Convention of the Parties (COP) to the UN Framework Convention on Climate Change in Kyoto in December 1997.

36. The representative of India said WT/CTE/W/47 gave a good overview of various environment-related trade policy instruments and their economic and trade implications. The section on dispute settlement collated the relevant parts of the analytical index and GATT/WTO jurisprudence. The relevance of discussing non-product-related PPMs and competitiveness effects would have to be determined. Paragraphs 19, 21 and 22 of WT/CTE/W/47 gave some guidance and offered scope for further discussion, especially regarding their impact on market access. India's non-paper on Item 2 also contained relevant guiding principles.

37. The representative of Argentina, referring to paragraph 10 of WT/CTE/W/47, said subsidies also had an important effect on commodity prices, particularly if production costs were not reflected. Concerning paragraph 15, the tax base "may dwindle over time" depending on the flexibility of demand. He said interest in eco-taxes and charges would be heightened after the COP of the Convention on Climate Change. Economic instruments, such as taxes, had an advantage over command and control measures as they were more transparent and did not affect the functioning of the market. CTE work on border tax adjustment would have an impact on governments' decisions.

38. The representative of Australia said WT/CTE/W/47 served as a good basis for the discussion. Although the CTE should not preempt outcomes in other fora, it would be useful to discuss the use of environmental taxes after the COP of the Convention on Climate Change.

39. The representative of the European Communities said environmental taxes were increasingly used to promote internalization of environmental costs and to change consumption and production patterns. Such taxes and charges would likely be subject to increasingly attention, particularly in the Convention on Climate Change. Legal uncertainties existed on the interpretation of WTO rules on border tax adjustment, including several provisions in the Subsidies Agreement. This issue had horizontal implications and applied to all, not solely environmental, taxes and charges.

40. The representative of Mexico said WTO rules allowed for adjustment of taxes and charges on products, but not on PPMs. Japan had suggested further analysis of PPMs and competitiveness. With respect to the latter, she referred to paragraph 169 of the Report which set out that: "WTO Member governments are committed not to introduce WTO-inconsistent or protectionist trade restrictions or countervailing measures in an attempt to offset any real or perceived adverse domestic economic or competitiveness effects of applying environmental policies". She enquired as to how the environmental value could be quantified with respect to border tax adjustment and how feasible and environmentally effective this instrument would be. These issues should be included in an analysis of border tax adjustment.

41. The representative of Canada said WT/CTE/W/47 was a comprehensive analysis of border tax adjustment. Although the PPM issue was sensitive, it could be clarified. Paragraph 19 referred to the potential for double taxation on imported products. The temptation existed to adjust taxes where lower environmental standards existed in the importing country. Also, there would be less inclination to provide credits where higher environmental standards existed.

42. The representative of Norway said, although the regulatory approach had dominated environmental policy, more attention was being given to economic instruments to attain environmental goals in a cost efficient way. As environmental concerns grew, cost efficiency would be emphasized in order to internalize environmental costs. Also, an increased use of economic instruments would stimulate innovation in pollution-control technologies. Environmental policies also were used in conjunction with employment policies. Studies suggested it would be possible to attain gains in employment through the use

of environmental taxes and charges combined with reductions in other taxes. As stated in WT/CTE/W/47, several constraints existed on the use of economic instruments, i.e. the valuation and competitiveness problems, which made it politically difficult to introduce neutral eco-taxes. If eco-taxes were coordinated, the competitiveness issue would not constitute a problem. However, governments might exempt from taxes industries exposed to foreign competition and set eco-taxes below the optimal level. Another way to alleviate competitiveness effects was to use border tax adjustment.

43. The use of economic instruments was subject to WTO rules on the application of domestic taxes and charges to traded goods. In cases where environmental problems stemmed from consumption, the application of border tax adjustment to neutralize competitiveness effects should be possible according to WTO rules. Complications arose with eco-taxes designed to solve problems related to production processes which generated transborder or global environmental problems. The problem was to determine which taxes were eligible for border tax adjustment. From an environmental and cost-efficiency point of view, it had been argued that border tax adjustment should be extended. However, this raised several concerns: (i) risk of protectionist abuse; (ii) non-product-related PPM issues; (iii) technical and administrative difficulties; and (iv) in certain cases, risk of providing unintended incentives for suppliers as the extended use of border tax adjustment might discourage improving environmental performance. Further work should address border tax adjustment of eco-taxes and the use of other economic instruments.

44. The representative of Egypt asked if border tax adjustment served the purpose and was viable from an economic perspective; whether it was environmentally effective and WTO-compatible. Imposition of taxes, *per se*, was valid, but eco-taxes were imposed on a phenomena which was not quantitative. Forcing producers to incorporate environmental externalities by imposing taxes on products made with polluting PPMs was based on the assumption that the costs of the polluting firm and the damage function of the polluted firm were known. This was more complex if an importing country attempted to make adjustments at the border on "like" products. She asked what would be an internationally-acceptable and appropriate pollution tax. Even the positive effects of applying border tax adjustment, such as curtailing environmental damage, inducing cleaner production, and raising revenue for environmental protection, was not of direct benefit to developing countries. The negative competitiveness effects and sovereignty issues concerning environmental standards should be addressed. The effectiveness of border tax adjustment for PPMs contradicted the widely held view that environmental problems should be addressed at their source as it would be a value judgement and would constitute double taxation if countries already had dealt with the environmental problem. Generally, it would be better if the tax were levied on the production and extraction process of the environmental problems rather than on the resulting products. Border tax adjustment raised the issues of the extraterritorial impact of PPMs and WTO-compatibility. The distinction should be made as to whether PPMs were product-related. The use of border tax adjustment was complex and difficult to integrate in the WTO. Although she questioned the relevance of this debate in the WTO, Egypt was willing to further the analysis, if necessary.

45. The representative of Korea shared the concerns that border tax adjustment could entail potential protectionist risks. Given the cost of compliance with environmental regulations, which represented only 1-2 per cent of developed country production costs, there was no evidence of resort to lower environmental standards to gain competitive advantage or investment. Differences in environmental policies should not result in the introduction of compensating duties or import/export rebates. Korea had difficulty with adjusting imported products at the border in order to balance the additional costs incurred by domestic industry in complying with non-product-related PPM-related requirements, which would have extrajurisdictional consequences. The rebate of eco-taxes reduced their effectiveness, particularly if pollution arose from PPMs. At this stage, there was no need to discuss the potential coverage and policy implications of border tax adjustment as only a few countries had introduced such taxes. It was preferable to conduct an analysis of the feasibility, environmental benefits and potential disguised protectionism associated with adjusting taxes at the border based on PPMs.

46. The representative of Morocco referred to the feasibility of border tax adjustment, its WTO-compatibility and the consequences for developing countries. Environmental impacts were often connected to PPMs. In this context, developing countries would require financial assistance. If market

access were affected by border tax adjustment related to the use of certain PPMs, this would be WTO-incompatible.

47. The representative of the United States said WT/CTE/W/47 updated GATT/WTO work on taxes and charges. Section II presented a good overview of the general theory of the desirability of economic instruments for environmental purposes and set out the limitations of price-based measures to address environmental issues, which could have been expanded. Although the paper referred to the benefits of economic measures in terms of transparency in their operation, transparency of the process by which these instruments were designed had yet to be addressed. The manner in which individual interests might obtain exemptions from the application of economic instruments could be non-transparent and subject to capture. Section III noted that the coordinated use of price-based instruments could achieve environmental goals while avoiding technical and political constraints, which reflected the Climate Change negotiations. Apart from the difficulty of agreeing on a common approach, there would be significant competitiveness issues raised by a coordinated use of an eco-tax set at a level to induce changes in consumption or production patterns. Section IV was well done, although it drew on only one panel in dealing with "like" products and did not discuss other WTO jurisprudence. Discussion on border tax adjustment should be kept separate from that on Climate Change.

48. The representative of Argentina said the issues related to border tax adjustment on charges and taxes went beyond PPMs, as had been indicated by Norway, and included issues such as who collected the revenue. If a government wished to reduce local environmental effects of a PPM, such as industrial effluents, either the polluter avoided producing the externality or paid the tax. However, if the externality were global and the polluting emission entered the atmosphere, for example, the problem was who would receive the revenue and how would it be used. If it were a matter of consumption, there might not be any trade issues. Nevertheless, in the case of energy, PPMs were only part of the problem as externalities could be related to consumption.

49. The representative of Nigeria recalled that there had only been a preliminary investigation of this Item and looked forward to Switzerland's presentation on eco-taxes. Paragraph 182 of the Report noted that scope existed under WTO provisions for governments to apply environmental charges and taxes. He said the potential implications of these measures should be examined, taking into account international policy coordination in this area. He referred to Argentina's question of who collected the revenue from eco-taxes and charges, which was an important aspect with respect to paragraphs 48 and 49 of WT/CTE/W/47 and the energy section of the informal Secretariat paper on Item 6. Tendencies for charges and taxes on externalities were conflicting. There were arguments for tax rebates on exported products. Based on future discussions on taxes and charges, Nigeria would continue to analyse the following issues: PPMs and WTO rules; competitiveness effects; difficulties in assigning values to environmental externalities; double taxation; risk of protectionist abuse; extraterritoriality; and the need for policy coordination.

50. Concerning further work on Item 3(a), the Secretariat said several delegations had addressed the need to elaborate various aspects of environmental charges and taxes and border tax adjustment. Further work also could take into account the results of the COP of the Parties to the Convention on Climate Change, as well as environmental valuation and effectiveness.

Item 3(b)      The relationship between the provisions of the multilateral trading system and requirements for environmental purposes relating to products, including standards and technical regulations, packaging, labelling and recycling

51. The representative of Canada said WT/CTE/W/45 indicated the extent of work underway in other fora on eco-labelling. He noted the UNEP Expert Group's report, *Eco-labelling and Trade: A Cooperative Approach*, which had been issued as a non-paper (dated 6 March 1997) in the TBT Committee (CTBT) and contributed to discussions of equivalency of eco-labelling. The priority should be to implement paragraph 185 of the Report, which stressed the importance of following the provisions of the TBT Agreement and its Code of Good Practice for government sponsored eco-labelling programmes,



without prejudice to Members' views on non-product-related aspects of these programmes. Canada had notified the work programme of its Environmental Choice programme in 1996 and looked forward to other Members notifying their programmes in the interests of transparency. Canada's experience indicated that complying with the procedural and substantive provisions of the TBT Code of Good Practice addressed trade concerns, while maintaining an environmentally-credible eco-labelling programme. As indicated in the NGO Symposium, Canadian business was concerned about the development and implementation of eco-labelling programmes. Future CTBT work on eco-labelling should take into account ISO 14000 standards on eco-labelling and life-cycle assessment. The OECD's study, *Eco-labelling: Actual Effects of Selected Programmes*, was a useful reference for further work on this Item.

52. The representative of Brazil said this Item remained a priority for Brazil. WT/CTE/W/45 could be periodically updated and the analysis on the market access impact of eco-labelling furthered. Paragraph 185 of the Report provided a basis for action under this Item, particularly on transparency of eco-labelling programmes. The Report set out the importance of following the TBT Agreement's transparency provisions and its Annex 3. This discussion would continue in the CTE and the CTBT. The particular importance of ensuring fair access to eco-labelling schemes was underlined in the Report, as well as the relevance of identifying equivalency mechanisms between exporting and importing countries. As a result of paragraph 185 of the Report, Brazil was taking the necessary steps to discuss with governmental and non-governmental sectors the notification of its Green Seal eco-labelling scheme to the CTBT. At this stage, the Green Seal scheme was in a preliminary phase where products and criteria were still being discussed. Sectors such as leather, shoes, paper and timber would likely be covered. Notification of the Green Seal scheme at this early stage would allow Brazil to proceed according to the TBT provisions, whereby interested parties would have the opportunity to become acquainted with the scheme and to provide comments on their own local production criteria. Transparency in this process offered the opportunity for Brazil to contemplate different or additional criteria on an equivalency basis thus ensuring the Green Seal scheme would not be considered as a disguised barrier on imported products. The Brazilian Association of Technical Standards, the standardizing body responsible for the preparation and application of Green Seal, and the Brazilian Ministry of Trade and Industry considered that notifying the Green Seal scheme to the CTBT would increase transparency in this important area of environmental policymaking.

53. The representative of Japan agreed on the need to implement the Report's recommendations. Based on the concerns raised by developing country NGOs, Japan was interested in addressing ISO 14000 in further CTE work. He noted the OECD's eco-labelling study which focused on market, trade and environmental impacts of OECD Members. The April meeting of the OECD Joint Session had decided to work on green government purchasing, which was relevant to eco-labelling and might have trade implications, and packaging. The Codex Alimentarius Commission's work on guidelines for labelling of organic products had yet to be concluded, but they did not cover "acceptable amounts of soil fertilizers and conditions to be used" in organic production as stated in WT/CTE/W/45. He had difficulty with the idea of the Secretariat undertaking an independent study on the market and trade effects of eco-labelling.

54. The representative of the European Communities said WT/CTE/W/45 should be updated with reference to the Global Eco-labelling Network and to recent developments in ISO and the OECD. The OECD eco-labelling study contained useful information. He said procedures to review the EU eco-labelling scheme had just been initiated; the Commission had recently tabled a proposal for consideration by the Council on procedural principles for establishing eco-labelling criteria which envisaged that non-European Union interested parties should be given the same opportunity to be involved and contained a provision according to which small and medium size enterprises (SMEs) in developing countries would be given preferential treatment for fee payment.

55. The representative of Hong Kong said WT/CTE/W/45 served as a basis for CTE work on eco-labelling. As eco-labelling had significant market access implications, work in intergovernmental organisations (IGOs) should take into account WTO principles, particularly concerning the interests of LDCs in formulating eco-labelling schemes. Hong Kong welcomed the fact that some IGOs, such as ITC were taking into account CTE work. The CTE should formulate a proposal on its role in this field in the interest of coordinating with IGOs and ensuring WTO concerns were taken into account. Some of the

recommendations arising from IGO work could be built upon to establish a set of reference principles for eco-labelling, including the need for transparency, adequate consultation, consideration of market and trade impacts, the special needs of LDCs, sufficient allowance for adaptation, harmonization of standards, scientific and technical evidence, and acceptance of equivalency and mutual recognition.

56. The representative of Australia said WT/CTE/W/45 showed that other fora were undertaking interesting work on eco-labelling. There was scope for further discussion on the relationship between eco-labelling schemes and the TBT Agreement. Differences of view remained on the treatment of eco-labelling criteria involving life-cycle analysis, i.e. on the extent to which standards based on unincorporated PPMs were or should be covered by the TBT Agreement. General agreement existed on the desirability of eco-labelling schemes, as standardizing bodies, to adhere to the TBT Code of Good Practice. The CTE could examine whether the TBT Agreement's provisions and the TBT Code were adequate to address the issues raised by eco-labelling, focusing on: (i) the applicability of the TBT Agreement to labels, irrespective of the kind of information provided on the label; (ii) the disciplines that should apply to eco-labelling schemes, as standardizing bodies; and (iii) the extent to which the criteria used by these schemes in awarding labels to particular products were standards or technical regulations.

57. A relevant consideration was the CTBT's decision that the obligation to notify mandatory labelling requirements was not dependent on the kind of information which was provided on the label, whether or not it was in the nature of a technical specification. While this only applied to mandatory labelling requirements, it pointed to a significant principle, i.e. that labels were fully covered by the TBT Agreement. Labelling requirements directly related to food safety were covered by the SPS Agreement. Eco-labelling schemes could be expected to involve at least some criteria related to a product's characteristics or performance. In this case, the eco-labelling scheme, as a standardizing body, would seem to be covered by the TBT Agreement. Where there may be uncertainty was in the context of whether all the criteria used by an eco-labelling scheme were covered by the TBT Agreement, i.e. the respective status of criteria dealing with product characteristics and incorporated PPMs, and those relating to unincorporated PPMs. PPMs was a generic issue underlying the trade and environment debate and its consideration in the context of eco-labelling might have ramifications for the consideration of PPMs elsewhere. The CTE could investigate the adequacy of the TBT Agreement's disciplines, including the Code of Good Practice, in addressing eco-labelling schemes. For example, were these disciplines adequate to ensure transparency in criteria development and to provide effective opportunities for exporting country producers to contribute to criteria development and implementation.

58. The representative of Egypt said WT/CTE/W/45 could have included relevant conclusions on eco-labelling in international fora, such as UNCTAD and the OECD. Further Secretariat analysis of eco-labelling should focus on its market access effects. In order not to confine the discussion of this Item to eco-labelling, Egypt suggested further analysis of standards, technical regulations, and packaging. It would not be useful to discuss ISO 14000 in the CTE as this would already be taking place in UNCTAD. In October, the UNCTAD Expert Group would examine the operation and possible trade and investment impacts of environmental management standards, particularly ISO 14000, on developing countries.

59. The representative of Colombia referred to a study, *Reconciliation of Trade and Environment Policies in Colombia*, prepared by Colombia's National Planning Department, Ministry of Foreign Trade and Universidad Externado. In general, Colombian exporters interviewed for this study were concerned about the costs of eco-labelling, which, in some cases, had significantly affected market access for Colombian exports, specifically for bananas and textiles. In the textile sector, the costs of meeting the criteria to obtain an eco-label exceeded the benefits, including those related to the use of chemicals. Some Colombian textile companies had ceased to export products to some developed countries due to these costs and the consideration that without the eco-label the products could not compete. Exporters of bananas had indicated that adaptation costs to fulfil eco-labelling requirements exceeded the benefits and had a negative market access impact. Several Colombian exporters, particularly in plastics and food, had been affected by packaging requirements in some developed countries. Technical procedures required in some packaging standards were unclear and could be used for protectionist, as opposed to environmental aims. Increased transparency and more information on eco-labelling and packaging would address some of these concerns.

The TBT Agreement had a role to play in this regard. It would be important to study ISO 14000 and equivalency and mutual recognition of eco-labelling.

60. The representative of Pakistan said, in the absence of empirical proof of the success of eco-labelling schemes in determining consumer choice, discussions could be academic. WT/CTE/W/45 indicated that many studies would be carried out in other fora, including the UNIDO survey on the market access effects of eco-labelling, and ISO and UNCTAD work. The manner in which ISO carried out its work should be addressed. The Secretariat should continue to analyse eco-labelling, packaging and recycling.

61. The representative of Nigeria supported the educative process in the CTE this year, which should take into account other fora's work. The CTE's role should be defined to clarify the direction of further work. Canada had drawn attention to the importance of the CTBT's discussions, including taking into account life-cycle analysis of eco-labelling in the stages of production, distribution, consumption and disposal. He proposed that the Secretariat prepare a paper which would examine eco-labelling, and include: (i) market access impacts; (ii) implications of government procurement policies; (iii) competitiveness issues; and (iv) relationship to WTO rules. Joint CTE/CTBT meetings should also be considered.

62. The representative of India said WT/CTE/W/45 helped to further an understanding of other fora's work on eco-labelling. He was concerned about ISO's international character, especially with respect to SMEs. Also, the market access impacts of eco-labelling had not been adequately reflected in WT/CTE/W/45. Regarding Canada's call for eco-labelling schemes to be notified, he said that since eco-labels were, by and large, based on LCA, they were not covered by the TBT Agreement. Hence, Members could not be forced to notify. However, voluntary notification would help to increase the understanding of eco-labelling schemes. Regarding special treatment for developing countries in the EU revision of its eco-labelling scheme, documents from the NGO Symposium indicated that this would not sufficiently take on board SME concerns. For example, reducing the fees from 0.15 to 0.10 per cent of trade levels was not an adequate incentive to incur the capital, technological and other costs. On the CTBT's work, he said forum shopping was unhelpful and would consume the time of two Committees on the same issue. India supported broadening the discussion based on national experiences, such as presented by Colombia. India had established an Institute of Packaging which recognized market access obstacles due to packaging practices. Hong Kong had referred to the need for guiding principles, for which India's non-paper on Item 2 could be helpful.

63. The representative of Chile supported Canada's proposal for Members to notify their eco-labelling programmes to the CTBT and for further analysis of the TBT Agreement.

64. The representative of Morocco said WT/CTE/W/45 illustrated developing country concerns. The Secretariat could highlight conclusions of other fora and update the CTE on ongoing eco-labelling work. He said the CTE should further define the parameters of the discussion and examine the transparency of criteria, conformity assessment procedures, market access effects, and WTO rules on eco-labelling.

65. The representative of Canada, commenting on the coverage and application of the TBT Agreement to eco-labelling programmes, said experience indicated that progress would be unlikely at this stage in either the CTE or the CTBT. It was counterproductive to discuss what the rules were, although there might be merit in discussing what the rules should be. He felt that it was Members' responsibility to address the market access implications, in terms of asking domestic industry groups what the concrete problems and market impacts were. Colombia's input was helpful in terms of understanding the impacts of eco-labelling. Canada had done this for the forestry sector, which had indicated that concerns with the EU programme were not about current market access, but about the medium and long term impact of increasingly "green" consumers. He recalled that ISO 14000 was being discussed in the CTBT. UNCTAD's work was important, but was not an alternative to discussing eco-labelling in the WTO. Other organizations' work on a more general policy level could feed in to WTO discussions. On forum shopping, he said Canada preferred the discussion to take place in the CTBT at the appropriate time, which would not likely be this

year. As the CTBT had an Agreement around which the discussion could focus, eco-labelling could migrate there at the appropriate time. Although there was no obligation, *per se*, in the Report to notify eco-labelling programmes to the CTBT, there was a clear political message to do so.

66. The representative of Mexico said that none of the studies set out in WT/CTE/W/45 contained the final word on eco-labelling issues. Reference had been made to the OECD eco-labelling study, which outlined that eco-labelling had not had any real market impact. In this light, it was interesting to learn of Colombia's experience. She said this year should be used for an exchange of national experiences so as to assess concrete concerns in this area. Colombia had referred to adaptation costs which were relevant to competitiveness. Environmental efficiency and effectiveness of eco-labelling had yet to be fully determined. In many cases, criteria had been found to be based on environmental conditions in the country of design. Concerning a joint CTE/CTBT meeting, at this stage it might be more productive to discuss the issues in the CTE without entering into an examination of WTO rules. Transparency was not limited to notification and included issues such as access to eco-labelling programmes and participation in criteria development. She suggested it would be useful for the Secretariat to prepare a paper, similar to WT/CTE/W/45, on other fora's work on eco-packaging and recycling.

67. The representative of the United States said he was surprised at the amount of time which was being spent on this Item, given the criticism that too much time had already been spent on eco-labelling. He said that as there was little information on the market effects of eco-labelling, presentations such as Colombia's were useful. Commenting on Nigeria's suggestion to work on government procurement, he said government procurement was not covered by multilateral disciplines and would lead into a discussion of applicable WTO provisions to which not all Members were Party. He noted that eco-labelling was designed to change market behaviour and such effects should not be considered to be negative. He agreed that a discussion of eco-labelling and WTO rules in the CTBT would not necessarily be productive at this stage.

68. The representative of the European Communities, commenting on the issue of forum shopping, said that migration of issues was difficult to manage. Whereas eco-labelling was mentioned explicitly in the CTE's work programme, the issues it raised went beyond the CTBT's mandate. There might be a disconnection if work on the same issue were conducted in two different WTO Bodies.

69. The representative of Japan shared Canada and the United States' view on discussing the legal aspects of eco-labelling and WTO rules. Conclusions from the OECD eco-labelling study noted that empirical evidence so far had not revealed any significant trade effects of eco-labelling.

70. The representative of Nigeria said work on government procurement as it related to eco-labelling might be more relevant in light of WTO work established by the Singapore Declaration, which pointed to the eventual establishment of rules in this area. He raised the issue of when the CTE could decide to make a recommendation on issues for which no possibility of further progress existed in the CTE to be discussed in other Committees which administered Agreements. This had been raised with respect to Canada's request to discuss eco-labelling in the CTBT, especially given that it might be unproductive to continue discussions in the CTE. He suggested that this matter could be addressed in informal consultations. Although Nigeria had no national experience with eco-labelling and it had not confronted any difficulties in this respect, it was concerned about the rule making implications of eco-labelling.

71. The representative of Canada referred to the Canadian and the European Communities' submissions to the TBT triennial review outlining that eco-labelling should be addressed. It would need to be determined where and when it would be appropriate to discuss this issue.

72. The Secretariat said it would continue to update delegations on work on eco-labelling and packaging in other international fora, particularly with respect to market access effects and including the relevant conclusions. In this context, Members were invited to submit any relevant documentation on their national experiences with eco-labelling and packaging and the market access effects. The Secretariat would inform

the Chairman of the CTBT of the suggestion by several delegations to hold a joint CTE/CTBT meeting. The OECD eco-labelling study was available on Internet and in hard copy.

73. The representatives of Mexico and Norway said the discussion was not mature enough to be taken to the CTBT. The representative of Mexico said that if the matter were to be discussed in the CTBT it would be to discuss rules. At this stage, her preference would be to further analysis in the CTE on all aspects of Item 3 based on Members' national experience.

Item 4 The provisions of the multilateral trading system with respect to the transparency of trade measures used for environmental purposes and environmental measures and requirements which have significant trade effects

74. The representative of Hong Kong said the CTE could be more ambitious under this Item. WT/CTE/W/46 raised questions on the implementation of the Environmental Database (EDB) and its linkage to the Integrated Database (IDB). Concerning the mode of delivery, an electronic on-line delivery of the EDB with user-friendly searching facilities should be made available to Members, including retrieval by way of key words. He supported developing such a system in phases. Hong Kong had an open mind concerning the Document Dissemination Facility (DDF) and welcomed Secretariat advice on the technical considerations involved and the overall cost effectiveness. It would be difficult for Members to be consulted in every case on the selection and classification of information. As demonstrated in Section II of WT/CTE/W/46, the Secretariat had the competence to undertake this work. Members could supplement this work by providing advice on a voluntary basis. Product classification in the EDB should be as specific as possible, including the identification of Harmonized System codes.

75. The representative of the United States said the rationale behind the decision to create the EDB was to centralize and make information more readily available on environment-related notifications, and not to create any new notification requirements, or for the Secretariat to expend resources manipulating the contents of current notifications. The optimum form of the EDB could be drawn from all three options in WT/CTE/W/46. The Secretariat could: (i) on a frequent basis, collect all environment-related notifications and make them available to Members; (ii) prepare and update periodically an index of these notifications as a W/ document; and (iii) disseminate this index on-line for use as a guide to finding documents in DDF. Deciding which notifications to include in the EDB was a more complex task given the lack of any agreed definition of what constituted an environmental measure. For instance, the United States had doubts as to whether to include measures taken to promote plant varieties or to develop genetic resources, or relating to patent protection for the protection of plant varieties.

76. The United States felt that instead of negotiating which notifications to include in the EDB, the Secretariat's judgement should be relied on, with the understanding that the inclusion of a notification in the EDB would be without prejudice to what constituted an environmental measure, or which measures were relevant to CTE work. In addition to the areas for inclusion in the EDB in paragraph 9 of WT/CTE/W/46, certain SPS notifications were also relevant. The use of key words to search the Central Registry of Notifications (CRN) was a promising suggestion. The EDB should not be used to analyse the trade effects of environmental measures as notifications would not contain the necessary quantitative information.

77. The representative of Norway said WT/CTE/W/46 furthered work on paragraph 192 of the Report. As the CTE had a cross-sectorial responsibility for trade and environment, it was useful to have an overview of trade-related environmental measures. Information should be collated annually and made available as a W/ document and via the DDF. To ensure automatic classification, a notification format should be drawn up so as to require national authorities to indicate whether a measure had an environmental purpose. Accordingly, relevant WTO Bodies would have to change the format of their respective notifications. Given that environmental notifications should not be treated more onerously than others, it was not a priority for the EDB to contribute to a quantitative analysis. Norway did not see a role for information external to WTO notifications to be included. The practice of providing supplementary information on select environmental policies in the TPR should continue.

78. The representative of Brazil said that among the different options available on the design of the EDB set out in WT/CTE/W/46, his delegation preferred the periodic collation of notifications of trade-related environmental measures as a W/ document. The Secretariat could work on the classification of measures to be contained in the EDB, particularly on key words, taking into account Members' input. As noted in WT/CTE/W/46, it was not feasible to provide a quantitative analysis of the trade effects of environmental measures.

79. The representative of the European Communities said a combination of options (b) and (c) of paragraph 8 of WT/CTE/W/46 provided the solution for the design of the EDB, whereby notifications were collated on an on-going basis and disseminated through an electronic system while at the same time made available periodically in a W/ document. He said option (a) in paragraph 12 was preferable. The CTE should not endorse any option which was not consistent with the 1996 Report of the Working Group on Notification Obligations and Procedures. Work on the classification of the EDB should be left to the Secretariat. His delegation did not see a role for the EDB to facilitate quantitative analysis of the trade effects of environmental measures.

80. The representative of India said the EDB provided a reference for notifications of trade-related environmental measures. Options 8(b) and (c) of WT/CTE/W/46 should be followed. The suggestion in paragraph 12(a) was sufficient at this stage. WT/CTE/W/46 had correctly classified "plant health" and "plant varieties" as they referred to specific WTO provisions.

81. The representative of Colombia preferred a separate EDB based on the CRN and accessible to Members electronically and in a W/ document. Paragraph 8(b) and (c) were the appropriate options. SPS measures should be included in paragraph 9. He enquired as to how reference would be made to the TPR exercise. The EDB could refer to the source of any external information. Further details were needed on what a quantitative analysis of the trade effects of environmental measures would entail before reaching a conclusion.

82. The representative of Japan preferred options (b) and (c) in paragraph 8 and option 12(b). the EDB should not be used to quantify the trade effects of environmental measures.

83. The representative of Nigeria said the EDB should be compiled from existing notifications in the CRN, as set out in paragraph 192 of the Report. He supported options (b) and (c) in paragraph 8 of WT/CTE/W/46. Classification for the EDB could be undertaken by the Secretariat, including for Item 7. Nigeria had understood that the purpose of the EDB would be eventually to assess the trade effects of environmental measures. The EDB should be accessible through the Internet, which also should reach developing countries. He referred to the Director-General's initiative to make technical assistance available to developing countries through the Internet. With respect to the development of the EDB, he noted the limits of the terms of reference of the TPR in Annex 3.

84. The representative of Peru said the options in paragraph 8 (b) and (c) of WT/CTE/W/46 could be combined. Peru preferred option 12 (a). For the time being, it was not necessary to modify the existing notification formats. He agreed with Nigeria that the inclusion of environmental measures was outside the TPR mandate and should not be considered in the EDB.

85. The Secretariat said it would look into the feasibility and cost implications of developing the EDB according to Members' responses to the options set out in WT/CTE/W/46.

Item 6 The effect of environmental measures on market access, especially in relation to developing countries, in particular to the least developed among them, and environmental benefits of removing trade restrictions and distortions

86. The Secretariat introduced its informal paper (dated 7 May 1997) which had been prepared to serve as a starting point upon which to deepen and broaden the analysis for those sectors which had been

referred to by Members as being of particular interest. The paper was a preliminary response to requests to analyse a variety of sectors, including agriculture, forestry, fisheries, textiles and leather, non-ferrous metals and energy.

87. The representative of the National Oceanic and Atmospheric Administration of the United States introduced her delegation's submission (WT/CTE/W/51) on the environment and trade benefits of removing subsidies in the fisheries sector. Fisheries was a good example of a natural resource sector where removing subsidies would generate significant benefits for trade and the environment. Subsidies tended to reduce internal costs and thereby exacerbate the problems of overcapacity and over fishing. This problem was more acute for developing countries whose economies were less diversified and who were more dependent on export earnings from their natural resources. Subsidies also distorted trade, affecting prices and distorting sources of supply. Their removal would provide a double dividend for both the environment and the global economy.

88. The representative of New Zealand introduced his delegation's submission (WT/CTE/W/52) which was designed to further the CTE's analysis of the relation between trade distortions and problems of fisheries resource sustainability. There were strong reasons, from both the trade and environment perspective, to examine fishing industry subsidies and their relation to WTO rules. Fishing industry subsidies affected the marine environment, the interests of developing countries and the ability of countries to ensure sustainable development. There was scope for work to clarify which WTO Articles had a bearing on fishing industry subsidies and to consider whether these Articles adequately regulated these subsidies. The CTE's consideration of these issues would contribute to work on Item 6. Concerning the chart on page 5 of the informal Secretariat paper, he said that the level of fertilizer-use in New Zealand was about 100-200 kg/ha. However, the methodology used in determining the figures was not clear.

89. The representative of Egypt said her delegation would comment on the submissions by the United States and New Zealand at a later stage. In contrast to WT/CTE/W/1, the informal Secretariat paper examined trade liberalization from a wider context than had been mandated, by linking the "effectiveness" of trade liberalization to domestic policies. Analysis should be confined to the environmental benefits emanating from trade liberalization, *per se*, and the discriminatory effects of environmental measures. WT/CTE/W/1 set out that trade liberalization generated new resources which could be used to reduce poverty, which was one of the principal causes of environmental degradation, and to pay for pollution prevention or clean-up. A follow-up to this at the sectorial level would be relevant to the CTE's educational process. She questioned references to cost internalization; a concept which had been acknowledged was WTO-incompatible if it were applied beyond policies that addressed domestic consumers and producers or was forced on foreign producers. The introduction focused on cost internalization and its direct link with trade liberalization; this was an issue which it had been decided fell outside the CTE's mandate. Environmental cost internalization was not the only response to ensure that trade liberalization had an "optimal" beneficial environmental effect. As countries moved to higher stages of development, growth became more scale and technology intensive, which provided the necessary conditions for environmental gains. As noted in WT/CTE/W/1, empirical evidence indicated sensitivity to environmental problems would rise along with real income and governments would use at least some of the resources resulting from trade liberalization to address environmental problems.

90. A sectoral approach should define what was meant by "win-win" situations; whether this meant "win-win" situations at the "global", "regional" or "national" level; whether "win-win" situations were desired within sectors or between sectors; and for which generation it would be a "win-win" situation. The CTE's mandate was to examine whether additional market access could provide developing countries with opportunities to adopt higher environmental standards, not to ensure which domestic policy responses to trade liberalization had beneficial environmental effects or were more conducive for environmental protection. Egypt was aware that it needed technology, technical assistance, effective substitutes, and political will, but this went beyond the CTE's mandate into domestic policies, and would make market access a new form of conditionality for dictating domestic policies for environmental benefits. The CTE should examine whether environmental policies had discriminatory trade effects. It was beyond the point to examine compensating the adverse impact of environmental measures on sectoral performance, as set out

in paragraph 15. The same comment was valid for several other paragraphs where discriminatory trade effects should have been analysed.

91. Concerning paragraph 20, she said the linear relationship between the reduction of tariff escalation and generating income could provide, in and of itself, an opportunity for countries to improve environmental protection, particularly as by far the most significant part of the relationship between trade liberalization and the environment passed indirectly via effects on levels and patterns of production and consumption, as set out in WT/CTE/W/1. If there were an opportunity for environmental benefits it should be examined. The analysis in paragraph 43 should be furthered drawing on WT/CTE/W/1, which stated that while there had been, in general, a decline in tariff escalation, for products such as rubber, jute, lead, zinc and hides, skins and leather, the level of tariff escalation had increased in major developed country markets. For textiles and leather, the focus should be on the opportunities created by trade liberalization and additional market access. It was incorrect to state in paragraph 34 that problems of dying and tanning might intensify in the absence of new environmental policies. Additional market access would enable exporters to use better dyes, regardless of the domestic environmental policies in place. Reference should be made to the absence of technology and appropriate raw materials, technical assistance and market premiums. It was a quality effect from trade liberalization and not a question of new environmental policies. The CTE should focus on market access this year and the informal Secretariat paper should be revised for the September meeting.

92. The representative of Nigeria welcomed the submissions by the United States and New Zealand. He said the CTE discussion turned on a configuration of three issues: MEAs, TRIPs and market access. To date, insufficient attention had been devoted to market access. In this respect, he welcomed the informal Secretariat paper which pursued a sectoral approach based on paragraph 198 of the Report. It could build on the methodological approach of examining the environmental impacts of trade liberalization and the market access effects of environmental measures for each sector. Care should be exercised in making the types of presumptions in paragraph 3 on the effects of WTO commitments. Reference in paragraph 4 to "textbook conditions" under which environmental costs would be internalized should be delinked from the implementation capacities and willingness of developing countries to internalize environmental costs. He enquired as to the purpose of the second sentence in paragraph 5, for which no empirical basis existed. Paragraph 15 was too general in dealing with the lack of market access effects of environmental measures, particularly in view of the discussion on Item 4, which had indicated there was no basis on which to assess the trade effects of environmental measures in the EDB. The trade and competitiveness effects raised in paragraphs 48 and 49 on energy needed to be further analysed. He enquired as to the logic behind the concepts in paragraph 48 on border tax adjustment.

93. The representative of Argentina said the submissions by the United States and New Zealand built on previous submissions on other sectors by other delegations under Item 6. Referring to the informal Secretariat paper, he said that in shifting the analysis from environmental benefits to environmental effects, the CTE would not be addressing its mandate. The paper's analysis of agriculture had focused on the local effects of subsidies on fertilizers. A more complete paper should address the price effects of distorting trade policies. Prices were the market mechanism through which to compensate different factors of production. In such a market system, the environment might be undervalued. Local effects were relevant, but should not be the CTE's focus. The informal Secretariat paper should be supplemented by an analysis of those trade policies which distorted international markets, such as market access restrictions, domestic support, and export subsidies. In the case of agriculture, the list of distorting measures would include those outside the Green Box. The most relevant policies could be selected from this list and their possible environmental effects analysed. Argentina had accepted environmental cost internalization in Principle 16 of Agenda 21, but the objective of internalization should not be taken out of context. It was one thing to say that internalization was a necessary objective and another to implement it on the basis of distorted prices. Until commodity prices fully reflected the private cost of production, which was the responsibility of the main producers and consumers, environmental costs could not be internalized. The first step would be to identify and eliminate policy distortions which affected international prices. Fisheries and agriculture were appropriate sectors on which to begin this analysis.



94. The representative of Iceland said the fisheries sector accounted for about 80 per cent of the total value of Iceland's exports and was the foundation of Iceland's economic prosperity. This dictated the necessity of sustainably managing fisheries resources. Iceland's general policy to eliminate subsidies to the fisheries sector was clear for the reasons outlined by the United States and New Zealand and was a prerequisite for the success of conservation measures.

95. The representative of the Philippines, on behalf of ASEAN, said the informal Secretariat paper dealt with the possible negative environmental effects of removing trade restrictions and distortions, instead of the benefits. Paragraph 28 implied that further reductions in tariff escalation in the fisheries sector were not necessarily good as they might result in new environmental problems. The paper focused on the immediate environmental impacts of trade liberalization and not on trade as a means for developing countries to secure economic resources to devote to better environmental policies. Improving market access for developing country exports of environmentally friendly products had not been reflected and should be addressed. While a sector approach could provide the basis for an indepth analysis, it should not be a means by which to arrive at general conclusions. As stated in paragraph 43, although tariff cuts were considered unlikely to lead to major changes in trade patterns in non-ferrous metals, this conclusion should not be applied across sectors. Concerning paragraph 20, the issue of tariff escalation should not be complicated; it would not be disputed that reducing trade barriers would provide increased market access opportunities which would contribute to enhancing income and could be used for environmental conservation. She said further reflection was needed on paragraph 21 given that countries adopted forest management policies in pursuit of sustainable development. She said the paper did not adequately reflect the role increased trade and market access opportunities played in enhancing developing countries' income and promoting sustainable development. It was a challenging task to accommodate all delegations' interests and generalization which could lead to misunderstandings should be avoided.

96. The representative of Japan said that, although over fishing had been recognized worldwide, the effect of subsidies in the fisheries sector had not yet been determined. As set out in paragraph 11 of the United States' submission, some subsidies were designed to encourage sustainable management of fisheries resources through education, training and information dissemination. Environmentally beneficial subsidies should be dealt with differently from environmentally harmful subsidies, on a case-by-case basis. Certain paragraphs of the informal Secretariat paper were not based on sufficient empirical evidence. He enquired about the rationale behind the causal link made in paragraph 13 between agricultural trade liberalization and increasing land prices and sustainable farming methods. The paper failed to provide sufficient evidence for the argument on tariff escalation. On paragraph 11, fertilizer use was not necessarily linked to the PSE level, as in the case of New Zealand. Although paragraph 2 only focused on the positive trade-environment links, there were also negative links. Discussants in the NGO Symposium had referred to these negative links, which the CTE should address.

97. The representative of Canada said the goal was to use the sector-specific analysis to draw general conclusions on synergies between trade liberalization and environmental objectives. The broader, strategic issues which Canada would like to be addressed included zero-for-zero liberalization initiatives, particularly in paper and allied industries and non-ferrous metals, and other factors that might impact on market access, such as eco-labelling and certification. In some cases, MEAs might be the appropriate policy responses. In this regard, Canada supported the proposed Forest Convention. Paragraph 18 of the informal Secretariat paper could clarify the definition of forest products. According to FAO, in 1994 less than 3.5 per cent of roundwood production entered international trade and more than half of that was made of fuel wood and charcoal which were mainly consumed locally. Thus, the direct impact of trade measures on roundwood production was limited. However, 20-25 per cent of forest products (i.e. roundwood, sawnwood, pulp and paper) did enter international trade. The trade impact on roundwood production had to be seen in the following context: in 1994, about US\$ 114 billion of forest products entered international trade (roundwood accounting for 9 per cent). In general, there was a positive correlation between freer trade and sustainable forest management; good environmental management made sound economic sense in the longer term. Business representatives at the NGO Symposium had indicated how industry was adapting to consumer requirements in this area. Referring to some apparent contradictions in the paper, he said in paragraph 20 it could not be said that "old growth forests might have been logged

excessively," while asserting "the transition from old to second-growth forests was retarded or prevented". The issues were complex and involved land tenure and regulatory issues, which were best pursued in other fora.

98. As business representatives had indicated at the NGO Symposium, there was a link between market access and environmental goals. Tariff escalation on paper compared to pulp resulted in double drying of the pulp, with consequent increases in energy consumption. Encouragement of local production, even after factoring in transport considerations, would likely result in energy savings, which was a strong rationale for zero-for-zero tariff initiatives in this sector. There were alternative approaches on eco-labelling, as had been stated at the NGO Symposium, for which complementarity might develop as programmes evolved. As clarified by business and other NGOs, eco-labelling in this sector was largely based on non-product-related PPMs. Forest product eco-labelling was related to certification issues pertaining to sustainable forest management. Canada did not share the concern in the paper industry on the potential for protectionist abuse in well-designed certification programmes. Certification was an important tool for encouraging sustainable forest management and the information it contained might be relevant in terms of possible eco-labelling criteria. The plurality of approaches demonstrated that eco-labelling was part of business reality and, as indicated by industry, likely to increase in importance. The WTO should consider eco-labelling issues in a manner that respected environmental policy objectives and addressed trade concerns.

99. Business representatives at the NGO Symposium had noted the environment and trade benefits of reduced tariff escalation between metals in their basic and extruded form. As Canada had indicated for the proposed OECD study on aluminum, the intensive energy use associated with non-ferrous mining activities, particularly in the aluminum industry, rested on some erroneous assumptions. The reference in paragraph 40 assumed all aluminum industry activities used high-intensity, thermal energy sources. Canadian aluminum smelters used hydroelectricity, with its comparably low contribution to air pollution. He noted that bauxite was aluminum in the raw form. Economic incentives for recycling were substantial given the major cost savings in energy use, and favoured the broader environmental objective of recycling given energy and raw material savings. While there were limits to the use of recycled aluminum, the extent of recycling was impressive. This was a controversial issue in the Basel Convention and Canada supported efforts to develop criteria which took into account local capacity for recycling, and thereby addressed potentially arbitrary distinctions on where recycling should take place.

100. The representative of Mexico said the submission by the United States was helpful in defining the structure of the analysis on Item 6. It first reflected the current situation in the fisheries sector, then referred to trade restricting and distorting measures and finally made proposals for their elimination. Mexico had problems with the structure and content of the informal Secretariat paper. As Argentina, she emphasized the importance of maintaining the discussion within the CTE's mandate and in the context of paragraph 198 of the Report, whereby the CTE should identify potential "win-win" situations for both environment and trade. In this respect, discussion of the environmental impact of trade liberalization would take the CTE away from its main objective under this Item. In the Report, Members had already recognized the need to apply appropriate environmental policies determined at the national level. The CTE was not competent to decide which environmental policies should be applied at the national level by its Members; CTE competence lay in determining the potential environmental benefits which could be gained from removing trade restrictions and distortions, and enhancing market access opportunities, particularly for developing countries. She suggested that the Secretariat prepare a new paper according to the orientation set out in the Report.

101. The representative of Korea said certain fisheries subsidies did not contribute to overcapacity and over fishing and, in some cases, could facilitate the industry's transition to a more sustainable mode. In Korea, subsidies which had a structural effect on the fisheries industry were environmentally beneficial. Korea would comment on the submissions by the United States and New Zealand at a later stage. Concerning the informal Secretariat paper, he said that, although agricultural practises could impose environmental damage, such as soil and water contamination due to intensive pesticide and fertilizer use, there were also positive effects. An OECD seminar in September 1996 had shed light on the environmental benefits of agricultural practices, including for landscape preservation, biodiversity

protection, and flood and landslide prevention. He cited examples from a recent OECD Report "Globalization and Environment," which analysed agricultural liberalization and its associated scale effects. Any analysis of the relationship between agricultural liberalization and the environment should examine the positive and negative aspects and take into account socio-economic conditions, food security concerns and sustainable development for each country. Sustainable development was a broad concept which comprised not only environmental protection, but sustained economic growth and social development. Agenda 21 emphasized the importance of increasing food production and enhancing food security. Potential benefits of removing trade restrictions and distortions should be defined, but only after an assessment had been made of the current situation. Korea could not agree with the last sentence of paragraph 12 and the assumption in paragraph 13 that a shift from intensive to extensive agricultural production could guarantee positive environmental effects, particularly in developing countries where land degradation might be increased.

102. The representative of India said the submissions by the United States and New Zealand were in line with the need to deepen CTE work. Environmental subsidies also had competitiveness and market access effects, especially for developing countries. The informal Secretariat paper neither reflected the wording of Item 6, nor captured previous CTE discussion. There were two sides to the discussion: the environmental benefits of removing trade restrictions and distortions, and the need to safeguard and enhance developing country market access. Although the paper's scope was limited to a few aspects of removing trade restrictions and distortions, it missed the environmental benefits. The focus had been on the effect of environmental measures on domestic policy, rather than on trade liberalization. Reference in paragraph 1 should be made to additional access to markets and technology for developing countries to generate additional resources for environmental protection. Analysis in paragraphs 14 to 17, 22 and 30 needed to be buttressed by an analysis of the market access effects for developing countries, including available empirical studies. On paragraph 17, more work was required on trade protection through non-tariff barriers with reference to the TBT, SPS, Agriculture, Textiles, TRIPs and GATS Agreements. The problem posed at the end of paragraph 28 could be overcome if better environmental measures were in place. For developing countries, this could happen only by increasing resources generated from exports and higher value added which would result in more resources for environmental purposes. The solution to issues raised in paragraph 23 lay in encouraging small developing country operators using less mechanized means. He drew attention to paragraph 197 of the Report with reference to Japan's statement on beneficial subsidies. Subsidies affected developing country competitiveness differently from developed countries. He said reference had been made at the NGO Symposium not only to potential, but existing protectionism which affected developing country market access.

103. India's non-paper on Item 6 (dated 20 June 1996) was relevant for an understanding of the issues. Paragraph 7(iii) had been addressed in submissions by Argentina and Australia. There needed to be a further understanding of paragraph 7(i) and (ii). Particular attention should be given to SMEs, as noted in paragraphs 8, 16 and 17. Discussion should continue on Item 6 at the September meeting and the Secretariat should revise its informal paper. India intended to raise the market access aspects of Item 8 at the September meeting.

104. The representative of Peru said the informal Secretariat paper only reflected part of the CTE's mandate on Item 6; it noted the negative environmental effects of removing trade distortions, but did not examine the environmental benefits. Analysis should be furthered on incentives for environmentally friendly products from developing countries, positive measures and promotion of environmentally sound technology and technical assistance for developing countries.

105. The representative of the European Communities recalled his delegation's position as set out in its non-paper on Item 6 (23 July 1996). He reserved the right to comment on the informal Secretariat paper and the submissions by the United States and New Zealand. Analysis of the environmental benefits of trade liberalization should take into account the fuller picture. The analysis of the energy sector could be expanded by giving attention to the relationship between energy use and the environment, particularly as regards climate change. In preparation for the September meeting, he requested the Secretariat to prepare a synopsis of GATT/WTO jurisprudence on the application of Article XX to environmental measures.

106. The representative of Hong Kong said the informal Secretariat paper should develop the positive trade-environment links. Hong Kong appreciated the inclusion of textiles and leather, which had been among the most severely regulated and distorted sectors affecting LDCs. The potential environmental benefits of removing these distortions should be studied, as well as the trade effects of environmental measures in sectors more prone to disputes, such as fisheries.

107. The representative of Switzerland suggested his delegation's comments on the informal Secretariat paper could be submitted to the Secretariat, particularly with respect to the chart which had been included in the TPR for Switzerland in 1996.

108. It was agreed that in order to give all delegations the opportunity to make statements on Item 6, the discussion would continue at the September meeting, after which the Secretariat would prepare a new paper.