

**ECONOMIC AND SOCIAL COMMISSION
FOR WESTERN ASIA**

**Implications of Issues Negotiated in
the World Trade Organization Committee on
Trade and Environment for
ESCWA Member Countries**

The Cases of Egypt, Jordan and Lebanon



UNITED NATIONS

ECONOMIC AND SOCIAL COMMISSION FOR WESTERN ASIA

الجمهورية اللبنانية
مكتب وزير الدولة لشؤون التنمية الإدارية
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IMPLICATIONS OF ISSUES NEGOTIATED IN THE WORLD TRADE
ORGANIZATION COMMITTEE ON TRADE AND ENVIRONMENT
FOR ESCWA MEMBER COUNTRIES
THE CASES OF EGYPT, JORDAN AND LEBANON



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Preface

As part of its work programme for the biennium 1998-1999, the Trade and Finance Section of the Economic Development Issues and Policies Division at ESCWA has prepared this study on the implications of environmental issues negotiated at the World Trade Organization.

Focussing on Egypt, Jordan and Lebanon, the study is intended to raise the awareness of government officials, the private sector and non-governmental organizations in ESCWA member countries about the issues related to trade and environment. It highlights the implications of ongoing negotiations by the WTO Committee on Trade and Environment and reflects the need to address trade and environment issues.

The study also exposes the controversy between environmental and trade policies, both in view of the rise of certain environmental preferences by the average consumer in developed countries and within the context of various multilateral environmental agreements.

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EXPLANATORY NOTES

The following symbols have been used in the tables throughout the publication:

Two dots (..) indicate that data are not available or are not separately reported.

A dash (—) indicates that the amount is nil or negligible.

A hyphen (-) indicates that the item is not applicable.

Parentheses () indicate a deficit or decrease, except as otherwise stated.

A slash (/) indicates a school year or a financial year (e.g., 1981/82).

Use of a hyphen (-) between dates representing years, for example, 1981-1983, signifies the full period involved, including the beginning and end years.

Details and percentages do not necessarily add up to totals, because of rounding.

In both the text and tables of the study, references to "dollars" (\$) indicate United States dollars, unless otherwise stated.

Bibliographical and other references have, wherever possible, been verified.

The following abbreviations have been used:

CAMRE	Council of Arab Ministers Responsible for Environment
CFC	chlorofluorocarbon
CIDA	Canadian International Development Agency
DSB	Dispute Settlement Body (WTO)
EIA	environmental impact assessment
ESCWA	Economic and Social Commission for Western Asia
EU	European Union
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
GCC	Gulf Cooperation Council
GDP	gross domestic product
GTZ	German Agency for Technical Cooperation
ISO	International Organization for Standardization
JD	Jordanian dinars
JEDCO	Jordanian Export Development and Commercial Centres Corporation
LE	Egyptian pounds
MEA	multilateral environmental agreement
MENA	Middle East and North Africa
MFN	most favoured nation
MTBE	methyl tertiary butyl ether
NAFTA	North American Free Trade Agreement
NGO	non-governmental organization
OECD	Organization for Economic Cooperation and Development
PCWTO	Preparatory Committee for the World Trade Organization
SABIC	Saudi Basic Industries Corporation
SME	small and medium-sized enterprise
SITC	Standard International Trade Classification
TRIPS	trade-related aspects of intellectual property rights
UNCED	United Nations Conference on Environment and Development
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
WTO	World Trade Organization

Introduction

Mainstreaming trade and environment in various World Trade Organization (WTO) agreements is considered a double-edged sword for developing countries. Their continuous apprehension about this issue has created a deadlock in several WTO discussions in which the environment plays an important role. However, mounting pressures have recently been exerted to bring the theme of environment and trade into the forthcoming Millennium Round of Multilateral Trade Negotiations.¹

Developing countries, including ESCWA member countries, regard the issues related to trade and environment as a deterrent to promoting their exports on the international market and supporting the participation of small and medium-sized enterprises (SMEs) in international trade. Developing countries including ESCWA member countries and non-members of the WTO believe that environmental measures adopted pursuant to multilateral environmental agreements (MEAs) can be misused as barriers to trade. These countries believe that incorporating environmental provisions into the WTO agreements could easily lead to disguised protectionism and market access limitations, consequently hindering sustainable development.

Conversely, developed countries are pushing for mainstreaming trade and environment issues into WTO negotiations. This determination is justified, as most of these countries have more experience in dealing with environmental protection issues than do developing countries. They are well-equipped with the proper resources to produce environmentally friendly goods, and their environment and trade policies are also subject to a high level of public scrutiny, and the informed public demands the importation of goods that are produced under environmentally sound conditions. Schemes such as eco-labelling have become increasingly popular, thus reflecting increasing consumer preference for environmentally conscious production. This has led environmentalists and non-governmental organizations (NGOs) to conclude that imported products from developing countries are produced where environmental laws are less stringent, and should therefore be taxed according to the countervailing measure provision. This would open niche market opportunities for environmentally sound products.

Developing countries, however, have recently taken steps towards institutionalizing environmental protection. Despite their limited resources and lack of technological know-how in relation to environmental protection measures, they have signed MEAs and promulgated environmental laws. This confirms their belief in the importance of safeguarding the environment for the sake of sustainable development. Nevertheless, in order to change the current anti-environment modes of production, developing countries require technical and financial assistance for the introduction of sound technologies, the stricter enforcement of environmental laws, and personnel training in the field of environmental protection.

Environmentalists believe that a more open and liberal trading system will aggravate the world's environmental problems. They contend that the primary aim of the WTO is to enhance economic growth while relegating the protection of the environment to a position of little importance. In contrast, developing countries consider trade liberalization a catalyst for environmental protection, without which economic growth and environmental enhancement would be difficult to achieve. While they regard some environmental measures as trade barriers, several developed countries, are pushing to bring environmental issues into WTO negotiations by changing certain provisions of the WTO agreements.

Conversely, several developing countries consider trade liberalization a catalyst for environmental protection, without which economic growth would not be possible; environmental measures are therefore impeding the positive environmental consequences of economic growth. These controversial issues prompted the WTO to establish the Committee on Trade and Environment whose membership is open to all members.

¹ Veena Jha and Renee Vossenaar. "Breaking the deadlock: a positive agenda on trade, environment and development", (draft) (Geneva, 1999), p. 3.

The Committee's work has focused mainly on whether or not there is a need to modify the WTO agreements for the sake of environmental sustainability. As a result of the Committee's work, a series of recommendations were adopted at the WTO Ministerial Meeting held in Singapore in December 1996.

Although the Committees' findings were inconclusive, the issues addressed in the Singapore Report could have some implications for developing countries, which will be reviewed further during the course of this study.

The ESCWA region consists of 13 developing countries. Five are WTO members, namely, Bahrain, Egypt, Kuwait, Qatar and the United Arab Emirates; five are in the process of becoming WTO members, and these include Jordan, Lebanon, Oman, Saudi Arabia and Yemen. Egypt is the only ESCWA member country that is actively engaged in the Committees' negotiations. Egypt and most of the other ESCWA member countries have taken strident steps towards economic growth by pursuing structural adjustment programmes and formulating policies aimed at establishing a less restrictive economic system while encouraging foreign investment and free trade.² Export promotion has now become the target of all ESCWA member countries. Any measures jeopardizing market accessibility would be strongly opposed. Since various issues negotiated in the Committee on Trade and Environment are likely to have adverse effects on market accessibility for ESCWA member countries, an opposition to the mainstreaming of environmental issues in the WTO agreements is inevitable.

Developing countries, including ESCWA member countries, might not be able to resist this mainstreaming trend for long. However, these countries need to find other alternatives to deal with environmental issues and consequently incorporate appropriate measures into their trade and production policies. Notwithstanding the need for technical and financial assistance from developed countries, developing countries should try to establish a strategy linking trade and the environment. They need to revise their policies, taking into consideration those issues that might threaten their trade. The introduction of the environment as a main theme in the WTO agreements provides them with the opportunity to find new markets for environmentally friendly goods.

This study examines the possible implications of certain issues negotiated by the WTO Committee on Trade and Environment and their impact on ESCWA member countries. Chapter I lists the arguments put forward by developing and developed countries, as well as by environmentalists, regarding trade and environment. This chapter also addresses the different issues that have been dealt with such as negative externalities, environmental dumping, disguised protectionism, assimilative capacity and sustainable development. Chapter II reviews the environmental provisions found in the different WTO agreements. Chapter III presents a detailed description of the Committee on Trade and Environment that includes its terms of reference, its working agenda, and the recommendations endorsed at the Singapore meeting. Chapter IV provides an account of the concerns voiced by developing countries and ESCWA member countries regarding possible implications of Committee negotiations. Chapter V and VI present the case of Egypt and Jordan in the context of trade and environment mainstreaming, while chapter VII assesses environmental issues in Lebanon and highlights the possible implications of trade and environment issues for the country.

² Economic reforms have been common in the policies of ESCWA member countries, with the exception of Iraq, upon which economic sanctions have been imposed by the United Nations since 1990.

I. THE TRADE AND ENVIRONMENT DEBATE AND THE ISSUE OF SUSTAINABLE DEVELOPMENT

By the 1980s it became evident that outward-looking development strategies were the key for economic and social growth. The Asian tigers provided the model for other developing countries, which raced to change their economic policies in pursuit of export-oriented programmes. Developing countries aspired to a better standard of living, which was only possible through their integration into the global economy by means of trade and investment, so many opted for a more liberal economy in order to attract foreign investment.³ With the dawning of the 1990s, the ongoing Uruguay Round negotiations focused on removing trade barriers. This issue prompted strong opposition from environmentalists and local civic associations, which believed that this drive towards promoting free trade would further endanger the environment.⁴

In 1992, the United Nations Conference on Environment and Development (UNCED), held in Rio de Janeiro, devised a blueprint for sustainable development. It focussed on finding common ground between development and environmental protection and the placement of both on equal footing. This immense task of devising a workable synthesis of economic development and environmental protection became one of the most pressing and complex challenges facing the world.

A. THE ENVIRONMENTAL IMPACT ON LIBERALIZED TRADE

1. *Depleting and polluting resources*

Environmentalists argue that the drive to promote and liberalize trade requires an increase in production globally which will have a negative effect on the environment. An increase in trade will require more burning of fossil fuels in the production process and later in transportation. Other production processes pollute and erode the world's nature. Activities in most of the production sectors, including oil, mining, chemicals, textiles and agriculture, will have a negative impact on the environment.

The situation is aggravated in countries where environmental protection is lax, laws are not enforced properly, and industrialists are motivated by profit without taking into account environmental damage. When industrial establishments are free to operate without any preventive measures, pollution will exceed average optimal level. This occurs when the private marginal benefit of polluting activities equals the private marginal cost.⁵

Environmentalists' lists detailing environmental degradation caused by increased production in the service of international trade are endless. Major problems include "the mining of non-renewable natural resources in wasteful ways, the abuse and over-exploitation of renewable resources, the fouling of underground water and air with toxic gaseous, liquid wastes and non-degradable solids, and the extinction of series of flora and fauna".⁶ In addition to depleting resources, trade liberalization and rapid industrialization policies have provided more employment opportunities. This has attracted rural migrants to the cities, contributing to rapid urbanization involving a boom in construction and an increase in the purchase of motor vehicles. These elements have created new threats and intensified environmental pressures.⁷

³ United Nations Environment Programme "Trade and sustainable development", prepared by Robert Repetto, Environment and Trade Monograph Series, downloaded from <<http://www.unep.ch/etenu/envr-trd.htm>>, p. 1.

⁴ David Barkin, "Economic integration versus sustainable development" a paper prepared for the Conference on Trade and Environment, Pacific Basin Research Center, John F. Kennedy School of Government, Harvard University, (29 -30 April 1994) p.1.

⁵ J. Jenkins and R. Lamech, *Green Taxes and Incentive Policies: An International Perspective* (San Francisco, ICS Press 1994, p. 2.

⁶ David Barkin, op. cit., pp. 1-2.

⁷ United Nations Environment Programme, "Trade and sustainable development", p. 2.

2. Environmental havens: race to the bottom

Environmental havens are those countries with lax environmental laws and the weak enforcement of environmental standards. Certain industries from countries with more restrictive laws often relocate to these havens, therefore contributing to environmental dumping.⁸ Trade liberalization policies place small and medium-sized industries in fierce competition with each other. The survival of these establishments depends on their ability to economize on the factors of production by relocating to countries with "cheaper" environmental protection standards and lower labour costs. Relocating can give these industries a competitive advantage within their respective sectors of production.⁹

Such activities have compelled developing countries to compete with each other maintaining low standards in environmental protection policies and declining labour conditions in order to attract foreign investment and export-oriented firms. Environmentalists describe this policy as a race to the bottom. Some have suggested that these countries either stop importing goods produced under lax environmental regulations or impose a countervailing tax on such products.

3. Internalization of environmental cost and sustainable development

Economic activities that pollute air, water, land and other resources contribute to market failure because they do not account for the price of the negative externalities affecting resource users. These activities will continue in polluting as long as the private marginal benefit exceeds marginal cost.¹⁰ On the other side of the spectrum is the cost of a total clean-up. This process must be internalized into the production process, which can be costly and can have a negative effect on development.

The most realistic solution is therefore to maintain an acceptable level of pollution, while at the same time sustaining a certain level of economic growth. This is the idea behind sustainable development: that economic activities and environmental protection are complementary to the overall improvement of living standards.¹¹ This implies that those involved in economic activities should internalize the cost of polluting the environment, either by cleaning up or by investing in environmentally friendly technologies. This will contribute to sustainable development, which has been defined as "the development that meets the needs of the present without compromising the ability of the future generations to meet their own needs".¹² This concept was introduced for the first time in the "Brundtland report", prepared by the World Committee on Environment and Development in 1987.

B. THE ECONOMIC IMPACT OF TRADE LIBERALIZATION

In theory, liberalizing international trade should lead to an efficient allocation of resources. According to the theory of comparative advantage, countries will specialize in the production of goods and services in which they are most efficient. This implies that they can maximize the production of certain items by using a certain level of input, which will inevitably lead to conserving natural resources. Consequently, when international trade becomes open to all countries, an international division of labour will be established, and Thus, a more efficient allocation of world resources will be achieved. Ultimately, trade liberalization will

⁸ ESCWA, "Foreign direct investment legislation reflecting environmental concerns in the ESCWA region: the cases of Egypt and Jordan", (E/ESCWA/ED/1997/11), p. 5.

⁹ Caroline Le Quesne "Reforming world trade: the social and environmental priorities". (United Kingdom, United Nations and Oxfam, 1996) p. 26.

¹⁰ ESCWA, "Trade policy aspects of environmental measures in the ESCWA member countries". (CE/ESCWA/ED/1996/4), pp. 3- 4.

¹¹ Ibid., p. 5.

¹² World Bank, *Middle East and North Africa Environmental Strategy: Towards Sustainable Development*, (Washington, D.C., February 1995), p. 2.

have a positive effect on the environment, as it can help in eliminating the distorting effect of subsidies, which encourage people to use anti-environment technologies in activities such as agriculture.¹³

Liberalized world trade will provide developing countries with the opportunity to achieve economic growth. Most of these countries are in debt and have large current account deficits; engaging in international trade will allow them to earn foreign currency so that they can buy capital goods in order to enhance their industrial infrastructure and consequently improve their economic situation. Such growth will positively affect per capita income and improve environmental conditions. Higher income will lead to better environmental awareness and increased demand for a cleaner environment (a clean environment is considered a normal good--one for which demand grows as income rises.¹⁴ Proponents of free trade, especially in the developing countries, use this argument against those who oppose trade liberalization on environmental grounds.

C. THE ENVIRONMENTAL DEBATE

In most developed countries, where environmental laws and standards are relatively strict, industries have resorted to a number of measures to safeguard the environment and to account for environmental cost. These industries have incorporated environmental management systems and environmental auditing. They utilize clean technology and have altered their mode of production in order to eliminate pollution during the processing of hazardous materials. In developing countries, however, the cost of environmental pollution has not yet been internalized. Their environmental laws and standards tend to be weak, and the lack of resources restricts them from enforcing relevant regulations. Industries would need financial and technical assistance if they were to introduce clean technology and switch to environmentally friendly modes of production.

Developed countries importing goods from developing countries are gradually enforcing their own environmental standards and requirements. Developed countries are driven by public awareness and preference for goods that are produced in an environmentally acceptable manner. As explained above, developing countries are not yet prepared to apply standards similar to those existing in developed countries. Environmentalists in the latter believe that products imported from countries with scarce environmental protection should be taxed under the countervailing WTO agreement on subsidies and countervailing measures since environmental costs have been internalized within the price of like products produced locally, leaving the corresponding industries in developed countries at a disadvantage.

In this argument, however, the pollution tolerance factor is ignored. Each country has a different assimilative capacity, or ability to absorb a certain level of environmental pollution. Developing countries argue that they can withstand a higher level of environmental pollution than industrialized countries can. They also suspect that the issue of environmental conditions is misused by developed countries as a means for disguised protectionism of their products. Most developing countries are pushing towards full integration into the global market. They believe that through more liberalized international trade, they will be able to accelerate their economic growth and boost their standards of living. During the 1980s and 1990s, some of these developing countries took steps towards trade liberalization by opening their markets to foreign investment geared towards export-oriented activities. Many of these countries have also become members of the WTO, thus availing themselves of an open, equitable and non-discriminatory multilateral trading system whose main function is "to settle disputes using a strengthened semi-judicial disputes procedure which no longer allows trade offenders to block decisions against them."¹⁵

At the same time, developing countries argue that they are advocates of sustainable development and environmental protection. After the 1992 Earth Summit in Rio de Janeiro, these countries supported the formulation and adoption of environmental laws and regulations and set out to institutionalize the protection

¹³ Duncan Brack, "Trade and environment: An update on the issues", Briefing Paper No. 35 (London, Royal Institute of International Affairs, February 1997), p. 1.

¹⁴ ESCWA, "Trade policy aspects...", (E/ESCWA/ED/1996/4) p. 3.

¹⁵ Caroline Le Quesne, op. cit., p. 9.

of their environment. They also made efforts to modify protection standards and requirements but were unable to fully enforce these regulations owing to insufficient technical capacity and expertise. These countries now recognize the importance of securing assistance in order to enhance their modes of production and consequently the environmental quality of their exports. Under a number of MEAs, particularly under Agenda 21 at the Earth Summit, developed countries pledged technical and financial help.

In sum, developing countries find themselves in a trap. They intend to clean up production but lack the technical and financial assistance needed to do so. Developed countries are being driven by pressure groups that want to safeguard the environment. They are incurring huge costs in their efforts to protect and manage their resources and audit their environmental costs. They regard the lack of internalization of environmental costs in developing countries as a threat to their industries. Although developed countries are aware that this cannot be achieved without proper aid, only minimal assistance has been provided so far. As a result, developing countries stand alone in the face of stringent environmental demands that could negatively affect their livelihood.

II. THE WTO PROVISIONS AND THE ENVIRONMENT

The opponents of trade liberalization regard the multilateral trading system as one that promotes trade regardless of the social and environmental costs. A closer look at the provisions of the WTO agreement is required to determine the extent to which the environment was taken into consideration.

Despite the fact that environmental issues during the 1980s were not as significant as those that emerged in the 1990s, they were addressed in various WTO provisions formulated during the Uruguay Round and were incorporated in several agreements. The WTO Agreement¹⁶, which constitutes one single institutional framework for the multilateral trading system, incorporates a large number of individual agreements including a modified version of the General Agreement on Tariffs and Trade 1947 (the General Agreement on Tariffs and Trade 1994) various multilateral agreements on trade in goods, the General Agreement on Trade in Services (GATS), and the Agreement on Trade-Related aspects on Intellectual Property Rights (TRIPS). The sections below elaborate on different WTO provisions that address the environment.

A. THE PREAMBLE TO THE WTO AGREEMENT

The preamble to the WTO or the WTO Agreement clearly refers to the importance of environmental protection, acknowledging it as a goal for national and international policy:

“Recognizing that their relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production of and trade in goods and services, while allowing for the optimal use of world’s resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment and to enhance the means for doing so in a manner consistent with their respective needs and concerns at different levels of economic development...”¹⁷

The preamble clearly reflects the awareness of participating countries of the importance of achieving sustainable development by protecting the environment in a way that is consistent with the economic needs of countries. This should be considered in the interpretation of relevant provisions of different WTO agreements.

B. NON-DISCRIMINATORY PRINCIPLES

Articles I and III of the General Agreement on Tariffs and Trade 1947 relate to most favoured Nation (MFN) status and national treatment (NT). Both articles are non-discriminatory. They have direct relevance to trade-related environmental issues. Under the MFN clause, WTO members are obliged to treat a product similarly, regardless of the country, with no trading privileges granted. This implies that all countries can trade freely and on equal footing with one another. Hence, the MFN principle gives developing countries the opportunity to benefit from the best trading conditions whenever they arise. Article III stipulates that products imported into a country will be granted the same treatment as like products produced in that country.

These two non-discriminatory principles are the pillars that support the WTO rules. Whenever there is a dispute over trade measures, these two principles have to be referred to first. Any violation of the principles of non-discrimination requires the violating party to cease applying the trade measures in question. Consequently, environmental policies, under principles of MFN and national treatment principles, should not be applied in order to discriminate between imported and locally produced like products, or between like products imported from different countries. In other words, a country cannot apply environmental policies to

¹⁶ Formally entitled the Marrakesh Agreement Establishing the World Trade Organization.

¹⁷ WTO. *The results of the Uruguay Round of Multilateral Trade Negotiations: The Legal Texts* (Geneva, GATT secretariat, 1994), p. 6.

an imported product if it does not apply them to locally produced like products or those imported from different countries.

C. ARTICLE XX OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE (1947)

Article XX lists the general exceptions that allow members to depart from the provisions of the WTO under certain conditions. Environmental concerns are reflected in XX (b) and XX (g), where exemptions are allowed:

“Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in this Agreement shall be construed to prevent the adoption or enforcement by any contracting party of measures:..

- (b) necessary to protect human, animal or plant life or health;
- (g) relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption.”¹⁷

Such types of measures, though inconsistent with WTO rules, may be taken only if they are non-discriminatory and are not used as disguised restrictions on international trade.¹⁸ It is worth mentioning that there was a proposal to amend Article XX (b) by adding the word “environment”. However, the issue was not discussed during the negotiations and no action was taken on the matter.¹⁹

D. THE AGREEMENT ON TECHNICAL BARRIERS TO TRADE

The Agreement on Technical Barriers to Trade governs the adoption and application of mandating technical regulations and voluntary standards. It ensures that these requirements, as well as testing and certification, do not obstruct international trade. The agreement allows the adoption of technical regulations, standards and conformity assessment, for environmental protection. However this can only happen when these measures are circulated through notifications and do not constitute instruments of discrimination measures. It allows members to take the necessary steps to ensure that protection standards have been met, within the context of what is known as the conformity assessment procedure.²⁰ One important characteristic of the Agreement is that it requires a high degree of transparency. Members are obliged to send notifications of their draft technical regulations, conformity assessment procedures and standards. These are commented upon by WTO members, and is provided through the establishment of national “enquiry points” through which further information can be obtained.²¹

Eco-labelling programmes have so far been voluntary. However, their multiplicity could hinder their management and implementation. Another problem is the conformity of eco-labelling programmes based on non-product-related process and production methods with the Agreement’s Code of Good Practice for the Preparation, Adoption and Application of Standards.

¹⁸ Ibid.

¹⁹ WTO, Trade and Environment Division, “Background document on trade and environment”. (Geneva, 1999), p. 8.

²⁰ Trade and Environment Division, “High Level symposium on trade and environment, Geneva 15-16 March 1999: background document”, (Geneva 1999, p. 2).

²¹ WTO, “Background document...”, p. 9.

²² WTO, “High Level Symposium...”, p. 21.

E. THE AGREEMENT ON SANITARY AND PHYTOSANITARY MEASURES

Sanitary and phytosanitary measures are applied by Governments to ensure that locally produced and imported food items do not contain materials that are hazardous to health, such as additives, toxins, contaminants and bacterial organisms. Governments also use these measures to stop the spread of plant and animal diseases and to control the use of pesticides. The Agreement on Sanitary and Phytosanitary Measures recognizes the right of governments to protect health.; however, measures should not be abused or used to restrict trade.²³

The Agreement allows governments to set stricter standards if the relevant international standards do not fulfil their needs or if they pose risks to human, plant and animal health. However, sanitary and phytosanitary measures should be supported by scientific evidence. If findings fail to prove the risks, the Agreement still allows governments to take precautionary measures while they seek further scientific information with regards to the environment. The Agreement allows WTO members to take measures inconsistent with WTO rules and disciplines, only if they are based on scientific evidence and have fulfilled the necessary requirements of risk assessment, non-discrimination and transparency.²⁴

F. THE AGREEMENT ON AGRICULTURE

The Agreement on Agriculture requires commitments to increasing market access and decreasing domestic support (subsidies and export support) for agricultural products. In its preamble, the Agreement emphasizes the commitment of members to reform agriculture in a manner that protects the environment.²⁵ The Agreement allows the adoption of domestic support measures with a minimal impact on trade, provided that such support is connected to an environmental programme. These measures include direct payments to producers and governmental service programmes for research and infrastructure projects related to environmental protection. However, this support is limited to the additional cost incurred while complying with the environmental programme.

G. THE AGREEMENT ON SUBSIDIES AND COUNTERVAILING MEASURES

The Agreement on Subsidies and Countervailing Measures identifies three kinds of subsidies:

- (a) Prohibited subsidies, which must be withdrawn;
- (b) Actionable subsidies, which can be granted but may be challenged through the WTO dispute settlement mechanism or subject to countervailing measures;
- (c) Permitted, or non-actionable subsidies, which can be maintained and are not subject to countervailing measures.

Article 8 (c) of the Agreement relates to non-actionable subsidies that are used to promote the rehabilitation of existing facilities in accordance with new environmental requirements imposed by laws or regulations which result in greater constraints and financial burdens on firms. The article allows members to grant what is known as “green subsidies” to firms that are changing their modes of production in order to meet new environmental regulations. These subsidies are given to mitigate the cost of this expensive transformation.

²³ Ibid. p. 23.

²⁴ WTO, “Background document ...”, p. 9.

²⁵ Ibid., p. 10.

H. THE AGREEMENT ON TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS

The TRIPS Agreement addresses the environment in articles 27.2 and 27.3. Article 27.2 stipulates that WTO members can refuse to grant patents for those inventions whose commercial exploitation is prevented for the sake of protecting "human, animal or plant life or health to avoid serious prejudice to the environment". Article 27.3b of the TRIPS Agreement stipulates that members may exclude from patentability "plants and animals other than micro-organisms, and essentially biological processes for the production of plants or animals". This exclusion has been granted on ethical grounds. The article also calls on members to protect plant varieties, through either patents or a *sui generis* system or any combination thereof.²⁶

I. THE GENERAL AGREEMENT ON TRADE IN SERVICES

The General Agreement on Trade addresses the environment in article XIV, which is similar to article XX (b) of the General Agreement on Tariffs and Trade 1947. It allows WTO members to take exceptional measures inconsistent with GATS provisions if they are deemed "necessary to protect human, animal or plant life or health". This must be applied in a non-discriminatory manner and must not constitute disguised restriction on trade in services.²⁷ One annex to GATS is the services sectoral classification list, which includes the following environmental service sector categories as those exempted from GATS obligations:

- (a) Sewage services;
- (b) Refuse disposal services;
- (c) Sanitary and similar services;
- (d) Other.

The fourth category, "other", could encompass environmental services not on the list including the cleaning of exhaust gases, noise abatement services and nature and landscape protection services.²⁸

I. CONCLUSIONS

Direct and indirect references to the environment are found in a number of GATT/WTO provisions. During the deliberations on a number of cases discussed by the Dispute Settlement Body (DSB), WTO provisions with environmental relevance have been consulted. The Committee on Trade and Environment studied the provisions of the multilateral trade agreements and reached the conclusion that modification of WTO provisions was not necessary for the sustainability of the environment.

III. THE WORK AND FINDINGS OF THE COMMITTEE ON TRADE AND ENVIRONMENT

Ministers from all over the world met in Marrakesh, Morocco, on 15 April 1994 to sign the Final Act embodying the results of the Uruguay Round of Multilateral Trade Negotiations, the WTO Agreement, and a number of decisions, declarations and understandings. The Decision on Trade and Environment provided for the establishment of the Committee on Trade and Environment. The Committee, which is open to all WTO members, was assigned to prepare a report for the first ministerial conference after the establishment of the WTO.

A. THE TERMS OF REFERENCE OF THE COMMITTEE ON TRADE AND ENVIRONMENT

The Committee's terms of reference were defined by the Decision as follows:^{29a}

"[a] To identify the relationship between trade measures and environmental measures, in order to promote sustainable development;"

"[b] To make appropriate recommendations on whether any modifications of the provisions of the multilateral trading system are required, compatible with the open, equitable and non-discriminatory nature of the system as regards, in particular:"

"[i] The need for rules to enhance positive interaction between trade and environment measures, for the promotion of sustainable development, with special consideration to the needs of developing countries, in particular those of the least developed among them; and"

"[ii] The avoidance of protectionist trade measures, and the adherence to effective multilateral disciplines to ensure responsiveness of the multilateral trading system to environmental objectives set forth in Agenda 21 and the Rio Declaration, in particular Principle 12; and"

"[iii] Surveillance of trade measures used for environmental purposes; of trade-related aspects of environmental measures which have significant trade affects, and of effective implementation of the multilateral disciplines governing those measures."

B. THE AGENDA OF THE COMMITTEE ON TRADE AND ENVIRONMENT

Within these terms of reference, and with the aim of making international trade and environmental policies mutually supportive, the ministers decided that the Committee would initially address the following matters:^{29b}

Item 1: "The relationship between the provisions of the multilateral trading system and trade measures for environmental purposes, including those pursuant to multilateral environmental agreements;"

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;"

Item 3: "The relationship between the provisions of the multilateral trading system and:

- (a) Charges and taxes for environmental purposes;
- (b) Requirements for environmental purposes relating to products, including standards and technical regulations, packaging, labelling and recycling;"

²⁶ WTO. *The results of the Uruguay Round* p.p. 379-380.

²⁷ Ibid., p. 339.

²⁸ WTO. "High Level Symposium..." p. 25.

^{29a} WTO. *The Results of the Uruguay Round*... p. 470.

^{29b} Ibid., pp. 470-471.

- 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;"
- Item 5: "The relationship between the dispute settlement mechanisms in the multilateral trading system and those found in multilateral environmental agreements;"
- 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;"
- Item 7: "The issue of exports of domestically prohibited goods;"

"They also decided:^{29c}

- Item 8: "That the Committee on Trade and Environment [would] consider the work programme envisaged in the Decision on Trade in Services and the Environment and the relevant provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights as an integral part of its work, within the above terms of reference;"
- Item 9: "That, pending the first meeting of the General Council of the WTO, the work of the Committee on Trade and Environment should be carried out by a Sub-Committee of the Preparatory Committee of the World Trade Organization (PCWTO), open to all members of the Preparatory Committee WTO;"
- Item 10: "To invite the Sub-Committee of the Preparatory Committee, and the Committee on Trade and Environment when it [was] established, to provide 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."

An interim subcommittee on trade and environment was established by the Marrakesh Declaration. The work of the subcommittee was initiated during 1994 and lasted until 31 January 1995. The General Council of the WTO then established the Committee on Trade and Environment.

The first meeting of the Committee on Trade and Environment was held on 16 February 1995 with an agenda that contained the 10 items listed above. The Committee on Trade and Environment met regularly between 1995 and 1996 to prepare a report for the first ministerial conference in Singapore. On 8 November 1996, the report was adopted without modification of any of the obligations and rights of WTO members under the WTO Agreement. The report was endorsed by trade ministers, who gave the Committee the green light to continue its work.³⁰

C. THE FINDINGS OF THE SINGAPORE REPORT

1. Agenda items 1 and 5

The relationship between trade measures in MEAs and the multilateral trading system was an important item given the many conflicting issues existing between trade measures pursuant to MEAs and the WTO provisions. The relationship between the dispute settlement mechanisms in the multilateral trading system and those found in MEAs was studied together with the first item because of the natural connection between the two issues, as will be demonstrated below.

^{29c} Ibid., p. 471.

³⁰ Ibid., pp. 469-471.

Of the 200 MEAs that have been concluded so far, only 20 incorporate trade measures restricting the trade of certain products, either between parties to an MEA or between a party and non party to an MEA. The most important MEAs containing trade measures are the 1973 Convention on International Trade in Endangered Species of Wild Fauna and Flora, the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer, and the 1989 Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal.³¹

Trade measures found in MEAs have two purposes: to limit or control trade in products that cause environmental damage and to serve as an enforcement mechanism. There are only limited number of ways to affect the actions of another country, including diplomacy, financial assistance, military intervention and trade sanctions. Trade measures are viewed as a crucial part of an effective environmental agreement, especially if trade is the cause of the environmental damage. However, the use of trade measures against WTO members may be considered an infringement of their WTO rights. Such situations could constitute grounds for dispute.

One conflict between trade measures pursuant to MEAs and WTO provisions relates to the fact that under articles I and III of the General Agreement on Tariffs and Trade, WTO members are not allowed to discriminate between like products imported from other WTO members, or between domestic and international like products. Three of the major MEAs namely the Basel Convention, the Montreal Protocol, and Committee on Trade and Endangered Species discriminate between countries on the basis of their environmental performance. Moreover, these MEAs require parties to one agreement to apply greater trade restrictions against non-parties.³¹

Another conflict derives from the fact that article XI (on the elimination of quantitative restrictions) of the General Agreement on Tariffs and Trade, forbids "prohibitions or restrictions other than duties, taxes or other charges" on the products of another contracting party, or "on the exportation or sale for export of any product destined for the territory of any other contracting party"³², while each of the three MEAs mentioned above requires such quantitative restrictions.³³

Moreover, the "Montreal Protocol envisages restrictions on trade in products made with—but not containing—ozone-depleting substances (originating from non-parties)", while domestically produced products made in the same way are not restricted.³⁴ This regulation has not yet been approved. However, it is contradictory to articles XX (b) and XX (g) of the General Agreement on Tariffs and Trade 1947 which allows for exceptions and the adoption of trade measures if they are applied without discrimination, do not constitute restrictions on international trade, and are effected to protect human, animal or plant life or health or to conserve exhaustible national resources.

To date, no disputes involving trade measures pursuant to MEAs have been brought before a WTO panel. Consequently, it cannot be predicted whether any of the trade measures will be found justifiable by the WTO. However, there have been a number of cases brought before a WTO panel involving trade measures that applied unilaterally, including the shrimp-turtle and tuna-dolphin cases. Both were found unjustifiable for different reasons. It is difficult to deduce from these decisions what the ruling will be on trade measures mandated by multilateral agreements.³⁵

Trade measures applied by one MEA party against another party could be compatible with WTO provisions since both parties are consenting. However, trade measures decided between a party and a non-party are inherently different and may constitute a case of discrimination.

³¹ Duncan Brack, "CTE issues: MEAs and the WTO", paper prepared for the Workshop on Environment in the Millennium Round (London Royal Institute of International Affairs, July 1999).

³³ Ibid., p. 4.

³³ WTO, *The results of the Uruguay Round...*, p. 500.

³⁴ Duncan Brack, "CTE issues...", p. 4.

³⁵ Ibid., p. 4.

This conflict between MEAs and the WTO has compelled the Committee on Trade and Environment to study the matter and come up with conclusions both on the relationship between MEAs and the WTO and on the dispute settlement mechanism.

D. CONCLUSIONS AND RECOMMENDATIONS OF THE COMMITTEE ON TRADE AND ENVIRONMENT

Between 1995 and 1996, the Committee on Trade and Environment examined the need to modify existing WTO provisions to cater for trade measures for environmental purposes, including those pursuant to MEAs. The Singapore Report concluded that no agreement has been reached to modify WTO provisions to provide increased accommodation of trade measures for environmental purposes. Many Committee negotiators believed that the WTO provisions were accommodating enough for such measures to be applied pursuant to MEAs in a manner consistent with WTO rules. The Singapore Report also encouraged Governments to apply multilateral solutions to their global and transboundary environmental problems.

The Singapore Report stated that although trade measures pursuant to MEAs could contribute to environmental protection, those measures might not constitute the only effective instrument in MEAs. The Singapore Report suggested that MEAs apply international cooperation provisions relating to financial and technical assistance, capacity building, and transfer of technology. The Singapore Report concluded that conflicts regarding trade measures would not arise within the WTO between two parties to an MEA, while the probability of conflict between parties and non-parties was high. It recommended that future MEAs should give particular care to the application of the various provisions to non-parties.

The Singapore Report recognized the right of WTO members to challenge MEA trade measure and to avail themselves of WTO dispute settlement procedures. The report noted that disputes over MEA trade measures between two parties to an MEA should be settled through the dispute settlement mechanism available under that MEA.

The Singapore Report also emphasized the importance of policy coordination with regards to trade and environment at the national level in order to avoid the signing of treaties that required conflicting obligations.

1. Agenda item 2

Item 2 relates to the relationship between environmental policies relevant to trade and environmental measures with significant trade effects, and the provisions of the multilateral trading system. This item focuses on environmental policies relating to tradable economic permits, fiscal incentives, emission taxes and environmental subsidies. These policies are aimed at cleaning up the production process and protecting the environment.

Environmental subsidies were the main trade-related environmental policy studied by the Committee on Trade and Environment, the reason being that subsidies can have a negative effect if they cause environmental stress. Within the energy and agricultural sectors, subsidies are known to promote the overuse and exhaustion of environmental resources. This, however, should be weighed against the positive effects of environmental subsidies, which could encourage clean-up activities and the use of clean technologies that have a positive impact on the environment. This premise is supported by environmentalists.

This rationale explains the WTO provisions that were formulated during the Uruguay Round negotiations concerning environmental or green subsidies. In the Agreement on Agriculture and the Agreement on Subsidies and Countervailing Measures, exemptions are permitted to allow WTO members to grant environmental subsidies. In the Agreement on Agriculture, environmental subsidies are not subject to domestic support reductions if they are provided by a State-funded programme and are not used as a means of support for producers.³⁶ In the Agreement on Subsidies and Countervailing Measures, environmental subsidies are exempt

from countervailing duties if they are given to establishments that are rehabilitating their facilities to meet new environmental requirements imposed by law.³⁷

Under this item, the Committee also discussed energy subsidies. In the Agreement on Subsidies and Countervailing Measures, taxes on the energy used to produce export items can be refunded without these funds being considered export subsidies. Several delegations of the Committee pointed out that this could encourage the use of energy-intensive technologies for the production of exports and might lead to trade distortions. The Committee did not reach any definite conclusions on subsidies and stressed that further discussions on these types of trade-related environmental policies was necessary.

It is worth mentioning that there is increasing pressure by NGOs in several member countries of the Organization for Economic Cooperation and Development (OECD) to have environmental reviews of trade agreements. The United States and Canada have prepared a review of both the North American Free Trade Agreement (NAFTA) and the Uruguay Round agreement. The United States has also suggested that under item 2, Governments should carry out environmental reviews of trade agreements at the national level.³⁸

2. Agenda item 3

Item 3 concerns the relationship between the multilateral trading system and the following:

- (a) charges and taxes for environmental purposes;
- (b) require standards and technical regulations related to packaging, labelling and recycling.

WTO members have been using environmental charges and taxes in order to protect nature and the environment. The Committee focused on the concerns that arose in relation to WTO rules that legitimized taxes and charges on the products but not on the process involved in manufacturing imported goods. Domestic goods incur both product and the process taxes or charges. This has implications for the competitiveness of domestic production that induces the environmental process tax or charge.³⁹ The Committee realized the importance of studying this item further to see whether there was a need to review WTO rules in order to address environmental taxes and charges. The Committee also recommended further discussion of this item.

Eco-labelling, under item 3 (b) has been the focus of the discussions in the Committee. There are around 30 countries using different types of eco-labelling schemes with different criteria. The Committee recognized that while a well-designed eco-labelling scheme could be instrumental in enhancing environmental awareness, it might have trade effects. Certain concerns have been voiced by those requesting eco-labels for their products. The criteria used for providing eco-labels are based on the importing country's environmental concerns, without taking into consideration the specific environmental situation of the supplying countries. The Committee realized that since different countries have different environmental concerns, eco-labels could vary accordingly. This raises questions of compatibility of the different criteria required by the various eco-labelling schemes, and the issue of conformity assessment procedures. Another issue is the reflection of the positive environmental qualities of imported products. During the Committee discussions, it was suggested that trading partners should participate in selecting criteria included in the eco-labels.

Some of the eco-labels being used are based on a single criterion, while others are based on life-cycle analysis listing environmental facts about the product from the production through the disposal stage. Eco-labels based on life-cycle analysis could create trade restrictions; it is very difficult to conduct life-cycle analysis since these labels are based only on a few aspects of the production process. Moreover, the life-cycle analysis will result in the use of eco-labelling on the basis of non-product-related process and production methods. This means that suppliers of a product have to change their processes to acquire a label that meets consumer expectations and reflects their preferences. In this scenario, the importing country is imposing its

³⁶ WTO, *The Results of the Uruguay Round...*, p. 56

³⁷ Ibid., p. 276.

³⁸ WTO, "Background document...", p. 12.

³⁹ Ibid., p. 14.

own environmental concerns and standards on the supplying country's production methods. The applicability of the Technical Barriers to Trade Agreement to eco-labels based on the processes rather than on the characteristics relating to the product is still unclear. The increasing use of process-based instead of product-based regulations and standards poses a challenge to the Agreement.⁴⁰ The Committee on Trade and Environment concluded that further discussions is required.

Handling and packaging requirements have become increasingly important, particularly in the European Union (EU). Some countries are demanding the use of certain kinds of packaging and materials that are either reusable, recyclable or disposable (biodegradable). One example of this relates to the case of Colombian coffee. Germany prohibited the importation of Colombian coffee beans because they were packaged in jute bags, which were considered to be non-recyclable. However, it was later proven that jute material could be reused (it is currently utilized in the furniture industry). Nevertheless, Germany criticized the packaging of the jute bags because they were sealed with metal pins which incurred additional re-cycling costs. Such measures could act as barriers to trade, especially for small and medium-sized enterprises (SMEs) in developing countries. It may be discriminatory even if the same requirements are imposed on both domestic and imported products, since environmental conditions differ from one country to another. In this respect, the Committee expressed concern over disposal and handling criteria that are designed to suit the preferences of domestic industries and the absence of the trading partners' (foreign suppliers) role in the selection of these criteria.

3. Agenda item 4

Item 4 relates to the provisions of the multilateral trading system with respect to the transparency of trade measures used for environmental purposes. During the Committee discussions, it was recognized that proper and timely information on trade-related environmental measures was crucial for exporters. The WTO has a number of notification systems that could help increase transparency with regards to such measures. The WTO Final Act includes article X of the General Agreement on Tariffs and Trade, on the publication and administration of trade regulations, the 1979 Understanding Regarding Notifications Consultation, Dispute Settlement and Surveillance, the Agreement on transparency provisions of the Technical Barrier to Trade and the Agreement on Sanitary and phytosanitary measures. The Committee concluded that all these provisions were sufficient to ensure the transparency of trade-related environmental measures and that no modification of WTO rules were necessary.⁴¹ Moreover, the Singapore Report mandated that the WTO secretariat collect all notifications of such measures in a database accessible to all WTO members.⁴² The issue of transparency is of great importance to developing countries which would prefer to avoid disputes over these types of measures. Transparency could provide suppliers with information on market limitations and help exporters adjust to such limitations.

4. Agenda item 6

Item 6 relates to the effect of environmental measures on market access, especially for developing countries, and in particular for the least developed among them. It also relates to the environmental benefits of removing trade restrictions.

The Committee on Trade and Environment discussed this item as a core issue since the complementarity of environmental protection and trade liberalization is central to the WTO objectives of achieving and enhancing sustainable development. One concern of the Committee was that some environmental measures could inhibit market access for exporters especially SMEs in developing countries. Market access is important for developing countries as it gives them the means to carry out development as well as environmental objectives. The Committee recognized that "improving market access opportunities and [preserving] an open and non-discriminatory trading system was essential for supporting countries in their efforts to ensure sustainable management of their resources".⁴³ However, the Committee emphasized the need for developing

⁴⁰ Ibid., p. 13.

⁴¹ Ibid., p. 15.

⁴² WTO, "High Level Symposium...", p. 16.

⁴³ Ibid., p. 16.

countries to implement adequate environmental policies along with trade liberalization in order to sustain growth.

With regards to the second part of item 6, the removal of trade restrictions and distortions were found to be beneficial for both trade and the environment. The Committee illustrated this through a background paper on the agriculture, energy, fishery, forestry, non-ferrous metal, textiles, leather, and environmental services sectors. The paper demonstrated how the elimination of possible trade restrictions on these sectors could benefit the environment. As argued in the paper, the well-being of a society is compromised when market malformations lead to distorted prices and make it impossible to assess the cost of environmentally damaging economic activities. These situations also encourage the non-optimal use of environmental resources, undermining effective environmental management. The paper notes that trade liberalization is not the principal cause of environmental degradation and that trade measures are the best means to solve environmental problems. The paper also mentions that removal of trade restrictions is positively related to environmental protection because improved competition generates improved consumption patterns and factor use; increased trade contributes to poverty alleviation, misuse of resources is reduced and environment-related goods and services become more readily available through trade liberalization.

Because the promises made at UNCED regarding financial aid and the transfer of environmentally sound technologies have remained unfulfilled, developing countries are left with the option of engaging in international trade to finance the cost of environmental protection in their countries. The Committee recommended further discussion of this item for the purpose of identifying win-win situations that could benefit both trade and the environment.⁴⁴

5. Agenda item 7

Item 7 relates to exports of domestically prohibited goods. Such exports constitute a concern for developing countries that have received prohibited items. Although the Committee called for attention to this issue in its work programme, discussion under this item focused on whether it should be addressed by the WTO or left for other forums and instruments that are directly concerned with export of domestically-prohibited goods, including the Basel Convention on the Transboundary Movements of Hazardous Wastes and their disposal which deals with exports of chemical, pharmaceuticals, medicinal and hazardous wastes, not consumer products. It was brought to the Committee's attention that although there were instruments that dealt with domestically-prohibited goods, a number of them were only voluntary. Other delegations hoped that the WTO would achieve faster progress in dealing with this issue. Several delegations suggested that transparency with regards to such goods was essential and that the notification system operating between 1982 and 1990 should be reactivated.

Several developing countries highlighted their shortcomings in terms of the capacity and technical know-how required for monitoring and controlling incoming goods that are domestically prohibited. The Committee stressed the importance of technical assistance and the transfer of technology in this domain. It also encouraged WTO members to extend this kind of assistance to developing and least developed countries in order to help them strengthen their technical capacity to monitor, test and control imports of domestically prohibited goods.

Finally, the Committee agreed that while the WTO could play a role in dealing with this issue, it should not duplicate the work of other multilateral forums.

6. Agenda item 8

Item 8 relates to the relevant provisions of the TRIPS Agreement which is aimed at protecting and enforcing intellectual property rights in order to promote innovations and the transfer and dissemination technology to the mutual advantage of producers and users. The TRIPS Agreement allows the patenting of innovations, which might interfere with the transfer and dissemination of environmentally sound technologies

⁴⁴ WTO, "A Background document...", pp. 15-16.

for the purpose of sustainable development in developing and least developed countries, as recommended in paragraph 34.7 of Agenda 21.⁴⁵

Most of the Committee discussions under item 8 were held between India and the United States. India proposed exceptions under the TRIPS Agreement to allow the transfer of technology if mandated under an MEA. The United States argued that this would affect incentives for innovation, and that financial assistance to obtain such technologies could be provided through foreign aid.

Another TRIPS-related issue discussed in the Committee meetings is related to traditional knowledge. Under the TRIPS Agreement, an innovation is patentable if it is both new and useful. This does not take into account the traditional knowledge of indigenous peoples which cannot be patented because it is not new. Innovations based on this knowledge often are patented, however, indigenous peoples pay royalties for innovations based on their own knowledge.

The patenting of different life forms addressed under article 27.3 (b) of the TRIPS Agreement, raised some ethical questions. The compatibility between the Convention on Biological Diversity and the TRIPS Agreement was questioned since the Convention represents the interests of some countries in the areas of biological resources and traditional knowledge, while the TRIPS Agreement allows the patenting of genetically modified organisms. This may have a negative impact on biodiversity, especially in agriculture, where it might lead to the extinction of some crops.

The Committee recommended that further attention should be given to the following issues: the transfer of environmentally-sound technologies, the protection of traditional knowledge, the control of environmental damaging technologies including biotechnologies and the consistency of WTO provisions with several provisions of the 1992 Convention on Biological Diversity.⁴⁶

Moreover Agenda item 9 relates to the work programme envisaged in the Decision on Trade in Services and the Environment. The Committees noted that the General Agreement on Trade and Services was new and included concepts that were not contained in the General Agreement on Tariffs and Trade. It was not clear whether any modification to article XIV (b) of the GATS was needed to meet the objectives of protecting human, animal and plant life or health. (refer to chapter II, section H of the present paper).

During the Committee's examination of the relationship between trade in services and the environment, the delegations did not identify any measure that needed to be applied to trade in service for environmental objectives that were not already covered by article XIV(b). However, the Committee felt that no conclusion would be reached before a thorough study had been done of the issues relating to GATS and the environment.

7. Agenda item 10

Item 10 concerns making appropriate arrangements for relations with intergovernmental and non-governmental organizations (NGOs). The Committee members recognized the growing public interest in WTO trade and environment activities, as well as the public support that could be mobilized through the WTO for environment and trade policies. Thus, the members found it necessary to enhance dialogue and cooperation with NGOs through an appropriate process at the national level. The Committee concluded that their primary responsibility for establishing relations with NGOs lay at the national level. It was noted that additional measures were needed to ensure transparency with regard to the Committee itself. This could be done by derestricting working documents and publishing periodic comprehensive reports on trade and environment activities in the Trade and Environment Bulletin.

The Committee has extended observer status to the intergovernmental organizations requesting it; two are secretariats administering relevant MEAs. Among the intergovernmental organizations that met as

⁴⁵ Magda Shahin. *Trade and Environment in the WTO: A Review of its Initial Work and Future Prospects* (Penang Malaysia, Third World Network, 1997), p. 59.

⁴⁶ WTO, "A background document," p. 18.

observers at Committee's meeting were the United Nations Conference on Trade and Development (UNCTAD), the United Nations Environment Programme (UNEP), the World Bank, the secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora and the secretariat of the Convention on Biological Diversity.⁴⁷

The items under the Committee's work programme were studied for two years before the submission of the Singapore Report. It included the conclusions and recommendations of the Committee, indicating that its work was far from over. The conclusions focused on the fact that no modifications to the provisions of the WTO Agreement were necessary, while the recommendations advised that certain items required further discussion and consideration. The only non-passive recommendation was that the TRIPS Agreement should be reviewed to check its consistency with the provisions of the Convention on Biological Diversity. It should be noted that the items subject to the most heated debates at the Committee meetings, where the relationship between MEAs and the provisions of the WTO Agreement, market access, eco-labelling and the TRIPS agreement. These items were of considerable concern to developing countries and will be discussed in greater detail in the next chapter.

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⁴⁷ Ibid., p. 19

IV. CONCERNS OF ESCWA MEMBERS AND OTHER DEVELOPING COUNTRIES

The issues negotiated in the Committee on Trade and Environment reflect the concerns of developing countries including ESCWA members. Different WTO provisions contain environmental clauses that allow countries to take trade measures and policies for environmental purposes, provided that these measures and policies are non-discriminatory and do not restrict trade. Exporters in developing countries have to adjust and prepare themselves to comply with the environmental specifications of their trading partners. There are some environmental criteria and policies that are quite stringent and could inflict serious damage on international trade, especially for countries that do not have the means to change their lines of production or the technologies necessary to satisfy environmental preferences of their trading partners.

A. ADOPTING TRADE MEASURES FOR ENVIRONMENTAL PURPOSES

Adopting trade measures for environmental purposes is allowed under WTO provisions. Articles XX (b) and XX (g) of the General Agreement on Tariffs and Trade allow the application of measures that are a threat to human, animal and plant life and to exhaustible resources. Developing countries have argued during the Committee negotiations that trade measures should be proportionate and directly related to environmental problems. They also demanded that trade measures be a part of an integral policy package that included financial and technological transfers and capacity building.⁴⁸ Developing countries had their doubts as to whether such measures constituted the most effective methods of environmental protection, and enquired whether other instruments existed and were equally effective.

Trade measures applied against developing countries for environmental purposes do not help developing countries become cleaner. They only make them poorer and short of foreign currency, which consequently hinder their ability to purchase capital goods essential for growth. Extending technical and financial assistance for environmental purposes would serve the aims of both the proponents of environmental protection and developing countries, creating win-win situation.

A big step in the right direction has already been achieved. Developing countries have realized the importance of trade and environment interrelations and have actively participated in the discussions of the Committee on Trade and Environment.

ESCWA member countries have signed a number of multilateral trade agreements (refer to table 1), and have agreed to the trade measures contained therein. Many ESCWA member countries have now approved Convention on International Trade in Endangered Species of Wild Fauna and Flora, while the rest have ratified the Montreal Protocol and the Basel Convention. In the cases of disputes linked to trade measure pursuant to these MEAs, ESCWA member countries that are both WTO members and signatories to a particular MEA are not encouraged to take their cases to the WTO Dispute Settlement Body, as this Body prefers not to discuss cases concerning trade measures pursuant to an MEA when both parties to the dispute are signatories to that MEA. These countries should, according to the WTO,⁴⁹ resolve their cases under the dispute mechanism available under the MEA in question. This, however, might undermine the rights of ESCWA member countries under the WTO.⁵⁰ This is typical of the position of developing countries which prefer to bring their disputes to the WTO and not to the dispute settlement mechanism under an MEA.

B. ENVIRONMENTAL REQUIREMENTS, REGULATIONS AND ECO-LABELLING

Developing countries could be exposed to the possibility of "green protectionism," which arises from the compulsory environmental regulations and voluntary eco-labelling schemes that are becoming increasingly popular, especially in the EU. Stringent environmental regulations, standards and requirements for the protection of human, plant and animal life and health are allowed under the Agreement in Sanitary and Phytosanitary Measures and the Agreement on Technical Barriers to Trade. While legitimately opposing signs

of green protectionism, developing countries should try and meet standards and requirements of their trading partners.

In industrialized countries there is considerable public support for the environment. Green parties participate in policy-making, which explains the flurry of legislation in these countries, especially in the EU. At the EU level, as well as at the level of each EU member country, legislation has been promulgated. Although there is no proof that it is used as disguised protectionism, developing countries are sceptical. They believe that legislation has been formulated to the advantage of European industries and to limit their accessibility to the European market.

One source of scepticism for developing countries is the handling regulations and requirements, which are becoming increasingly popular. Packaging regulations and requirements in some industrialized countries are forcing exporters to change their packaging materials. There is a host of environmental policy instruments that are emerging in the developed countries; they include bans, recycled content requirements, taxes and charges. These instruments are applied to the handling and packaging of goods. Bans are imposed on heavy metal content, metal cans and polystyrene packing material. They are clear and straightforward in their application. Another policy instrument is the take-back obligation which gives an advantage to domestically produced products since it is costly for exported goods. This instrument might have an effect on international trade. Moreover, some countries levy charges and taxes on types of packaging that are considered environmentally unacceptable (non-reusable packaging). The cost of these charges restricts trade. It is worth mentioning that Germany was the first country to adopt a regulation on managing packaging waste. It has also funded the "green dot" scheme, which identifies the recovery and recycling of packaging waste and is placed on products that passed certain environmental standards. France and Belgium are currently using the "green dot" scheme, which draws from the German system of packaging collection.⁵¹

Regulations governing environmental aspects other than packaging are numerous. These regulations are also a source of concern for developing countries. Regulations that limit the level of pesticide residues make it difficult for developing countries to sell their agricultural products in developed countries. The sanitary and phytosanitary standards for pesticide residues have been subject to debate for years. The EU regulations on the recycled content of paper may halt exports of Brazilian pulp. This regulation favours recycled paper over virgin pulp and is aimed at reducing waste and deforestation, despite claims by the Brazilian Government that these forests are well-managed.⁵² Packaging and other environmental regulations do not usually pose a big problem for large multinational enterprises, who do not find compliance difficult. Such regulations cause many problems for SMEs in developing countries, however, especially when such enterprises encounter difficulty in obtaining information on regulations and requirements adjusting to and complying with them.

Several types of eco-labelling schemes have recently been instituted in the developed countries. They cover different criteria and have so far been voluntary. Eco-labels are information-based instruments aimed at raising consumer awareness about the environmental characteristics of a product and its packaging. Eco-labelling is allowed under the Agreement on Technical Barriers to Trade, but there is controversy over whether it should be based on life-cycle analysis.

Eco-labels based on life-cycle analysis and on non-product-related process and production methods, could have an effect on international trade. However, since these eco-labels are still voluntary, they do not pose a problem under WTO. During the Committee on Trade and Environment negotiations, some developed countries regarded eco-labels based on non-product-related process and production methods as being covered under the Agreement on Technical Barriers to Trade. This implies that such schemes could be made compulsory by Governments. This contention was opposed by developing countries, which stressed that the Agreement does not cover such labelling.⁵³ They are concerned that voluntary eco-labelling schemes based on

⁵¹ Juan Careaga. "Packaging requirements with special reference to food products", a paper prepared for the (session on environmental policy, market access and trading opportunities) (Cairo, 1998), pp. 1-16.

⁵² David. Runnalls. "Shall we dance? What the North needs to do to fully engage the South in the trade and sustainable development debate", International Institute for Sustainable Development, p. 3.

⁵³ Magda Shahin, op. cit., p. 24.

⁴⁸ Magda Shahin, op.cit., p. 6.

⁴⁹ For those who are already members, and for other countries as soon as they become WTO members.

⁵⁰ For those who are already members, and for other countries, as soon as they become WTO members.

life-cycle analysis and non-product related process and production methods will spread to an extent that will result in market segmentation.⁵⁴ Consumers in developed countries will increasingly base their choices on these labels, whose requirements are based on environmental, social and cultural facts, and reflect the environmental standards of developed countries. Consequently, products from developing countries, especially those of SMEs, would fail to measure up. So far, ESCWA member countries have not developed their own eco-labelling schemes. Several countries do not have the necessary institutions to award the required labels for their exports and are resorting to establishments outside the country.

ESCWA member countries have recently introduced the ISO 14000 standards certificate programme. This is the scheme closest to eco-labelling. It is a relatively new system and only a few companies have actually acquired ISO 14000 certification. It was developed after the Earth Summit in 1992, when the international community recognized the need for "tools to help measure environmental performance and develop powerful environmental management techniques."⁵⁵ The ISO 14000 series was developed by the International Organization for Standardization to help entrepreneurs reduce the cost of waste management, save energy and input consumption, lower distribution costs, and draw up a framework for continuous improvement of their environmental protection performance. Attaining ISO 14000 certification is a costly process. Many businesses in the ESCWA member countries, especially SMEs, are not able to absorb such costs. It is worth mentioning that in some of these countries, a few institutions extend financial assistance for businesses that are ready to obtain the ISO 14000 certificate. Even with such financial assistance, complying with ISO 14000 requirements is costly, and not many entrepreneurs are tempted to make the effort, especially if they are not aware of the benefits. ISO has also been approached by the international community to establish harmonious standards for eco-labelling, as the proliferation of labelling based on different criteria creates confusion for both the consumers and the suppliers of goods. By developing standards to be applied in different countries, ISO can contribute to the elimination of technical barriers to trade.⁵⁶

In sum, ISO 14000 is attracting the attention of Governments and industries. They are slowly shifting to suppliers that are ISO 14000 certified. If this trend continues, non-certified products will find difficulty in establishing access to certain markets. ESCWA member countries still lag behind in becoming ISO 14000 certified because of the high cost of changing lines of production and technologies. ESCWA members, industrialized countries and international organizations that have already extended assistance in the ESCWA region, should cooperate further to persuade more companies to obtain the certificate and to assist them in doing so.

C. UNILATERALISM AND ENCROACHMENT ON SOVEREIGNTY

Unilateral trade measures have been applied mainly by the United States and the EU. Measures on environmentally friendly goods and can only be effectively applied by trade giants whose imports are significant. Developing countries have been subjected to such measures. The United States, for example, has banned the importation of shrimp from Asian countries because of the fishing methods used. Asian countries do not use turtle-excluding devices, which results in the killing of sea turtles, an endangered species. The EU has also banned the importation of furs from animals caught in leg-hold traps. Developing countries are wary of these unilateral measures that are neither product-related nor the result of multilateral trade agreements. Developing countries have to object through the WTO, which has encouraged multilateral solutions concerning trade and environmental issues.

Another concern is that industrialized countries are taking measures relating to non-produced process and production methods and are consequently interfering with extraterritorial activities in the name of environmental protection. The question is: How much freedom should Governments have to exercise their sovereign right to exploit their own natural resources? Do industrialized countries have the right to encourage or require consumers to boycott a certain product because it is causing environmental damage in developing

countries and not their own? This issue caused heated debates between developing and developed countries at the Rio Summit. The fact remains that developed countries might encroach on the sovereignty of developing countries by applying measures against activities taking place in the latter. They can do that informally through consumer boycotts and unilateral actions. Consequently, developing countries have realized that they have little power over setting their own environmental policies. In many ways, these policies are imposed on them. They do not subscribe to the idea that environmental standards should be uniform, and are sceptical about the concept of harmonization, which might reduce their competitiveness. These concerns should be discussed further at the Committee on Trade and Environment meetings and should be considered in mapping out any developing country's trade and environment strategy.

At the core of extraterritorial intervention or encroachment on sovereignty is the topic of genetically modified organisms. These can pose health hazards and can have an adverse impact on biodiversity. WTO provisions have so far treated such organisms like any other product, and even protect such products under the TRIPS Agreement. Many countries have opposed the import of genetically modified organisms. For example, the EU has banned hormone-treated beef for health reasons and as a precautionary measure. The United States and Canada --two of the most prominent exporters of hormone-treated beef--have complained that this ban is not based on sufficient scientific evidence. Another example is the crop varieties and genetically modified seeds that are protected under the Intellectual Property Rights. If such crops continue to increase, natural strains will not be sown and will become extinct.⁵⁷ The question remains whether countries will have the right to stop the importation of genetically modified organisms. The WTO may want to consider this matter and revise the TRIPS Agreement in order to avoid what might be seen as an encroachment on sovereignty by some countries.

D. MARKET ACCESS

One major concern for developing countries is market access in a world where competitiveness is fierce owing to environmental restrictions. Developing countries, including ESCWA members, are concerned about securing market access and finding new markets for their exports. Pressures mount when developing countries are also subject to environmental measures. Most of the exports produced in developing countries are produced by SMEs, which rarely have the necessary information on the standard requirements set by industrialized countries. They also lack the means to comply with such standards.

The phasing out of preferential market access for developing countries was begun with the establishment of the WTO, and the situation is expected to deteriorate further with the launching of the Millenium Round which will negatively affect the export activities of developing countries. Preferential treatment and market access are essential for developing and least developed countries. The lack of preferential treatment could also have an adverse effect on attempts to protect the environment, since decreasing export rates will lead to shortages in funds, and allocations for environmental protection will diminish. This process will undermine efforts to achieve sustainable development. The erosion of preferential treatment, coupled with trade restrictions deriving from environmental measures or trade measures, could be devastating to the economies of developing and least developed countries. This would make it difficult to identify win-win opportunities that are associated with the removal of trade restrictions and distortions and can result in economic and environmental gains. Eco-labelling schemes based on different criteria can also threaten market access for developing countries. Eco-labels based on non-product process and production methods are even more dangerous, since they are complex and require clarifications concerning the definition of international standards and equivalency.⁵⁸

ESCWA member countries will face market-access problems if environmental trade restrictions that are inconsistent with WTO rules and disciplines are applied, or if eco-labelling schemes based on non-product-related process and production methods become compulsory, and if they are covered under the Technical Barriers to Trade Agreement. This will have a negative impact on the export rates of ESCWA member countries. These countries should take serious steps towards enhancing their capacities and their compliance with international standards, particularly environmental standards. At the same time, they should engage

⁵⁴ David Runnalls, op. cit., p. 4.

⁵⁵ International Organization for Standardization, "How it all began: the story behind ISO and the environment," (ISO Environmental Management System Standards), (Geneva, March 1997), p. 4.

⁵⁶ David Runnalls, op. cit., p. 10.

⁵⁷ Greenpeace, "Free trade or biodiversity?" Biosafety protocol, press advisory, (Amsterdam, January 1999), p. 2.

⁵⁸ Veena Jha and Rene Vossenaar, op. cit., pp. 17-18.

actively in multilateral negotiations on trade and environment in order to work for continued preferential treatment and to secure technical assistance.

E. DOMESTICALLY PROHIBITED GOODS

Another source of worry for developing countries is the entry of products banned or restricted in the exporting country. Some ESCWA member countries have been exposed to such products, including expired food or pharmaceuticals.

Developing countries are concerned about the lack of information on the risks and health hazards of such products. They are also at a disadvantage because some of these countries lack the technical capacity and the infrastructure to test, monitor and control such products. Developing countries are wary of the existing instruments that address the issues of domestically prohibited goods and related limitations. The Basel Convention and other instruments that address the problem have not been effective. Some of their provisions are voluntary which implies that countries are not obliged to abide by certain provisions, if they decide not to.⁵⁸ Developing countries should request technical assistance from developed countries in the domain of testing, monitoring and controlling domestically prohibited goods. They must demand that this issue be discussed further in the Committee on Trade and Environment during the WTO ministerial meeting, especially with respect to transparency. They should also request the reactivation of the relevant notification system.

F. THE TRIPS AGREEMENT AND THE ENVIRONMENT

Developing countries are concerned about the patenting of innovations that makes the diffusion of environmentally sound technologies costly and difficult. This practice does not conform with certain fundamental principles of the Rio Declaration that are supposed to ensure the attainment of environmental objectives. Principle 9 of the Rio Declaration calls for the diffusion and transfer of technology, and principle 12 calls for cooperation for the promotion of an open international economic system that will eventually lead to economic growth and sustainable development in all countries. Compromise should be sought through the TRIPS Agreement review mechanism to enable developing countries to obtain environmentally sound technologies while maintaining the incentive for innovation.

Another concern is that the TRIPS Agreement protects inventions that are both new and can be applied industrially. This is considered limiting, since it ignores the informal, traditional systems of innovation such as inventions by farmers who produce crop and livestock variations. Protecting plant and animal varieties may have adverse effects on biodiversity, especially since land races or traditional agricultural ways are not protected. If genetically modified varieties came to predominate, many natural strains might become extinct, seriously affecting biodiversity. One concern expressed by developing countries relates to the Monsanto's Terminators technology. This is a gene that has been engineered to produce a sterile plant; farmers can use the seeds only once and cannot save them for the following year. This has a serious impact on farming in the developing countries where saved seeds account for 80 percent of sown crops.⁵⁹

G. ENVIRONMENT- AND TRADE-RELATED DISPUTES

ESCWA member countries most widely exported product is oil and oil derivatives. Although the WTO does not explicitly exclude oil, it deals with oil as if it were. However, some oil-related disputes have been brought to the WTO Dispute Settlement Body, where oil has been categorized as being similar to other products. ESCWA member countries, especially those producing and exporting oil and oil products, have to be aware of the implications of trade and environment issues in relation to the export of this vital product.

A trade-related environmental dispute such as the following could very well occur with any ESCWA member that produces oil. The United States banned the import of Venezuelan gasoline on the grounds that it did not comply with the standards set forth in the United States Clean Air Act. Venezuela argued that its gasoline was not subject to the same regulations as the gasoline produced in the United States, saying that the United States has violated the national treatment principle and that the ban was restricting international trade.

Although the panel agreed that a policy to reduce air pollution was a sovereign right for the United States, it had to justify its clean air measures, since it treated the Venezuelan gasoline less favourably than its own.⁶¹

The oil-producing ESCWA member countries should be aware that under the Technical Barriers to Trade Agreement, a country is allowed to set its own environmental standards to protect human, animal or plant life. However, these countries should assert in the coming Committee discussions or during the WTO ministerial meeting that they should be granted sufficient time to eliminate all sources of risk to human, animal or plant health or life.

The following example demonstrates how one decision to ban a product could shake up the oil industry in the ESCWA member countries. The State of California has announced a decision and is now awaiting approval of the federal government approval to ban the fuel additive methyl tertiary butyl ether (MTBE), which is added to gasoline as a substitute for lead. The decision proposes that MTBE should be removed from gasoline gradually until the year 2002. According to a report prepared by the University of California, the continuous use of MTBE was found to be hazardous to health and to pose environmental risks. This study was triggered by a case of leakage of stored MTBE and its infiltration into ground and tap water. The decision made by the State of California could negatively affect the production and sales process of Saudi Basic Industries Corporation (SABIC) which produces 3 million tons of MTBE annually. Their products are exported internationally, with 50 per cent targeted to the American market and 33 per cent exported to the State of California. It is also expected that this decision will be followed by others from various American States. SABIC should react to this decision by changing its production line to produce alternative petrochemicals before the year 2002.⁶²

Developing countries have well-founded fears about further mainstreaming the environment in the WTO agreements. These concerns stem from the fact that these countries are attempting to engage in the world economy in order to develop economically. They are trying to eradicate poverty and find proper means to protect their human, animal and plant life. Their main concern is that stringent trade measures might hinder their economic growth and environmental protection. It is felt that the issues of limited market access, unilateral actions, encroachment on sovereignty, limited progress in identifying solutions for domestically prohibited goods, and the limited dissemination of environmentally sound technologies should be debated by the international community.

ESCWA member countries should enhance their awareness of trade and environment issues. While five ESCWA member countries are WTO members, only Egypt actively participated in the negotiations at the Committee on Trade and Environment meetings. ESCWA member countries that are WTO members, especially the oil-producers, should take part in the WTO and the Committee meetings.

The region's primary exports are oil and oil products (see table 2) which are mainly directed towards Asia, Europe, the Arab countries, and the United States in descending order (see table 3). Europe and the United States are known to take unilateral measures against products that pose risks to human, animal and plant life and health. Therefore, ESCWA member countries must defend their position as exporters of oil. They must push hard for technical assistance to improve the environmental aspects of their production. They also need to demand sufficient time so as to allow them to adjust to changes in standards set by their trading partners in order to avoid major economic losses.

The ESCWA member countries wish to establish a trade and environment programme at the regional level that deals with the various aspects of this topic. Such a programme should disseminate information through training, provide technical assistance, and extend advisory services to the member States. ESCWA members should start working towards initiating an eco-labelling scheme at the regional level in order to provide them with easy access to the markets of industrialized countries. Such schemes can be based on ISO 14022.

⁶¹ Hussein Abdallah, "Implications of WTO on GCC oil and gas", (Cairo, 1999), p. 8.

⁶² *Al-Hayat*, (in Arabic), 10 May 1999, p. 12.

⁵⁸ WTO, "Background document...", p. 17.

⁵⁹ Greenpeace, "Free trade or biodiversity...", op. cit., p. 2.

TABLE 1. MULTILATERAL ENVIRONMENTAL AGREEMENTS RATIFIED BY ESCWA MEMBER COUNTRIES
(January 1997)

Title of instrument/year of adoption	Total number of countries that have been ratified/acceded	Date of entry into force of the instrument	ESCWA member countries that had ratified/acceded to the instrument by the reporting period	Total number of ratifying/acceding ESCWA member countries
Convention on International Trade in Endangered Species of Wild Fauna and Flora, (1973)	134	July 1975	Egypt, Jordan, Saudi Arabia (1996)	3
Vienna Convention for the Protection of the Ozone Layer (1985)	162	September 1988	Bahrain, Egypt, Jordan, Kuwait, Lebanon, Qatar (1996), Saudi Arabia, Syrian Arab Republic, United Arab Emirates, Yemen (1996)	10
Montreal Protocol on Substances that Deplete the Ozone Layer (1987)	160	January 1989	Bahrain, Egypt, Jordan, Kuwait, Lebanon, Qatar (1996), Saudi Arabia, Syrian Arab Republic, United Arab Emirates, Yemen (1996)	10
Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (1989)	105	May 1992	Bahrain, Egypt, Jordan, Kuwait, Lebanon, Oman and Qatar (1996), Saudi Arabia, Syrian Arab Republic, United Arab Emirates	10
Convention on Biological Diversity (1992)	163	December 1993	Bahrain (1996), Egypt, Jordan, Lebanon, Oman, Qatar (1996), Syrian Arab Republic (1996), Yemen (1996)	8
United Nations Framework Convention on Climate Change (1992)	163	March 1994	Bahrain, Egypt, Kuwait, Lebanon, Oman, Qatar, Saudi Arabia, Syrian Arab Republic, United Arab Emirates, Yemen	10
United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa (1994)	54	December 1996	Egypt, Jordan, Lebanon, Oman	4
United Nations Convention on the Law of the Sea (1982)	110	November 1994	Jordan, Lebanon, Saudi Arabia	3
Convention on Nuclear Safety (1994)	26	October 1996	Lebanon	1
Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (1980)	21	March 1986	Egypt, Lebanon (1996), Syrian Arab Republic	3
Kuwait Action Plan 1978 ^{a/}	8 ^{a/}	1978	Bahrain, Iraq, Kuwait, Oman, Qatar, Saudi Arabia, United Arab Emirates	7
Red Sea and the Gulf of Aden Action Plan, (1982) ^{b/}			Egypt, Jordan, Oman, Saudi member Arabia, Yemen	5

Sources: ESCWA, based on supplied Governments and international organizations acting as depositaries for the respective conventions; and UNEP, Register of International Treaties and Other Agreements in the Field of the Environment 1996 (Nairobi, 1997).

^{a/} The Islamic Republic of Iran is not an ESCWA member.

^{b/} UNEP initiated regional seas programmes.

TABLE 2. EXPORTS OF ESCWA MEMBER COUNTRIES BY STANDARD INTERNATIONAL TRADE CLASSIFICATION SECTION ((1996) (1985-1999)
(Millions of US dollars)

Year	Food and live animals	Beverages and tobacco	Crude minerals	Mineral fuels	Animal and vegetable oils and fats	Chemicals	Manufactured goods by material	Machinery and transport equipment	Miscellaneous Manufacture	Total (including section 9)
1985	879.3	65.3	1 037.6	57 368.9	5.4	1 233.3	1 774.5	1 502.7	557.6	78 463.6
1990	1 987.8	197.4	1 440.3	89 585.6	26.3	4 354.3	4 324.8	1 719.4	1 608.9	107 883.5
1991	1 935	296.1	937.2	78 174.2	69.5	3 528.2	3 935.8	2 480.5	1 829.2	94 155.9
1992	1 542.2	181.0	938.8	90 367.3	78.4	3 299.2	2 944.1	1 265.3	1 063.5	104 321.2
1993	1 758.3	264.3	927.8	79 979.9	97.7	3 314.5	3 493.1	1 486.4	1 243.8	93 163.8
1994	1 659.4	252.5	1 235.1	80 147.4	186.5	4 247.6	3 945.1	1 411.1	1 454.9	95 105.7
1995	1 667.4	214.2	1 078.2	71 676.8	344.5	5 956.6	4 493.0	1 373.9	1 276.5	108 483.9
1996	1 993.9	169.4	1 122.5	88 185.3	203.8	5 371.0	3 838.6	1 639.2	1 404.2	128 490.7
1997	1 680.6	183.6	1 053.1	31 618.9	194.8	1 730.9	3 018.3	1 215.4	1 364.8	123 548.5

Source: ESCWA, Statistical Abstract of the ESCWA Region, No. 19 (E/ESCWA/STAT/1999/9).

TABLE 3. GEOGRAPHICAL DISTRIBUTION OF EXPORTS FOR ESCWA MEMBER COUNTRIES
(Millions of US dollars)

Country and year	Arab world	ESCWA members	Europe	European Union	Americas	United States	Canada	Asia	Japan	India	Africa	Oceania	Not classified	Total
1996 ^{a/}	12 620	12 888	30 367	12 422	14 998	1 800	910	46 490	5 679	2 569	1 348	1 834	70 559	190 695

Source: Computed from figures taken from the Statistical Abstract of the ESCWA Region No. 19 (E/ESCWA/STAT/1999/9).

^{a/} The only year data on exports of the ESCWA region were available was 1996; Iraq was excluded owing to lack of data.

V. IMPLICATIONS FOR EGYPT OF THE ISSUES NEGOTIATED IN THE WTO COMMITTEE ON TRADE AND ENVIRONMENT

Since the 1970s, Egypt has followed a plan aimed at economic growth. It has pursued open economic policies and encouraged export-oriented industries and foreign investment. In the late 1980s and during the 1990s, Egypt began to reap the rewards of this policy. At the same time, it focussed on the environment with the establishment of the Egyptian Environmental Affairs Agency. It also promulgated Law No. 4 of 1994 as the Law for the Environment, and established the Ministry of State for Environment Affairs in 1997.⁶³

Egypt's main concern is to achieve economic growth and deal with its chronic current deficit account. One way to do this is through achieving a better balance of trade, which has been worsening over the years. The aim of the Egyptian Government is to enhance exports and participate actively in a liberalized multilateral trading system. This is evident, since Egypt is one of the five ESCWA member countries that are WTO members. Egypt is also considered the most aware of trade and environment issues, especially those negotiated at the Committee on Trade and Environment. Egypt has been an active negotiator at the Committee meetings and participated in the discussions leading to the completion and submission of the Singapore Report.

A. TRADE AND ENVIRONMENT ISSUES IN EGYPT

Among the ESCWA member countries, Egypt is the most prepared to negotiate and discuss trade and environment issues. At the Ministry of Foreign Affairs, a Committee negotiator has considerable experience in dealing with these issues. The Ministry of Economy and Foreign Trade has several officers working on the issues of trade and environment and has established the negotiating position of Egypt with regards to trade and environment. Most importantly, in 1995 the Egyptian Government established the Subcommittee on Trade and Environment as part of the Permanent Follow-up Committee for the Uruguay Round Results. The Egyptian Subcommittee on Trade and Environment is headed by the Director of the Egyptian Environmental Affairs Agency and includes staff members of the International Trade Sector, the Egyptian Export Promotion Center, Ministry of Foreign Affairs, Ministry of Industry, Ministry of Agriculture, Ministry of Planning and Land Reclamation, Ministry of Petroleum, the Egyptian Organization for Standardization and Quality Control, Egyptian Businessmen Association, the General Union for Chambers of Commerce, and General Union of Egyptian Industries.

The Subcommittee was established because of the increasing importance of the interrelation between trade and the environment and its impact on many exporting sectors. Its tasks are: (a) to study the relationship between trade and environment, to follow-up on the work of the Committee, and to produce an Egyptian negotiating position concerning the Committee on Trade and Environment issues to be relayed to the Egyptian negotiators in Geneva; (b) to study Committee recommendations and conclusions and to highlight their impact on Egyptian exports and competitiveness; (c) to study and analyse papers produced by UNCTAD on trade and environment in order to adopt a sound negotiating position; (d) to study the possibility of obtaining bilateral or multilateral technical assistance to build human resources capacity related to trade and environment, and to establish national regulations related to eco-labelling, and (e) to prepare notifications required by WTO and to study the possibility of benefiting from the advantages given to developing countries, including bilateral and multilateral technical assistance.

Despite Egypt's participation in the Committee on Trade and Environment negotiations and the establishment of the Subcommittee, there is still room for improvement in capacity building. Securing Egypt's position in world trade requires the input of additional trade and environment experts from both the public and private sectors. The need for professionals is required for the purpose of informing enterprises, especially SMEs about important trade and environment issues.

⁶³ ESCWA, 'Foreign direct investment: Legislation Reflecting Environmental Concern in the ESCWA Region' (E/ESCWA/ED/1997/11) (New York, 1998), p. 26

B. IMPLICATIONS OF COMMITTEE ISSUES FOR TRADE IN EGYPT

Egypt's largest trading partner is Western Europe, followed by Asia, the Arab countries and North America (see table 4). Since the European countries have the most stringent environmental regulations, apply strict standards and have a number of voluntary eco-labelling schemes. Egypt's exports are becoming more vulnerable to their environmental policies and measures. Egypt must therefore take all the necessary steps to match European standards. This same analysis applies to Egypt's exports to the United States. With this in mind, one can see why Egypt might face problems concerning its exports and why it might resist the mainstreaming of environmental issues in the WTO agreements. Egypt recognizes the importance of clean production, but it is not likely to accept the addition of the environment as a subject for negotiations in the WTO ministerial meeting, unless industrialized countries fulfil their part of the agreements by extending financial and technical assistance to developing countries to allow them to change their lines of production "into green".

TABLE 4. EGYPT'S PRINCIPAL DOMESTIC EXPORTS BY COMMODITY (1994-1998)
(Millions of Egyptian pounds)

Commodity	1994	1995	1996	1997	1998	Average 1994-1998
Petroleum oil, crude	2 685	2 383	2 773	2 272	551	2 133
Cotton, raw	791	517	312	375	538	507
Cotton yarn	1280	1 039	657	954	767	939
Cotton fabrics	41	371	301	356	184	251
Clothing manufactured	780	858	812	880	1 133	893
Petroleum shale oils other than crude	798	757	1 833	1 906	1 314	1 322
Sugar cane, refined	0.3	8	4	0.3	0.6	3
Oranges	28	44	59	48	29	42
Rice	268	193	400	242	457	312
Potatoes	98	347	271	140	147	201
Aluminium bars, rods, angle shapes and sections	405	31	23	35	20	103

Source: Egypt, Central Agency for Public Mobilization and Statistics, Statistical Yearbook, 1992-1997 (Cairo, 1998); and Statistical Yearbook, 1992-1998 (Cairo, 1999).

Egypt's main export is oil followed by textiles or cotton (raw, yarn and fabrics), as shown in table 5. Environmental measures and standards might affect oil exports; however, since oil is produced by large enterprises, namely transnational corporations, changes in production modes will be easier.

TABLE 5. EGYPT'S FOREIGN EXPORTS (1994-1998)
(Millions of Egyptian pounds)

Region	1994	1995	1996	1997	1998	Average 1994-1998
All regions	11 924.5	11 953.9	12 277.1	13 334.7	10 866.6	12 071
Arab countries	1 785.4	1 688.4	1 791.1	1 752.4	1 743.8	1 752
Eastern Europe	1 145	1 242.2	1 362.3	1 189.5	1 047.3	1 197
Western Europe	4 997.1	5 035.3	5 221.5	5 079.6	3 885.5	4 844
Asian countries	2 280	1 765	1 989.8	2 718.6	1 455.6	2 042
African countries	93	97.6	165.4	203.9	122.5	136
North America	1 325.3	1 868.7	1 650.8	1 597.6	1 434.2	1 575
South America	27	3.5	5.2	6.2	24	13
Central America	19.7	40.6	32.9	61.3	67.1	44
Oceania	4.3	5.5	6.2	10.9	13.6	8
Other regions	246.5	2 06.6	51.9	7 14.7	1 073.1	459

Source: Egypt, Central Agency for Public Mobilization and Statistics, Statistical Yearbook, 1992-1997 (Cairo, 1998); and Statistical Yearbook, 1992-1998 (Cairo, 1999).

Western Europe's imports from Egypt include textiles and agricultural products, which are subject to high environmental standards and regulations. In cotton and textile production, there are many environmental concerns that might influence consumer preferences. Concerns about textiles range from the raw material to the packaging stage. A multitude of questions can arise concerning the pesticides and insecticides used in the cultivation of raw materials, the type of dye used in the colouring process, the amount of water utilized and wasted, the types of bleach, and the kind of product packaging prior to exporting. Some eco-labelling schemes require a detailed reply to all these questions. Other countries might go as far as reporting on the conditions under which the labour force was working, as well as the average age of labourers. Eco-labels for clothing could also pose problems for Egyptian exporters and cotton farmers. New labels now require an indication of the variety of non-product-related process and production methods such as the amount of water used while coloring and bleaching the products. Consumers in industrialized countries are becoming increasingly sensitive to these details which shape their consumption preferences. Egypt should disseminate information about these measures and relay these requirements to its producers, especially SMEs.

Textiles and clothing are two important exports for the Egyptian economy. They account for 25 per cent of total exports and provide subsistence for approximately 2 million people. An average of 1 million workers in the agricultural field (mainly cotton farming) and the other 2 million work in the production of textiles and clothing and in the commercial process of selling, buying and marketing.⁶⁴ Egypt has faced problems concerning textiles and clothing production. Many exporters have had to change the Azo dye used in colouring; others have had to change the packaging from non-biodegradable to biodegradable and recyclable plastic packaging. However, a significant number of textile enterprises in Egypt have already begun to comply with the standards and regulations of their trading partners. Once again, large companies are able to adjust, while SMEs are not. They have not been able to change their production processes or packaging materials to meet the environmental requirements.

For agricultural products, many requirements and standards must be met. The level of pesticides, insecticides and fertilizers used should match those requested by trading partners. Exports of potatoes to Europe have faced some problems concerning brown rot disease. Large quantities of Egyptian potatoes have been rejected. However, many Egyptian farmers believe that this disease originated is already in the bulbs which are imported from industrialized countries. Rice and oranges are also important export products. Rice is mainly exported to the Arab countries and oranges to Europe. Here, farmers have to be aware that the quality and the levels of pesticides and insecticides used should comply with European regulations.

In sum, Egypt has to maintain its position as an exporter by using all available means to eliminate trade barriers. Egypt's opposition to such barriers, coupled with the lack of financial and technical assistance from developed countries, justifies Egypt's unfavourable position towards mainstreaming environmental issues in the WTO agreements, as they fear that this could impose some additional barriers to trade.

C. THE NEGOTIATING POSITION OF EGYPT ON TRADE AND ENVIRONMENT

The negotiating position of Egypt was announced at the High Level Symposium on Trade and Environment, which took place in Geneva on 15 and 16 March 1999. Egypt realizes that there has been a distinct lack of progress related to the goals the international community set for itself at UNCED. There has been obvious-- and regrettable-- backtracking from the obligations undertaken by the developed countries with regards to improving market access for the exports of developing countries, the transfer of technology, and provisions for new and additional resources.⁶⁵ The position of Egypt with respect to trade and environment takes the above into account and is outlined below.

⁶⁴ Information was provided by a source at the Egyptian Academy for Scientific Research and Technology during fieldwork to Egypt.

⁶⁵ With regards to financial resources, it was estimated that developing countries would require US\$ 125 billion in grants and concessionary loans from the international community to implement the activities specified in Agenda 21. This requirement remains unfulfilled.

(a) *Linkages between trade and environmental policies*

Egypt believes that the debate over the interrelationship between trade and environmental policies could be placed on the right track, if better policy coordination took place between trade and environment officials, at both the national and international levels to ensure observance of WTO and MEA commitments. Egypt believes that sustainable development is the objective of coordinated trade and environmental policies, as is confirmed in Agenda 21. The special and differential treatment for developing countries and other commitments undertaken at the Uruguay Round should be fully implemented in order to enable these countries to benefit from the international trading system while at the same time conserving the environment. Egypt calls for giving serious consideration to promoting positive measures such as financial assistance, transfer of technology and capacity building for environmental purposes.

(b) *Mainstreaming the environment in the WTO agreements*

Egypt regards article XX of the General Agreement on Tariffs and Trade as the legally binding provision that reflects the practical relationship between trade and environmental policies. It does not see a need to go beyond existing WTO provisions to accommodate trade measures taken pursuant to MEAs. Egypt believes that there is considerable scope for WTO members to use trade measures for environmental purposes consistent with WTO rules. It strongly cautions against any attempt to modify or redraft article XX. As it stands, article XX addresses a wide range of environmental concerns for the conservation of natural resources, the protection of living organisms, and the protection of global concerns such as the ozone layer. Egypt suspects that attempts to modify article XX are aimed at imposing protectionism and new (disguised) barriers to trade.

Clearly, Egypt opposes the inclusion of "environment" in the agenda of the next round of trade negotiations. The reason is that the Committee is still carrying out its mandate and has not concluded its analysis of the relationship between trade and environment and identification of win-win situations. Egypt opposes negotiations on the environment in the next round because disguised barriers to trade could be erected, and that would further limit market access opportunities for its exports and the exports of other developing countries. This would add to their marginalization and increased economic and social suffering. In the absence of concrete solutions addressing the needs and concerns of developing countries, there is little chance that agreement will be reached on environmental issues.

(c) *Market access*

Egypt believes that increased market opportunities are of great importance as they can enable Egypt to obtain the resources needed for the implementation of developmental and environmental policies at the national level. This would help alleviate poverty and ensure the sustainable management of the country's resources. Studies by UNCTAD show that textiles and clothing, agriculture and forest products are the primary sectors for developing countries; however, they are also the most vulnerable to environmental standards and requirements that have been unilaterally set by importing countries without the necessary scientific evidence to prove their applicability. These requirements are included within the wide range of eco-labelling schemes which might have a negative impact on market accessibility for developing countries at a time when these countries need to make additional progress in this area and ensure that previous promises concessions are actually being fulfilled.

Technology transfer is another important issue related to Egypt's market accessibility. It is an integrated part of sustainable development, particularly the transfer of environmentally sound technologies. Egypt has called upon developed countries to provide easy access to clean technology on a concessional basis.

The issue of environmental benefits deriving from the elimination of agricultural subsidies, discussed at the Committee meeting, is problematic for Egypt. Egypt is a net importer of food and the benefits that could be reaped from more liberalized trade and market opportunities for agricultural products could offset the elimination of agricultural subsidies. The elimination of such subsidies might cause agricultural supply shortages in the international markets; this could lead to higher prices and consequently a bigger food bill for Egypt.⁶⁶

⁶⁶ This entire section reflects Egypt's position as presented at the High Level Symposium on Trade and Environment held in Geneva on March 16 1999.

In conclusion, stringent environmental policies and measures and eco-labelling are instruments that will affect market accessibility for Egyptian exporters. The Egyptian Government should do more in terms of raising awareness and enticing companies to use cleaner technology. The only eco-label in Egypt is the ISO 14000 certificate, which has been given to more than 1000 companies. The relative lack of awareness is a serious problem, although Egypt is in a better position than other ESCWA member countries in this regard. Efforts to address trade and environment issues should be institutionalized in a section where all concerned parties can be found and where WTO publications and notifications about standards, packaging, agriculture, environment and textiles are accessible. Notwithstanding the legitimate position of Egypt in relation to mainstreaming environmental issues in the WTO agreements, it still has to work towards raising the level of awareness concerning issues of trade and environment in both the public and the private sectors.

D. CONCLUSIONS AND RECOMMENDATIONS

Egypt has a right to claim the promised financial and technical assistance, but it must also have a clear strategy or programme that reflects its willingness to clean up production and institute proper handling processes. Concerned government officials need to localize their efforts. Egypt could devise a multidisciplinary programme to advise, raise awareness and, if possible, extend technical assistance to those enterprises whose livelihood depends on exporting products that comply with trading partners' conditions. This requires the training of human resources to enable them to address issues relating to trade and environment.

Trade and environment programmes could be institutionalized in a section or a unit, probably hosted by the Egyptian Environmental Affairs Agency since environmental issues boil down to environmental technicalities. However, this unit should incorporate personnel from the Egyptian Organization for Standardization and Quality Control, the Ministries of Agriculture and Land Reclamation, Industry and Economy and Trade and the agency itself. The programme has to be clear and informative and must have an educational aspect. It should include training the provision of technical assistance and capacity building. This programme could obtain resources from different private and public institutions that deal with export promotion. When such a programme is institutionalized, industrialized countries will sense Egypt's determination to achieve sustainable development. Therefore, Egypt needs to prepare a blueprint that will encourage developed countries to provide assistance.

In the absence of such a programme, while keeping in mind that sustainable development requires dialogue between the trade and environment communities, the Ministry of Economy and Foreign Trade and the Ministry of State for Environmental Affairs should cooperate in order to reach sound decisions related to trade and environment. SMEs in particular have to be trained, educated and offered assistance relative to trade and environment issues.

Egypt should also initiate an eco-labelling scheme based on international standards such as ISO 14022, or cooperate with the League of Arab States in initiating an Arab eco-labelling scheme. This could be beneficial for all Arab countries, including ESCWA members. Once Egypt has a local or Arab eco-labelling scheme, the process will become easier.

Egypt may also wish to request that the WTO notification system be revised, as most notifications are either vague or difficult to understand. In addition, not all WTO Member countries are fulfilling their obligation to submit notifications under the agreement on Sanitary and Phytosanitary Measures and the Agreement on Technical Barriers to Trade. Egypt should continue to participate in the Committee on Trade and Environment discussions and should be present and active in all multilateral trade and environmental forums, in order to take part in making decisions that promote the well-being of its producers and exporters. Finally, Egypt could intensify efforts to push industrialized countries to fulfil their part of positive "implementation" which entails granting financial and technical assistance, extending capacity building and disseminating environmentally sound technologies on favourable terms.

VI. IMPLICATIONS FOR JORDAN OF THE ISSUES NEGOTIATED IN THE COMMITTEE ON TRADE AND ENVIRONMENT

Jordan has been working on opening up its economy since the beginning of the 1990s. Efforts aimed at liberalizing trade and encouraging investment has been manifested through the promulgation of investment Law No. 16 of 1995 and the establishment of the Jordanian Export Development and Commercial Centres Corporation (JEDCO). Jordan's attempts to liberalize trade led to its acceptance by the WTO as an observer and to the launching of negotiations with the EU for a Euro-Mediterranean Partnership Agreement.

Jordan is currently at an advanced stage of the WTO accession procedures. The process began with reducing tariffs and modifying laws as required by the WTO. It is expected that the Parliament will approve the new "legal environment" law in order to prepare Jordan to become a WTO member. Jordan has also ended the final stages of negotiation with the EU to conclude a free-trade agreement. All these steps have been initiated in order to open new markets for Jordanian products, expand exports and help the economy achieve higher rates of growth. It follows that since Jordan has now opened its economy and liberalized trade by reducing tariffs, it will oppose barriers to trade that might reduce opportunities for market access and the volume of its exports.

A. JORDAN'S ENVIRONMENTAL SITUATION

As is the case with most ESCWA member countries, Jordan's environmental awareness dates to the 1970s. At that time, the government focused mainly on protecting natural resources, especially water, as the country has always faced a serious water shortage problem. During that period, environmental institutions consisted of small units within various ministries. The Jordanian Government promulgated Law No. 12 of 1995 as the Environmental Protection Law; the executing agency is the General Corporation for Environmental Protection under the Ministry of Municipal and Rural Affairs and the Environment. The Corporation was set up to protect and enhance environmental conditions. It formulates environmental policies and drafts the required natural environment strategy. The Corporation is also entrusted with measuring environment factors and with monitoring and inspecting as well as with setting standards and conditions.⁶⁷ The Corporation is currently formulating national Agenda 21 for Jordan with the assistance of the United Nations Development Programme's Capacity 21 project. This is the activity most closely related to sustainable development the Corporation has carried out.

Some assistance has been extended for environmental purposes by industrialized countries. The German Agency for Technical Cooperation (GTZ) is assisting in the drafting of the national environmental action plan for Jordan. GTZ is also offering training courses on environmental management and environmental impact assessment (EIA). The Canadian International Development Agency (CIDA) is carrying out a project aimed at environmental management, public awareness and capacity building for the enforcement of the environmental law. The European Union has also prepared a programme for proper law enforcement. And finally, the World Bank is carrying out several studies on trade and environment.

B. TRADE AND ENVIRONMENT ISSUES IN JORDAN

The impact of trade and environment issues, particularly those discussed at the Committee meetings, are not yet on the agenda for decisions by the General Corporation for Environmental Protection or the Ministry of Industry and Trade. Some knowledge of these issues has recently been gained by a few officers, especially those who are close to the WTO preparatory committees, and have participated in the accession procedures. However, public officers at both the Corporation and the Ministry generally do not have sufficient knowledge on issues related to trade and environment, mainly owing to the fact that in Jordan, the environment is not assigned enough importance since there are more compelling issues that need to be addressed. There is little awareness of the interrelated issues of trade and environment in either private or the public sector. Neither the Ministry nor the Corporation has units or departments for working on environment and trade issues. However, several Jordanian institutions have some knowledge of such issues. The Amman Chamber of Industry has one

⁶⁷ General Corporation for Environmental Protection, "Environmental Protection Law" (Amman, 1995), pp. 5-10.

of its staff working on trade and environment themes. The officer is well-informed on "eco-labelling" and has already organized two seminars on ISO 14000 and is in the process of preparing for several others.

The Jordan Institute of Standards and Metrology has a staff member processing information on environmental standards and requirements that could be used as barriers to trade. The Institute will be the "enquiry point" once Jordan joins the WTO, while the "notification point" will be located at the Ministry of Industry and Trade. Notification and enquiry points are established in all WTO member countries in order to increase transparency with regards to requirements and standards, in keeping with the provisions of the Agreement on Sanitary and Phytosanitary Measures and the Agreement on Technical Barriers to Trade. Notifications are usually sent by a country to other WTO members. The notification point in a country receives notifications from all WTO members through the WTO secretariat, which then distributes them to concerned parties in the member countries for comments, which are eventually submitted to the WTO. The duty of enquiry points is to answer enquiries especially from non-Jordanians, about Jordan's environmental standards. The Jordan's Institute of Standards and Metrology needs to advertise its status as the enquiry point in order to inform local exporters about its functions. Since Jordan is not yet a member, it has not received any notifications or enquiries.

JEDCO is concerned with trade and environment because it deals with trade promotion and the enhancement of export quality. It focuses on requirements and standards and has begun a campaign for ISO 14000. However, JEDCO is finding it increasingly difficult to convince the private sector that ISO 14000 certification is beneficial, because entrepreneurs are driven by profit and ISO 14000 certificate is costly. Although several institutions helping companies meet related expenses, the private sector will not be able to obtain the ISO 14000 certification easily. Three Jordanian companies have done so to date, while 33 others have submitted applications to obtain the certificate. The Higher Council for Science and Technology is extending grants to help companies get the ISO 14000 certificate, covering 50 per cent of the costs.

Activities related to trade and environment in Jordan are focused mainly on obtaining the ISO 14000 and 14001 certificates. After the Montreal Protocol, certain funds were dispersed by the Multilateral Fund of the Montreal Protocol to help Jordanian companies clean up their production process through the use of technologies that reduce the emission of Chlorofluorocarbons, or through the use of environmentally friendly alternatives. Companies producing aerosols, air-conditioners, refrigerators, polyurethane foam and even petrol refineries, have benefited from this assistance and have consequently changed their production technologies.

Packaging is still traditional in Jordan. Very few companies use biodegradable plastic and recyclable packaging. This could be because most Jordanian exports are directed to the Arab countries and Asia, where packaging and handling requirements are not as strict as those found in the EU or the United States. In addition, few exporters are aware of eco-labelling schemes based on life-cycle analysis. Only companies who are producing for transnational corporations are aware of buyer and consumer preferences in industrialized countries. JEDCO has now a packaging unit where students have to follow the programme set by the British Institute for Packaging. Part of this programme deals with eco-labelling.

Except for the ISO 14000, eco-labels are non-existent in Jordan. One local company requiring the green-dot label for export purposes resorted to an establishment outside of Jordan. According to several officials, the problem lies with the EU-Jordanian free-trade (partnership) agreement. European insistence on eco-labels is a barrier to trade, as such labels are difficult to obtain. It will take a long time before Jordanian products penetrate the EU market. This will be to the disadvantage of Jordanian exports, while privileges will be granted to European products, especially since Jordanian custom duties will gradually drop 40 per cent and then 100 per cent by 2010 for the benefit of EU products. This will certainly pose a huge challenge for Jordan. What is required is a programme designed to meet the demands and standards of the international market.

C. IMPLICATIONS OF COMMITTEE ISSUES FOR TRADE IN JORDAN

Jordan's primary exports are food and livestock followed by phosphates, potash, manufactured goods, pharmaceuticals and fertilizers (see table 6 for average exports of these commodities from 1993 to 1997). Jordan's largest trading partners are the Arab countries, followed by Asian countries and the EU (see table 7).

TABLE 6. JORDAN'S DOMESTIC EXPORTS BY COMMODITY (1993-1997)
(Millions of Jordanian dinars)

Commodity	1993	1994	1995	1996	1997	Average 1993-1997
Total ^a	691	794	1 005	1 040	1 066	919
Food and live animals (live animals, vegetables and fruits)	140	91	100	160	181	134
Phosphate	98	100	105	127	135	113
Potash	86	93	122	126	99	105
Pharmaceuticals	70	91	87	104	132	97
Fertilizers	56	89	113	129	94	96
Manufactured goods	81	86	97	119	111	99
Machinery and transport equipment	24	39	46	24	35	34

Source: Jordan, Department of Statistics, *Statistical Yearbook 1997*, No. 48 (Amman, September 1998), p. 479.

a/ Total export items include products that are not listed here

TABLE 7. GEOGRAPHICAL DISTRIBUTION OF JORDAN'S DOMESTIC EXPORTS (1993-1997)
(Millions of Jordanian dinars)

	1993	1994	1995	1996	1997	Average 1993-1997
Total	691	794	1 005	1 040	1 066	919
Arab countries	285	337	452	485	554	423
European Union	28	41	63	86	78	59
Other European countries	33	14	17	19	13	19
United States	7	9	15	14	5	10
South American countries	5	7	4	5	4	5
Asian countries	199	218	289	276	260	248
Other countries	134	169	164	154	152	155

Source: Jordan, Department of Statistics, *Statistical Yearbook 1997*, No. 48 (Amman, September 1998), p. 479.

Note: Arab countries included in the table are mainly ESCWA member countries.

Most of the food and live animal exports target the Arab markets which apply the same environmental standards as Jordan. So far, environmental trade barriers have not been imposed on food imported from Jordan. However, Jordan has to pre-empt any such action in anticipation of the Arab countries joining the WTO, as they will have the option of buying the cleanest products found on the international market. Therefore, Jordanian exports of food and live animals have to be competitive. For this purpose, Jordanian farmers need to enhance the quality of their products and adhere to international standards and requirements, especially with regard to the amounts of pesticides and insecticides used for agricultural products.

Other items include phosphates and phosphate-based fertilizers. Although most of them are exported to the Asian market, it is expected that with the signing of the Euro-Mediterranean Partnership agreement between Jordan and the EU, the export of these commodities to the EU market will expand. It is worth mentioning that with Jordan's membership in the WTO, market access for these products will be linked to their compliance with environmental and health standards. In the near future, Jordan's main phosphate production will be restricted to the Shidiya mine, one of the three principal phosphate mines in Jordan (the other two have been exhausted). However, phosphate mined from Shidiya is known to have a higher cadmium content than the limits set by the EU.

Cadmium is a rare metal that might cause deformities, renal failure, and bone pains when it is found in high concentrations. Consequently, the removal of cadmium from phosphoric acid would be a beneficial strategy for Jordan. The cost-benefit analysis for the removal of cadmium concludes that, although the cost

would increase the price and reduce exports of phosphates-based fertilizers, it would allow Jordan access to new markets.⁶⁸

In order to avoid the looming threats associated with mainstreaming environmental concerns, Jordan has the opportunity to enhance environmental safety in the production of phosphate and phosphate-based fertilizers. Once free of cadmium, they might become a more successful export which could generate much-needed foreign currency to help Jordan achieve economic growth.

D. CONCLUSIONS AND RECOMMENDATIONS

Environmental and health concerns in places such as the United States and the EU can have adverse effects on the exports of Jordan. The Jordanian Government which is in the process of becoming a WTO member, should bolster its position in existing markets by taking into account trade and environment issues. The impact of issues negotiated at the Committee on Trade and Environment meetings could be felt in Jordan, with market access for exports limited for environmental reasons. The development of clean production, which depends on the availability of clean technologies, could also be affected. Such technologies can be obtained under favourable conditions. Jordan should work towards promoting clean technology, while at the same time trying to obtain environmentally sound technologies through grants or under favourable conditions.

Private and public trade-promoting institutions should concentrate on capacity building. Staff from the private and public sectors should be trained on the interrelated issues of trade and environment. For the further dissemination of information, lectures and seminars conducted for Jordanian exporters on the risks and opportunities of trade and environment are imperative.

Cooperation between the Ministry of Industry and Trade and the General Corporation for Environmental Protection is essential to institutionalize trade and environment concerns. This can be achieved by establishing a unit responsible for developing an educational information-oriented programme that could also extend technical assistance. Such a programme could be financed by those working in trade, in the private and public sectors, as well as with funds extended by international organizations. UNCTAD can also assist by providing training to unit personnel.

A national programme to address the environmental aspects of producing and exporting phosphate and phosphate-based fertilizers should be devised. It could keep track of standards required by trading partners and control the environmental quality of these products. It could also devise a strategy to enhance the industry's environmental management. A similar plan could be devised for other important exports as well.

When such programmes are activated, it will become easier for Jordan to draft a national blueprint for cleaner production. This could be submitted to international environmental organizations and to industrialized countries to demonstrate the countries' commitment and determination, thus encouraging industrialized countries to extend technical and financial assistance. As a WTO member, Jordan should attend all Committee meetings and participate in decision-making in order to promote the soundness of its exports. In addition, Jordan must begin working on developing its own local eco-labelling scheme. After executing the preliminary outline, it should consult with the experts of the ISO office in the region in order to establish internationally-approved criteria.

⁶⁸ Bashir Al-Zu'bi and Yusuf Mansour, "The effect of environmental legislation on fertilizers exports: the case of Jordan", a paper presented at the 1999 Medpolicies Policy Seminar: METAP III Medpolicies Initiative Regional Policy Seminar, Harvard Institute for International Development (Boston 1999), pp. 2-19.

VII. IMPLICATIONS FOR LEBANON OF ISSUES NEGOTIATED IN THE COMMITTEE ON TRADE AND ENVIRONMENT

Following long years of civil strife, Lebanon's development efforts have finally started to bear fruit. Lebanon is characterized as having a stable currency, moderate economic growth, and a low-rate of inflation. The Lebanese Government has a long tradition of open trade policy and has taken steps towards further trade-liberalization by signing the Arab free trade agreement and three free-trade agreements with Egypt, Kuwait and the Syrian Arab Republic. Currently, it is in the last stages of negotiation with the EU on the two parties' Euro-Mediterranean Partnership agreement. Most importantly, Lebanon was granted observer status in the WTO in April 1999, and the Ministry of Economy and Trade is preparing to initiate the protocol of accession. All of these developments reflect Lebanon's belief in the importance of export promotion to economic growth.

A. LEBANON'S ENVIRONMENTAL SITUATION

Environmental issues were institutionalized recently with the establishment of the Ministry of Environment in 1993. The Ministry is active in developing protected areas, implementing activities under the ozone and the biodiversity projects, and publishing newsletters on various environmental issues. Other activities are initiated by the Ministry with the support of international organizations such as UNEP, UNDP and some NGOs such as the GTZ. The Ministry is also a partner in the Capacity 21 initiative in Lebanon, which has been instrumental in implementing a number of environmental projects.

To date, environmental laws do not exist in Lebanon with the exception of an environmental code still awaiting Parliamentary approval. This code, which is based on a French environmental code, was submitted to the Council of Ministers for ratification. With respect to environmental standards and regulations, the Lebanese institution responsible for setting standards, LIBNOR, has only been recently revitalized. The UNDP Capacity 21 initiative is a vital programme for the enhancement of environmental protection in Lebanon. It is aimed at integrating environmental concerns and incorporating the idea of sustainable development into the plans and programmes of different sectors, especially the private sector. Capacity 21 is currently working on disseminating the Good Housekeeping Guide (developed by GTZ and Sustainable Business Associates of Switzerland) among industries. The Guide includes simple and practical ideas to help small and medium-sized enterprises reduce costs, increase income productivity and minimize the environmental impact of various activities. It has also worked on a trade and environment case study focusing on chemicals and agro-food industries in Lebanon. The study should help decision makers establish appropriate strategies for dealing with the challenges that could result from liberalized trade. In addition, an environmental committee was formed at the International Chamber of Commerce in Beirut. This committee holds the chairmanship of the DELTA chapter of Lebanon, a five-section programme created by Sustainable Business Associates, a Swiss NGO. DELTA has been active in the domain of raising awareness on environmental issues and has translated the Good Housekeeping Guide into Arabic.

B. TRADE AND ENVIRONMENT ISSUES IN LEBANON

On 19 April, 1999, Lebanon was given the green light to proceed with preparations for issuing the WTO. However, Lebanon has not been fully updated on the Committee, and the issues of trade and environment are still new concepts for the Ministry of Economy and Trade. There is a possibility that they will be dealt with within the framework of the Subcommittee on Customs and Non-Customs Procedures, listed under the Targets of the National Committee for the Preparation of Accession to the WTO. The Subcommittee's main task is to study Agreement on Sanitary and Phytosanitary Measures and the Agreement on Technical Barriers to Trade. The Ministry of Environment is better prepared to deal with such issues with the help of the UNDP Capacity 21 initiative.

Lebanon was chosen as task manager for the Mediterranean Commission for Sustainable Development theme of free trade and the environment. The commission is related to the Mediterranean Action Plan of UNEP. The Ministry of Environment and Capacity 21 were commissioned to carry out a case study of Lebanese chemical and agro-food industries. The study addresses the impact of trade liberalization on Lebanese industries. Moreover, Capacity 21 sponsored several research projects carried out by the Ministry of

Environment on the benefits of clean production in both the tanning sector and the olive oil industry in Lebanon.

The Industrial Research Institute which works with LIBNOR to establish regulations, has a number of functions. It conducts tests and controls and grants certificates of conformity for Lebanese exports. The Institute promotes the use of clean technology and is working on establishing a clean production centre for providing data and directing producers toward cleaner production. It is authorized to grant ISO 14000 certificates in Lebanon. It is also ready to begin the difficult task of devising an eco-labelling scheme in the light of various criteria. Had such concerns been harmonized, the task of IRI would be easier, and Lebanese exporters would have no trouble acquiring such certificates.

The Ministry of Industry has developed a draft proposal for the development of Lebanon's industrial sector. The programme targets the modernization of industry through quality improvement, to be achieved through compliance with international standards and specifications. A time frame will be established for quality improvement in order to identify priorities, while taking into account the impact of products on consumer health and the environment and the potential export capacity of products.

Within the private sector, awareness of trade and environment issues depends on firm size and the product's export destination. SMEs are less concerned with such issues, since their products are mainly exported to ESCWA member countries, where requirements and specifications are similar to those applied in Lebanon. However, large firms exporting to the EU and the United States usually obtain the ISO 14000 certificate and conform to their partners' standards and/or those of the American Food and Drug Administration. For example, several food-producing companies now include labels that provide nutritional facts. The information is presented in English, French and Spanish; those exporting to Germany have translated the labels into German. In the area of packaging, these firms have already begun to use biodegradable plastic as well as other recyclable and reusable packaging. However, this practice is not uniform and firms only use such packaging for exports destined for industrialized countries. In general, recyclable and reusable packaging is not yet a common practice among Lebanese exporters.

The ozone project is another trade- and environment-related programme being carried out in Lebanon. A number of firms have already benefited from the Multilateral Fund of the Montreal Protocol, which has extended financial assistance for the use of alternatives gases which are ozone-friendly. Firms producing refrigerators, aerosols and polyurethane foams, as well as fire-fighting units, were given assistantship in changing their production methods through the replacement of CFCs and other harmful gases with harmless alternatives. The project also benefited greenhouses located at six different sites throughout Lebanon by eliminating the use of methyl bromide, the disinfectant gas used for soil fumigation.

C. THE IMPLICATIONS OF COMMITTEE ISSUES FOR TRADE IN LEBANON

Between 1995 and 1998, Lebanese textile exports averaged US\$ 81million—the highest source of revenue for this period, exports and pearls, precious stones and metals averaged US\$ 75 million, machinery and mechanical items US\$ 71 million, base metals US\$ 67 million, and vegetable products and prepared food/beverage/tobacco at US\$ 64 million (see table 8).

TABLE 8. SELECTION OF LEBANON'S BIGGEST EXPORTS BY STANDARD
INTERNATIONAL TRADE CLASSIFICATION SECTION (1995-1998)
(Millions of US dollars)

	1995	1996	1997	1998	Average 1995-1998
Vegetable products	70	75	51	59	64
Prepared foodstuffs; beverages, spirits and vinegar; tobacco and manufactured tobacco substitutes	59	61	64	71	64
Products of chemical or allied industries	48	35	70	87	60
Textiles and textile articles	81	92	78	72	81

TABLE 8 (continued)

	1995	1996	1997	1998	Average 1995-1998
Natural pearls or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal and articles thereof; imitation jewelry; coins	69	82	67	82	75
Base metals and base metal articles	66	67	68	68	67
Machinery and mechanical appliances; electrical equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles	65	78	67	74	71

Source: Derived from data provided by the Trade Information Centre at the Ministry of Economy and Trade in Beirut.

Lebanon's biggest trading partner is the EU with revenues averaging US\$ 142 million, followed by Saudi Arabia (US\$ 91 million), the United Arab Emirates (US\$ 79 million), and the Syrian Arab Republic (US\$ 56 million) for the period 1995-1998. Lebanon's exports to Europe include food and textile items which are subject to stringent environmental and health regulations. Exports to ESCWA member countries comprise the items in table 9, especially food items and vegetables. These are not subject to strict health and environmental regulations, since Lebanon applies those of the ESCWA member countries to which they are exporting. However, this situation cannot continue once these countries, including Lebanon, become WTO members. Sound products will have a comparative advantage in an open trading system. Lebanese products exported to the EU as well as to ESCWA member countries need to abide by appropriate environmental and health standards.

TABLE 9. LEBANON'S EXPORT PARTNERS (1995-1998)
(Millions of US dollars)

Country	1995	1996	1997	1998	Average 1995-1998
Saudi Arabia	86	93	97	87	91
United Arab Emirates	78	110	58	71	79
Syrian Arab Republic	70	70	38	47	56
Kuwait	31	32	29	30	30.5
Jordan	28	38	25	26	29
Egypt	16	17	16	17	16.5
Bahrain	..	11	15	13	13 ^a
Qatar	7	7	7	9	7.5
ESCWA member countries	316	378	284	300	309.5
Germany	18	23	14	23	19.5
France	50	47	46	63	51.5
Italy	12	39	21	19	23
The Netherlands	13	16	17	17	16
Belgium	7	11	9	15	10.5
Spain	8	2	6	6	5.5
United Kingdom	12	16	20	21	17
EU	120	154	133	163	142
Switzerland	10	15	16	24	19
Romania	13	9	5	7	8.5
Bulgaria	5	4	1	2	3
Cyprus	11	8	8	12	10
Russian Federation	12	7	4	3	6.5
United States	31	31	39	47	37
Japan	6	4	4	4	4.5
Other countries	130	125	148	153	139
Total exports	654	735	642	716	687

Source: Derived from data provided by the Trade Information Centre at the Lebanese Ministry of Economy and Trade in Beirut.

a. Average for the period 1996-1998.

The EU is an important trading partner and Lebanon can expand the volume of its exports to this group of countries through better compliance with European standards. With respect to textile products, Lebanese manufacturers should take into consideration all the specifications required in Europe in terms of packaging; (using recyclable/reusable measures); this applies to canned and conserved food. Lebanese producers will pay higher costs if they apply such regulations, but they will also have access to the world market in the long run. Lebanon does not export heavy industrial products whose production might require expensive environmentally sound technologies. These industries that require assistance should look to the environmental projects being run by international organizations in Lebanon.

The Lebanese food industry also has the potential to grow because of the good reputation of Lebanese cuisine. Therefore, a blueprint for expanding such exports should be devised that can help this industry meet environmental and health standards. These could be niche markets for food products where entire life cycles are based on the use of environmentally sound materials and processes. Lebanese producers should devise a strategy to respond to the consumer preference for cleaner production, striving to produce the best quality and creating a comparative advantage in the "clean" food industry. Lebanese producers should pay more attention to handling. They should use recyclable, reusable and biodegradable packaging across the board and not only for foreign exports. As countries become more concerned with environmental protection, traditional packaging will become increasingly unacceptable.

D. CONCLUSIONS AND RECOMMENDATIONS

Lebanon is working hard to expand exports and has taken several steps towards engaging in international trade. However, the Ministry of Trade and the Ministry of Environment have not given enough attention to these issues and have not forged a comprehensive relationship in this regard. Consequently, there is a lack of awareness of the risks and opportunities linked to mainstreaming the environment in international trade issues. Lebanon must maintain its existing export markets and seek every opportunity to secure new markets. Therefore, Lebanon should make an effort to do the following:

(a) Strengthen cooperation between the Ministry of Economy and Trade and the Ministry of Environment by setting up a liaison unit in each ministry;

(b) Have LIBNOR expedite standards-setting-by seeking assistance from ISO. LIBNOR could become the national enquiry point once Lebanon becomes a WTO member. Capacity building is necessary in this respect;

(c) Raise awareness of interrelated of trade and environment issues, and provide professional training to officers and personnel in related public and private institutions. The Chamber of Commerce could hold seminars to train and inform exporters;

(d) Encourage the Institute of Scientific Research to collaborate with the Ministry of Economy and Trade and the Ministry of Environment, to develop a "clean production" programme for strategic industries; technical assistance could be provided to help them clean up their production methods and processes;

(e) Encourage Lebanese firms to obtain ISO 14000 certification;

(f) Request more assistance from international organizations to help improve areas related to trade and environment. ISO could help LIBNOR in setting standards, UNCTAD could contribute to the training of public and private sector officers and personnel on instrumental methods to enhance exports, and UNDP and UNEP could assist in capacity building and in financing environmental projects;

(g) Establish criteria for a Lebanese eco-labelling scheme in order to facilitate eco-labelling procedures for Lebanese exporters.

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