

Assessing Prospects for Business- Environmentalist Cooperation on Trade and Environment Issues

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This paper examines a number of current issues and proposals in trade and environment, and offers an assessment of the likelihood that business and environmentalists will seek and arrive at consensus views on these topics. After reviewing the setting for current cooperative dialogues, the author considers a range of factors which will affect the parties' motivation to negotiate. The author concludes that a convergence of views is possible in a number of issue areas, and offers some ideas to foster cooperation and defuse conflicts.

Introduction

Although the trade and environment debate addresses complex and multifaceted issues, assessments of the likelihood that environmentalists and business representatives will agree on these issues are often oversimplified. Optimistic observers assert that trade objectives and environmental objectives are compatible and that the two sides merely need to realize this fundamental truth. These observers argue that continued growth in international trade cannot occur unless environmental objectives such as natural resource conservation are met. They also contend that the most pressing environmental problems will be addressed only when econo-

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mies are sufficiently developed (i.e., through free trade). The argument does not, however, provide any indication of how or whether business¹ and environmentalists will negotiate and resolve their many disagreements.

Pessimistic observers, on the other hand, are skeptical that the two sides will overcome ideological differences and reach a meaningful consensus. The ideological problem can be summarized in three phrases: business seeks a set of obligations to restrain unilateral governmental behavior; environmentalists permit and encourage unilateral behavior to serve a higher good; and you cannot have it both ways (Morris 1995). The trade and environment literature emphasizes this dichotomy. For example, the Business and Industry Advisory Committee (BIAC) to the Organization for Economic Cooperation and Development (OECD) asserts that "economic growth and development are fundamentally positive forces for the environment," and that "trade measures are only in rare cases an appropriate means of achieving environmental goals" (BIAC 1993, 1). By contrast, one environmentalist argues that many trade delegates have not "accepted that trade is only a means to an end, and not an end in itself. Many politicians have yet to accept that given the ultimate objective of sustainable development, free trade can only take place within the social and environmental limits prescribed by this objective" (Arden-Clarke 1993, 72). Another environmentalist maintains that trade "does not have a sacred wall around it, holding other needs away. The larger goals of societies sometimes will hold trade and all of economics subservient" (Kane 1993, 67).

Few participants in the trade and environment debate adhere strictly to the pessimistic or optimistic view. Nevertheless, optimistic platitudes regarding mutual compatibility are a common feature in the public debate. Conversely, a number of interviews with debate participants suggested that pessimistic views are generally restricted to private fora, perhaps in order to preserve the upbeat mood of conferences. The problem with such perspectives is that they obscure factors affecting the likelihood that business and environmentalists will work to reach agreement on particular issues.

Such factors as ideology, direct interests, "triggering events," and "best alternatives to a negotiated agreement" (BATNAs) are bringing environmentalists and business together to discuss a limited but growing range of issues. A consideration of these factors can provide a richer and more accurate assessment of the likelihood of convergence than the oversim-

plifications of either optimists or pessimists. This paper examines business' and environmentalists' ideology, interests, and BATNAs as well as the impact of triggering events and other factors on their motivation to negotiate across a range of trade and environment issues.

The factor identified most frequently by pessimists—ideology—certainly plays a role in determining whether the two sides seek agreement. If ideological differences between an environmental group and a business are large, they are unlikely to negotiate. For example, one would not expect Greenpeace to enter into a dialogue with Norwegian whalers for a compromise on commercial whaling.

Ideology, however, does not tell the whole story. Although some philosophical views cannot be bridged, potential exists for cooperation on narrower issues for which specific direct interests converge. This kind of political cooperation is a political art—forging a consensus between antagonistic parties on targeted issues. Despite ideological differences, agreement on specific issues is possible and offers grounds for optimism. For example, Corning, Inc. may not have supported the U.S. Clean Air Act before the company went into the catalytic converter business, but it would now join with environmentalists to oppose the weakening of tailpipe emissions standards (Smith 1995).

A third factor affecting the likelihood of business-environmentalist cooperation is the existence or absence of "triggering events," which produce a flurry of activity on trade and environment issues (Esty 1995, 5). For instance, discussions between business and environmentalists emerged before and during the negotiation of the North American Free Trade Agreement (NAFTA) (Hudson 1995).

A fourth critical factor is each party's BATNA (best alternative to a negotiated agreement) (Fisher 1983, 104). When parties consider participating in a cooperative effort, they determine whether the results will justify the effort. To do so, they calculate their BATNA—either formally or informally—and their expected utility of participation. If a party perceives that its BATNA (i.e., unilaterally lobbying the government or doing nothing) is superior to any potential agreement, it will not enter the negotiation. A party's BATNA calculation may take into account its perceived influence over policy making in the absence of cooperation as well as the expected role of its government in international negotiations. In the first case, if either side believes it has greater influence over its government's policy on trade and environment, that side will be less interested in seeking common ground with the other side. In the second case, if either side perceives that its government will not play a leading

role in the World Trade Organization's (WTO) trade and environment discussions, it may decide not to dedicate scarce resources to cooperative efforts aimed at influencing its government's policy making process.

BATNA estimates are uncertain. A party cannot be sure that its government will adopt a policy that is superior to any potential agreement. The potential value of joint action "is not fully obvious at the outset [of most negotiations]." As a result, each party's perception of the "zone of possible agreements" emerging from a dialogue is unclear and subject to change (Sebenius 1992, 333-34). Thus, motivation to enter into cooperative efforts may derive from triggering events such as NAFTA, or perceptions that one's BATNA is unattractive or uncertain.

As noted above, NAFTA played a critical role in triggering business and environmentalists to cooperate in 1992-93. The setting for cooperative efforts has changed since that time, but one should not conclude that such efforts cannot succeed under different conditions. Considering triggering events as the sole indicators of probable success overlooks the potential role of other factors—ideology, interests, and the parties' perceptions of their BATNAs.

Even without an imminent NAFTA negotiation, a number of efforts have been launched recently to bridge business and environmentalist positions on these issues. These efforts, generally described as *dialogues*, have focused on issues that are currently under discussion at WTO in preparation for the December 1996 ministerial meeting in Singapore. Dialogues that have been or will soon be initiated include the Trade and Environment Council led by former Deputy U.S. Trade Representative Michael Smith; the Policy Dialogue on Trade and Environment led by Professor Abram Chayes of Harvard Law School and Professor Lawrence Susskind of MIT; the Energy and Environment Study Institute (EESI) dialogue on minimum standards for manufacturing and processing industries led by Gareth Porter; and a Pew Foundation-sponsored dialogue to be facilitated by David Wirth and Rodney Leonard of the Community Nutrition Institute. Such dialogues may influence emerging U.S. policies on trade and environment. Given the leading role traditionally played by the United States on these issues and the potential for U.S. recommendations to influence WTO decision making, efforts such as the Trade and Environment Council may have significant impacts. The dialogues are taking place despite a number of factors working against their potential for success. For example, until recently, the U.S. government's commitment to trade and environment seemed questionable. Created in November 1994, the Clinton administration's Trade and Environment

Policy Advisory Committee (TEPAC) is convening for the first time in April 1996. Coupled with the 1994 congressional election results and the subsequent Republican attack on the environmental agenda, the postponement of the first TEPAC meeting seemed to indicate that trade and environment is fading as a national issue. Moreover, the timing of the WTO ministerial meeting after the 1996 U.S. presidential election has prompted some observers to predict that the United States will not play the active leadership role necessary for progress to be made on trade and environment issues (Smith 1996). Some participants in the debate have also argued that the WTO's consideration of these issues is now an ongoing process, not a discrete triggering event justifying the dedication of their scarce resources to cooperative dialogues.²

The heterogeneity of the communities involved in the trade and environment debate is another factor which may prevent broad-based coalition-building and may limit the success of the dialogues. First, neither the environmental nor the business community is monolithic in its views. Each community is comprised of parties with different ideological perspectives and interests which vary with each issue. The business community, for example, consists both of exporters supportive of uninhibited free trade and import competing companies favoring protectionism. Some exporters, particularly those with high environmental compliance costs, encourage efforts to raise foreign environmental standards. Other exporters, particularly multinational corporations, have mixed views on this issue. Import competing industries naturally support efforts to increase foreign competitors' environmental compliance costs.

Dividing the environmental community into neat categories is even more difficult. During the NAFTA vote, environmentalists were characterized as either pro-growth or anti-growth and pro-labor (Audley 1995, 356). Since NAFTA, some would argue, this distinction has become more refined, and the environmental movement has divided into two groups. One group concentrates on ensuring that the WTO incorporates environmental objectives into the trade regime. The other group questions the legitimacy of the WTO to make decisions affecting sustainable development and stresses that a whole basket of concerns—environmental, labor, and human rights, among others—must be addressed simultaneously (Hudson 1995).

Business and environmentalists are not the only parties to the trade and environment debate. Most trade and environment discussions today invoke the interests of a third party—developing countries. In U.S. trade and environment debates, each side claims to safeguard developing

countries' interests, but it is clear that developing country interests are not monolithic. For example, developing country exporters' interests are not identical to those of the citizens of developing countries, whose health, as some environmentalists contend, can suffer from lower environmental standards and who often are not informed about environmental dangers (Hudson 1995). Thus, like the environmental and business communities, developing country interests are fragmented, making broad-based agreement nearly unattainable, and even small coalitions difficult to create.

Despite the various factors working against cooperative efforts between business and environmentalists, dialogues continue to emerge and provide some cause for optimism. These dialogues are prevailing in a negative negotiating environment as a result of the factors on which this paper focuses—ideology, interests, triggering events, and BATNAs. As this paper will discuss, the combined impact of these factors may well lead to new and expanded dialogues on several issues. This paper is not intended to provide an exhaustive review of each issue, nor to predict which specific proposals will bring consensus. The rapidly changing events preceding the 1996 WTO ministerial meeting render predictions difficult, if not impossible. Rather, the aim is to provide a brief introduction to each of the issues and proposals and to explore the factors existing at the time of this writing that will have an impact on the likelihood for cooperation. By identifying both likely areas of continued disagreement and promising areas for convergence, this paper will explain the basis for optimism fueling current dialogues as well as the skepticism of some observers and participants.

In Part One, the paper defines two major categories of issues and proposals and provides brief summaries of each. Part Two examines each party's ideology, interests, and motivation to negotiate for each of the issues. After reviewing these factors, Part Two highlights the obstacles to a convergence of views and identifies those proposals with the most promise for progress in future dialogues. Part Three concludes with a number of ideas to promote successful dialogues on trade and environment issues.

Part One: Current Issues and Proposals in Trade and Environment Policy

The trade and environment literature repeatedly raises a number of themes and proposals aimed at bridging the persistent gap between the business and environmental communities. Despite the rich assortment of

bridge building proposals, progress toward practical consensus on trade and environment issues remains slow. The proposals often seek to capitalize on the similarities between business and environmentalist rhetoric on certain issues. However, ideological rhetoric is but one factor to consider in assessing the likelihood for convergence of views, as is discussed in Part Two.

Although certainly not a complete list, the issues and proposals discussed in this paper are some of the most prominent in the trade and environment debate today. The issues and proposals can be grouped into two convenient categories: concessions to developing countries, and mutual integration proposals. These categories are defined and reviewed below in Part One. Part Two considers the factors that will affect the likelihood for convergence on each of the issues and proposals and offers an assessment of this likelihood.

Concessions to Developing Countries

The United Nations Conference on Environment and Development (UNCED) was largely responsible for generating and solidifying a consensus, as reflected in Agenda 21,³ on the need for industrialized countries to provide assistance to developing countries in order to promote sustainable development (IISD 1995, 9). In the trade and environment community, there appears to be widespread agreement that industrialized countries should assist developing countries in their efforts to meet stringent standards for products to be exported to industrialized countries. Reflecting this agreement, a number of proposals offering concessions, remedies, and incentives for improving environmental performance have been discussed. The following four types of developing country-related proposals are often raised: regulatory transparency, transitional provisions, financial and technical assistance (including technology transfer), and linkage proposals.

Regulatory Transparency

A range of emerging environmental policies in industrialized countries create significant challenges to developing country exporters. For example, when governments impose minimum recycled content requirements for certain products, foreign producers who do not have access to recycled materials or the infrastructure required for recycling are at a disadvantage (UNCTAD 1995a, 5). Not all environmental policies have

significant trade impacts. However, those that affect process and production methods, such as carbon taxes, are more likely to affect developing country producers (UNCTAD 1995a, 14, 23).⁴ Some government procurement policies—bans on tropical timber, for example—affect products of significant export interest to some developing countries and lead to costly trade displacements (UNCTAD 1995a, 17, 23).

The difficulties for developing country exporters created by these policies are exacerbated when industrialized country regulations are not “transparent” and information is scarce or unavailable. Some emerging policy instruments lack notification requirements and formal mechanisms allowing foreign companies to comment (UNCTAD 1995a, 23). WTO is currently investigating whether notification requirements cover instruments such as ecolabelling, packaging requirements, waste handling requirements, measures by the sub-federal and the private sectors, environmental subsidies, and deposit refund schemes (WTO 1995a, 4). It may be especially difficult for exporters to obtain information regarding voluntary industry agreements and public procurement policies from dispersed sources such as municipalities or industrial sectors (UNCTAD 1995a, 23). According to the United Nations Conference on Trade and Development (UNCTAD), developing country exporters have sometimes “incurred costs, delayed decisions, or shifted to other materials because of lack of sufficient information regarding requirements in importing countries” (UNCTAD 1995a, 23). UNCTAD’s proposal addressing regulatory transparency calls on governments to consider which environmental policy instruments should be subject to additional WTO regulatory transparency requirements, such as those contained in the Technical Barriers to Trade Agreement (UNCTAD 1995a, 24). A recent meeting summary from the WTO’s Committee on Trade and Environment (CTE) indicated that the adequacy of WTO transparency and notification requirements is currently being reviewed (WTO 1995a, 4). However, in spite of signs that action may be taken on transparency issues, significant barriers to a successful dialogue between the U.S. business and environmental communities on regulatory transparency remain. These barriers will be discussed in Part Two.

Transitional Provisions

Like proposals for regulatory transparency, transitional provisions are intended to help developing country exporters comply with industrialized countries’ environmental requirements. One international business trade

organization recommends that the international community apply "special transition periods and rules" to developing countries during the implementation of multilateral environmental agreements (MEAs) (WICE 1993a).⁵ A recent UNCTAD report concluded that the competitiveness effect of industrialized country environmental regulations could become significant for small and medium sized enterprises (SME) in developing countries. Accordingly, UNCTAD recommended that in the short-run, "there may be a need to grant more leeway to SMEs, in the course of imposing more stringent standards on the sector as a whole" (UNCTAD 1995b, 26-27). A similar proposal was made at a 12 September 1996 CTE meeting. In addition, the European Community (EC) has called for "differentiated schedules for compliance" with measures affecting market access for developing countries, as long as environmental objectives are not undermined (WTO 1995c, 4).

Financial and Technical Assistance

Financial and technical assistance addresses the problem of inadequate resources in developing countries to meet industrialized country environmental requirements. Nearly all participants in the trade and environment debate recommend technical and financial assistance to developing countries. UNCTAD, for example, recommends that developing country SMEs be given technical assistance and special financing in the medium term and financial assistance in the long term (UNCTAD 1995b, 27). The World Industry Council for the Environment (WICE) also suggests that foreign aid packages for developing countries include financial and technical assistance for the improvement of their environmental product standards (WICE 1993c). Dan Esty advocates an "eco-tech pool" funded by industrialized countries which would subsidize environmental technology purchases by developing countries so that the latter can address global environmental issues (Esty 1995, 21).

Plans for financial and technical assistance often include technology transfer proposals. Rarely are these proposals fully elaborated. Consequently, the proposals arouse the concern of business. For example, business interests in industrialized countries fear that they will be compelled to enter into licensing agreements that bestow on developing country companies the right to reproduce patented environmental technologies (Morris 1995). For this reason, WICE notes that "demands for access to environmentally-sound technology on a concessionary basis

should not be allowed to undermine the commercial viability of developing and trading such technology" (WICE 1993b). WICE also states that technical cooperation with developing countries should be "coupled with intellectual property protection" (WICE 1993a) which, according to some observers, would speed the flow of technology to developing countries (Esty 1995, 21).

Linkage Proposals

While the three types of proposals discussed above each provide an incentive for developing countries to comply with environmental measures, linkage proposals explicitly include both carrots and sticks. One proposal calls on the Global Environment Facility (GEF)⁶ and the World Bank to condition developing country loans on the preparation of environmental enforcement plans (WICE 1993a). Another proposal offers expanded market access for developing countries in return for commitments to environmental improvements, citing NAFTA as an analogous precedent (Esty 1995, 21). Financial resources, debt relief and new technologies are also discussed (Esty 1995, 21).

Mutual Integration Proposals

Mutual integration proposals reflect the view that trade and environment conflicts can be resolved if the objectives of free trade and environmental protection are both respected. Because they call for increased involvement of one party in the others' realm, these proposals appear custom-made for tradeoffs. Mutual integration proposals fall into the following areas: increasing WTO transparency; integrating multilateral environmental agreements (MEAs) and the WTO; and increasing the involvement of businesses in the formulation of environmental policy.

WTO Transparency

The origins of the WTO transparency issue can be traced to the traditionally secretive and diplomatic culture of the General Agreement on Tariffs and Trade (GATT). The GATT culture has recently come into conflict with the law-oriented environmental culture, which strongly supports public participation in decision making (Esty 1995, 6). During the tuna-dolphin conflict,⁷ the WTO dispute settlement panel did not consult with environmentalists (von Moltke 1993, 121). The outcome of the

dispute impressed on the environmental community the importance of non-governmental organization (NGO) access to WTO decision making and of greater transparency. Proposals on WTO transparency involve the "extent and form of NGO participation in the workings of the WTO" (Cameron 1995, 30); the creation of working groups or standing advisory committees for continuous NGO input; the public availability of documents submitted to WTO dispute settlement panels; the granting of observer status to NGO groups at panel meetings; and consultation with the environmental community in connection with panel decisions (Cameron 1995, 30-37). The United States and the EC endorse WTO dispute settlement panel consultation with environmental experts in judging the necessity of a trade measure incorporated into an MEA, and the proportionality of the impact of such trade measures to the expected environmental benefit (WTO 1995a, 7-8).

Business has also indicated its support for greater WTO transparency, although the recommendations are not as extensive as those of the environmental community. One proposal would give dispute settlement panels the option of inviting NGO comments at the start of the process and would provide an opportunity for NGOs to submit comments before final report adoption (USCIB 1992, 1). Business and WTO officials share concerns, however, that the dispute settlement process may become politicized, and that too many NGO representatives will be admitted into WTO proceedings (Gavin 1995).

Multilateral Environmental Agreements and the WTO

One of the most pressing issues for CTE is the compatibility of MEA trade measures with the rules of the trading system. From the business perspective, there is too much uncertainty regarding how WTO rules will apply to trade measures incorporated into future MEAs such as the Framework Convention on Climate Change and the Biodiversity Convention (Morris 1995). To address this uncertainty, the U.S. Council for International Business (USCIB) advocates an "ex ante" approach in which the permissible procedural and substantive conditions of MEA trade measures are clearly established (Morris 1995). For example, USCIB proposes that MEA trade measures not impose a burden on trade that exceeds the "putative beneficial environmental effects, as determined by a balancing of interests" (USCIB 1993b, 5). The USCIB proposal contains several other criteria that MEAs should meet to be granted an exemption under GATT Article XX.

Environmentalists, on the other hand, want to ensure that existing and future MEAs utilizing trade measures are insulated from challenges under the trade rules. They want environmental policy makers to continue to have the latitude to employ trade measures as effective compliance tools (NRDC 1995, 16–17).

Business Involvement in Formulating Environmental Policy

Using arguments similar to those employed by environmentalists regarding WTO transparency, USCIB proposes that the negotiation process for MEAs be opened to active participation by interested businesses and industries (USCIB 1993b, 1). Participation by business, USCIB argues, will ensure that relevant trade issues are taken into account, and that a proposed MEA has “the level of business support which any agreement will need in order to succeed” (USCIB 1993b, 1). Dan Esty has proposed a series of bridges to close “the perceived gap between policies that promote freer trade and those designed to support environmental protection” (Esty 1995, 17). These bridges include a joint “business-environmental initiative to improve life-cycle analysis and global decision making,” and a “business-environment NGO trade and environment advisory committee either within or outside of the World Trade Organization” (Esty 1995, 18–19).

Part Two: Assessment of the Likelihood of Convergence through an Examination of Ideology, Interests, and Motivations to Negotiate

The issues and proposals reviewed in Part One represent some of the most important trade and environment conflicts awaiting resolution. As discussed in the introduction, the initiation of dialogues on some of these issues suggests that ideological differences and an unpromising political environment have not eliminated all hope for cooperation. Nevertheless, it would be unreasonable to assume that these dialogues will produce a swift convergence of views across all, or even many, issues. For each category of issues and proposals, the parties' ideology, interests, and motivations to negotiate will vary. In some cases, these factors vary not only by category, but by individual issue.

Business and environmentalists are by no means homogeneous groups. In this paper, the views of “business” are frequently equated with those of USCIB or the World Industry Council for the Environment

(WICE)—business organizations with major export interests which support the tenets of free trade. USCIB represents many large U.S. multinational companies and is arguably the most prominent U.S. business voice on trade and environment matters. The views of “environmentalists” presented here generally represent those of such organizations as the National Wildlife Federation (NWF), the World Wildlife Fund (WWF), and the Natural Resources Defense Council (NRDC), which are among the leading environmental voices on trade and environment. Many nuances in the views of both communities cannot be captured using this approach. However, because the U.S. government has consulted most closely with these organizations on trade and environment issues, and in order to facilitate the analysis, this paper uses them to represent each side.⁸

For each of the categories discussed in Part One—concessions to developing countries and mutual integration proposals—Part Two examines the parties’ ideology, interests, and motivations to seek cooperative agreements. In assessing the likelihood for a convergence of views, the paper notes the major obstacles and identifies those proposals or themes which hold the most promise for progress in future dialogues.

Concessions to Developing Countries

Proposals offering concessions, remedies and incentives to developing countries reflect a perspective endorsed in Agenda 21 and elaborated by organizations such as the International Institute for Sustainable Development (IISD). IISD directed a joint effort by traders and environmentalists to define a set of principles on trade and sustainable development. According to IISD,

the promise of sustainable development . . . is that it forces a broadening of perspectives: trade policy-makers must be concerned about environmental impacts, makers of environmental policy must be concerned about trade impacts, and both must question the impacts of their policies on impoverishment and equity, within and between nations... Until we can link progress in dealing with the underlying problems of development to progress in addressing shared environmental concerns, there will be no satisfactory resolution to the issues of trade and environment (IISD 1994, 5–6).

The adoption of sustainable development as an overarching, integrating concept in the trade and environment debate may be a means of circumventing conflict. To borrow a concept from negotiation theory, the trade and environment clash can be considered a "value conflict". Such conflicts are caused by "different ideologies and exclusive intrinsically valuable goals" (Moore 1986, 27). As discussed in the introduction, some believe that free trade is an end in itself, while others believe that trade should only be a means of attaining other important social goals, such as environmental protection. A standard approach to eliminating value conflicts is to "search for [a] superordinate goal that all parties share" (Moore 1986, 27). Sustainable development is an example of such a superordinate goal. Unfortunately, the superordinate goal approach has not eliminated the persistent differences in ideologies, interests, and motivations between the two camps. Until developing countries participate fully in the trade and environment debate, the term *sustainable development* will be used by the business and environment communities primarily to serve their own interests.

Business and Environmentalist Ideology

Business and environmentalists approach developing country issues from different perspectives. With the belief that unhindered free trade will bring prosperity and environmental protection, business equates developing country interests with those of developing country business and industry. Business regards differences between environmental standards applied in developing and industrialized countries as a legitimate source of comparative advantage. Its views on the manner in which to address these differences, however, are mixed. Some representatives oppose international agreements calling for upward harmonization⁹ of developing country standards unless such agreements address verified environmental harms (Morris 1995). Others support upward harmonization, but link it to financial and technical assistance from industrialized countries (WICE 1993a).

Environmentalists, on the other hand, do not identify developing country interests exclusively with those of developing country companies. Business emphasizes that developing countries must balance environmental protection with more pressing social and economic needs. In response, environmentalists argue that if the citizens in these countries were informed about the health risks of pollution, and if their political

systems permitted, these citizens would push for higher environmental standards (Hudson 1995).

Business Interests and Strategies

Business positions on regulatory transparency, transitional provisions, and technical and financial assistance for developing countries reflect the extent to which their direct interests are invoked. Business is generally supportive of promoting regulatory transparency and a level playing field, and would endorse government efforts to ensure developing country company awareness of emerging environmental policies. Although not critical to business, the resolution of concerns about regulatory transparency may reduce information costs for multinational corporations operating in developing countries and reinforce the operation of an open, non-discriminatory trading system. Transitional provisions are also somewhat peripheral to business interests. However, WICE does include "special transition periods and rules" among the various proposals offering "special consideration" to developing countries to assist them in upward harmonization (WICE 1993a). Proposals on technology transfer, on the other hand, generate strong reactions from business. As noted in Part One, business is concerned that proposals on technology transfer could result in intellectual property rights infringements. Clearly, business interests would be much more supportive of proposals for technical assistance that provide them with profit-making opportunities. In some cases, business support for such proposals can determine whether they receive government support (Connolly 1995, 5).

Business' stated positions on issues such as financial assistance to promote upward harmonization or compliance efforts may belie their interests. WICE views promotion of upward harmonization as beneficial to business, because it eliminates the possible competitive advantages conferred by lower environmental standards. Although it is less concerned about the impacts on competitiveness of differential standards, USCIB considers bilateral or multilateral financial assistance to developing countries to be a "legitimate instrument by which developed countries assist developing countries to achieve agreed objectives" (USCIB 1993a, 2-3). Accepting the legitimacy of aid, however, does not necessarily mean business will actively support aid proposals.

Business ideological views are clear on linkage proposals involving increased market access or reduced agricultural and textile industry

subsidies, but its interests may be mixed. Business groups support increased trade liberalization and subsidy elimination in theory (WICE 1993a) but are less likely to actively seek either if their members are affected negatively. A campaign by pro-trade business to reduce fiercely protected agricultural subsidies would create very powerful enemies. As one observer noted, one should not "pick fights" (Smith 1995).

Environmental Interests and Strategies

Perhaps the most fundamental interest of U.S. environmentalists with regard to developing country issues is ensuring that U.S. domestic environmental standards do not succumb to downward harmonization. It is prevention of backsliding at home that often motivates environmentalists to promote upward harmonization abroad (Hudson 1995). Environmentalists generally support all aid proposals that encourage developing countries to improve standards. These proposals include technical assistance, technology transfer, debt relief, loans, improved market access and direct financial assistance. Because environmentalists aim to raise developing country standards, they would favor financial and technical assistance over transitional provisions. However, as long as transitional provisions are not disguised means to perpetuate lower standards, environmentalists would support such provisions in the absence of aid (Schorr 1995).

Regulatory transparency raises a tension between the tactical interests of environmentalists and their more substantive interests. One environmental representative indicated that he would view skeptically any business recommendation for regulatory transparency that was aimed specifically at environmental regulations. Because it is not a primary goal of business to assist developing country companies, he would suspect the recommendation was intended only to call attention to the burdensome nature of domestic standards (Schorr 1995). The negative attention might generate pressure to lower U.S. standards or have a chilling effect on emerging environmental policies. Thus, despite environmentalists' interest in promoting foreign compliance with environmental regulations, some might be reluctant to consider a business-led effort for greater environmental regulatory transparency in WTO. Nevertheless, the environmental representative noted that he would be more likely to consider such a proposal if it were a part of a larger package to assist developing countries in raising their standards (Schorr 1995).

Motivation to Negotiate

The business community, and to a lesser extent the environmental community, lack motivation to pursue joint solutions on developing country issues. First, the political climate for negotiating a developing country package involving aid is poor at the present time. With domestic budget battles threatening to continue into the 1996 presidential election campaign, the U.S. is unlikely to initiate an ambitious aid plan to assist developing countries on environmental issues. Both environmentalists and business are doubtful that U.S. financial assistance will be significant (Hudson 1995; Heine 1995). Even if a triggering event occurred, such as an environmental disaster, it would be unlikely to change the bias of industrialized countries toward devoting their foreign aid environmental funds only to global commons issues. Such issues typically are not the most pressing environmental problems in developing countries (Connolly 1995, 3). With such a gloomy outlook for government action on financial assistance proposals, the motivation to seek agreement and jointly influence policy making is minimal.

The outlook for joint solutions is not improved by a consideration of interests. Business has no direct interest in assisting developing country companies. In spite of WICE's stated positions on the merits of raising developing country environmental standards, business should not be expected to take a leading role in advocating greater financial assistance. Quite simply, such assistance would benefit its competitors. For similar reasons, linkage proposals involving financial assistance to developing countries in return for upward harmonization are also unlikely to receive unambiguous business support.

The environmental community, on the other hand, does have a direct interest in upward harmonization and the prevention of downward harmonization in the United States. Preventing pressure, however, is a proactive effort, and proactive efforts often take second priority to more pressing matters. Without any direct impact on business or any immediate and pressing effect on environmentalists, prospects for negotiation on developing country issues are unpromising.

Notably, the only party for whom a discussion of these issues would invoke direct interests—developing countries—are rarely involved in U.S. business and environmentalist dialogues. Until representatives of developing countries actually participate in these discussions, there will be no true motivation to negotiate; business and environmentalist interests from

industrialized countries merely will use developing country proposals as vehicles to serve their own priorities.

Given the unpromising negotiating environment, no effective trigger event, and no direct or immediate interests in these issues, the BATNA for both environmentalists and business is simply to do nothing. However, less ambitious proposals discussed below may offer hope for the creation of a better negotiating environment and a limited convergence of views.

Areas of Possible Convergence

Although environmentalists and business may not have a strong motivation to seek a convergence of views on developing country issues, two factors may lead to dialogues on a subset of those issues. First, although there is little hope for an effective triggering event for discussions on financial assistance, WTO consideration of other developing country issues may bring the parties together. For instance, at the September 12 CTE meeting, the European Community suggested that it might support transitional provisions for developing countries. CTE has also discussed the environmental benefits of eliminating agricultural subsidies and tariff escalation on labor-intensive goods (WTO 1995c, 5) as well as the link between rules on intellectual property rights and the "generation and transfer of environmentally-sound technology" (WTO 1995b, 1) Discussions on regulatory transparency have also taken place, although several delegations, including the United States, believe that

for the most part the level and mix of transparency for various types of measures appear[s] to be satisfactory and that it [is] important not to overburden active processes of notification (WTO 1995a, 2-4).

A second factor which may encourage consensus is effective mediating. For a significant number of developing country issues, the interests of environmentalists and business are surprisingly similar. An effective mediator can take advantage of this proximity of interests by convincing the parties that entering into dialogues will prove beneficial. Specifically, even though regulatory transparency¹⁰ and transitional provisions are not issues of key importance to business and environmentalists, their positions may be bridgeable. If the parties are able to agree on noncontroversial issues first, they may create the trust and understanding necessary to achieve a convergence of views on more difficult issues.¹¹ A key task for

mediators is convincing the parties that their BATNAs—doing nothing—are not better than any potential joint solution.

A number of less ambitious proposals provide potential opportunities for a convergence of views and the fostering of a good negotiating atmosphere. For example, a select group of business representatives—i.e., those with a more direct interest in assisting developing country companies—and environmentalists might agree on a joint recommendation for increased financial assistance. Similarly, parties could agree to modest joint statements calling for increased market access for developing countries, reduced agricultural subsidies,¹² and debt relief. Parties might also agree that government should provide financial incentives to business to provide technical assistance to developing country companies. Even if these proposals fail to address more fundamental issues, they may foster a positive negotiating atmosphere.

Mutual Integration Proposals

As with developing country issues, mutual integration proposals address a particular type of negotiating dilemma or conflict. While issues in the former category rarely invoke the direct interest of the parties, mutual integration issues involve nothing but direct interests. Interest conflicts are caused by “perceived or actual competitive: substantive (content) interests, procedural interests, [or] psychological interests” (Moore 1986, 27). To address such conflicts, one possible “intervention” recommended for mediators is to find “integrative solutions” and “tradeoffs to satisfy interests of different strengths” (Moore 1986, 27). For instance, efforts to satisfy environmentalists’ interests in securing NGO participation in the WTO are coupled with efforts to meet business concerns regarding confidentiality and manageability. Recommendations calling for business involvement in formulating environmental policy mirror WTO transparency proposals, and are most likely offered with integrative tradeoffs in mind.

This integrative approach may foster a convergence of views. Nevertheless, the strongly held views of the business and environmental communities on these issues and their reluctance to commit to tradeoffs at this time, make forging agreements a challenging task for mediators.

Environmentalism Ideology, Interests, and Strategies¹³

Environmentalists argue that the international trade regime must be more sensitive to environmental concerns and should not take precedence over

efforts to protect the environment. When proposals to measure the trade impact of environmental agreements are raised, environmentalists respond that, on the contrary, WTO should be required to demonstrate that trade is environmentally sustainable (Schorr 1995; Hudson 1995). Environmentalists also contend that issues such as the legitimacy of environmental goals and the proportionality of environmental benefits to trade impacts "should not be put into GATT's tool kit" (Charnovitz 1994, 486). One observer noted that proposals to subject MEAs to trade-restrictiveness tests would limit U.S. negotiating authority and infringe on national sovereignty. He maintained that the U.S. government already takes countless factors into account in international environmental policy, and should not be second-guessed by the WTO (Van Hoogstraten 1995). Submitting all potential agreements to a trade-restrictiveness test may be yet another excuse not to have an agreement (Hudson 1995). In the debate over MEA proposals, environmentalists are attempting to put international environmental policy on an equal footing with international trade policy and to insulate the former from the demands of the latter. Although this may prove to be impossible, environmentalists seek to ensure that existing MEAs with trade provisions are judged compatible with the WTO and that future MEAs are constrained by as few trade requirements as possible.

Environmentalists are against a tradeoff between WTO transparency and increased business involvement in formulating environmental policy. They argue that business already has a seat at the table (Hudson 1995), and that many institutions dedicated to setting environmental standards have been subject to "capture" by private interests (IATP 1995). Some groups are concerned that WTO transparency would open WTO to a flood of private sector representatives. Nevertheless, environmentalists clearly have a strong interest in having greater input into WTO decision making, even at the risk of being further overpowered by business (Schorr 1995). If they are able to penetrate the secrecy surrounding WTO policy making, environmentalists have a much better chance to prevent legitimate environmental laws from being overturned by an overzealous trade regime.

Business Ideology, Interests and Strategies

Business positions on mutual integration strive "to maintain the integrity of the open trading system through a strengthened set of internationally agreed rules which constrain arbitrary or unilateral actions by governments (Morris 1995)." Business asserts that environmental policy need not

and should not disrupt the trading system. If environmentalists took trade considerations into account, business argues, the objectives of free trade and environmental protection could peacefully coexist. As previously discussed, when trade measures are included in an MEA, business recommends that the negotiating parties consult with WTO representatives and that such measures be required to meet several criteria (USCIB 1993b, 3). Fundamentally, business is interested in discouraging the inclusion of trade measures in MEAs by establishing criteria which limit their applicability.

With regard to WTO transparency, business supports facilitating information flow and reinforcing WTO's ability to draw on expert advice but does not wish to grant WTO access to all types of organizations. Business fears that doing so could transform the WTO into a United Nations-like institution characterized by many dissonant voices and little progress. If NGOs are granted increased access to the decision making process, business expects to share in the increased access (Gavin 1995). Unlike environmentalists, business does not view the existing trade regime as fundamentally skewed (Morris 1995). It is not in business' interest to promote NGO involvement in WTO decision making, and it can be expected to fight quietly to limit the extent of NGO participation.

Business is also resistant to potential tradeoffs in the mutual integration category. For example, the idea of trading off environmentalist input in proportionality decisions in exchange for greater business involvement in environmental policy making is considered unnecessary. USCIB argues that the balancing requirements in current WTO rules do not constitute a real problem for legitimate environmental measures. According to business, if MEAs took business' criteria into account, conflict on these matters could be completely eliminated (Morris 1995).

Motivation to Negotiate

The motivation of both parties to participate in dialogues on WTO transparency and the relationship between MEAs and trade rules comes from three sources. First, unlike the developing country proposals, the direct interests of the parties are engaged. Second, the CTE is currently considering transparency and MEA trade measures and will make recommendations on these topics for the WTO ministerial meeting in December 1996 (Inside U.S. Trade 1995, 15). For these two issues at least, the WTO discussions are a triggering event analogous to NAFTA and may spark

business-environmentalist dialogues. Third, the U.S. government has already indicated its positions on the issues of WTO transparency and MEAs. The U.S. has shown strong support for increased NGO participation in WTO (Greenwire 1994) and has defended the use of trade measures in MEAs. At a CTE meeting, the U.S. representatives said that trade measures are often critical to the achievement of MEAs' environmental objectives, pointing to the Basel Convention on Transboundary Movements of Hazardous Waste and Their Disposal, and the Convention on International Trade in Endangered Species as examples (WTO 1995d, 2-3).

As discussed in the introduction, the parties' motivations to enter into dialogues and seek consensus depends on their BATNAs. If environmentalists are convinced that the United States has adopted their arguments on MEAs and WTO transparency, they may conclude that their interests would be better served if they did not compromise their positions by participating in a dialogue. Even if environmentalists entered into dialogues, they would be likely to strike tougher bargains. This may explain why environmentalists have until recently shown little interest in discussing USCIB's recommendations on criteria for trade measures in MEAs (Morris 1995).

These factors might lead one to conclude that dialogues on mutual integration issues are unlikely. The strong ideological views and interests of the parties as well as a reluctance to engage in dialogues could conspire to undermine cooperative efforts. As one participant in the debate noted, it is not his job to come to consensus. It is his job to inform the government of his organization's recommendations, and to try to advance the interests of his constituents. Despite all of these factors, dialogues on WTO transparency and trade measures in MEAs have taken place, and others are expected in the near future. As discussed below, there is no reason to expect that progress in current dialogues will not continue.

One mutual integration issue omitted from the above discussion is business involvement in formulating environmental policy. WTO will not discuss the issue because governmental consultation with business regarding MEAs is not within WTO's jurisdiction. As a result, the WTO ministerial meeting will not be a direct triggering event for dialogues on this issue. At present, the parties appear unlikely to discuss business involvement because environmentalists may perceive that they have no need to consider the issue. The possibility remains, however, that this issue may be considered in the context of a tradeoff.

Areas of Possible Convergence of Interests

As discussed above, a number of reasons explain why dialogues on mutual integration issues might fail to yield results or not take place at all. Nevertheless, the Trade and Environment Council has reportedly come to at least partial agreement on WTO transparency issues (Smith 1995). The outcome of the Policy Dialogue on Trade and Environment's dialogues on these issues suggest a nascent convergence of views.¹⁴ The Policy Dialogue also reported progress on the issue of trade measures in MEAs.¹⁵ An upcoming dialogue led by the Community Nutrition Institute is currently taking up both issues (Caldwell 1996).

The progress made on these mutual integration issues in recent dialogues, and the progress that can be expected in future dialogues, may be explained by three factors: the triggering event of imminent WTO decision making on these topics; the U.S. position on these issues; and the unpredictability of government decision making. WTO discussions on these issues seem to have played a role similar to NAFTA in inspiring the parties to negotiate. The U.S. position on mutual integration issues has positive and negative effects on the likelihood of convergence. Some U.S. positions on mutual integration issues favor environmentalists' viewpoints, leading environmentalists to strike a hard bargain or choose not to bargain at all. On the other hand, because business' perceived BATNA is worsened by the current U.S. position, business can be expected to offer concessions on WTO transparency and MEAs. Although some environmentalists will reject these offers, more moderate environmentalists might be more amenable. Lastly, the unpredictability of government decision making may play a role in enhancing environmentalists' desire to negotiate. Business interests may succeed in shifting U.S. government positions at the last minute. Given this possibility, some environmentalists might conclude that supporting a consensus position that would receive government support¹⁶ would be preferable to insisting on a less compromising position which might be rejected.

With regard to business involvement in environmental policy making, it is conceivable, though unlikely, that a dialogue would generate an integrative package containing a business involvement provision. This scenario presumes, however, that environmentalists are willing to forsake their interest in insulating environmental policy making from business interests. Business would be obliged to make significant concessions elsewhere to obtain such an outcome.

Part Three: Additional Ideas to Foster Cooperation and Defuse Problems

Part Two addressed the key role of ideological views, interests, triggering events and perceived BATNAs in determining the likelihood that business and environmentalists will seek and arrive at negotiated agreements on several trade and environment issues. The emphasis on these factors, however, is not meant to suggest that other factors cannot influence outcomes. In particular, the manner in which mediators conduct dialogues can have a strong influence over parties' decisions to enter into a new dialogue and to seek consensus. With this in mind, Part Three suggests how a favorable environment for negotiations may be promoted and proposes additional ideas for creating consensus.

BATNAs

Mediators seeking to develop support and solicit participants for a dialogue must concern themselves with the parties' perceived BATNAs. To lower, or worsen perceived BATNAs, mediators might emphasize the uncertainty of government decision making and indications that the government will take positions adverse to each party's interests. The government can also help raise perceptions of the benefits of cooperation by affirming that it endorses cooperative efforts, and that it will take such efforts seriously. Such a statement would have greater credibility if the TEPAC were to convene on a regular basis.

Solutions Without Dialogues

Not all trade and environment issues need to be addressed through WTO or a consensus-seeking process. For example, the International Standards Organization (ISO) 14001 standard may be considered a unilateral solution to a trade and environment problem. The 14001 standard requires that any company desiring ISO certification must "establish and maintain an environmental management system (EMS) based on self-determined environmental policy and goals" (UNCTAD 1995a, 19). ISO is a voluntary scheme, but is a first step toward addressing competitiveness concerns arising from differences among the environmental requirements of different nations. Increasingly, ISO 14001 certification is a *de facto* requirement for developing country firms because a growing number of industrialized countries insist that suppliers meet certain environmental

standards or have an EMS in place (UNCTAD 1995a, 18–19). Although the environmental community is now involved in ISO discussions (Housman 1995), the 14001 standard was largely the outcome of business discussions.

Ecolabelling represents another solution involving neither the WTO nor a business-environmentalist consensus. Ecolabelling initiatives have emerged in dozens of countries as separate, typically uncoordinated, initiatives designed by governments and NGOs (IATP 1995). Business reactions to the proliferation of ecolabelling schemes suggest their dissatisfaction with the lack of business involvement in devising such schemes (Morris 1995). Although ISO 14001 and ecolabelling may be seen as problematic, they demonstrate that solutions to trade and environment problems need not come from WTO or a completely inclusive process.

An instructive example of a unilateral solution was the decision by the World Conservation Union (IUCN) and other NGOs to create an NGO Resource Center. The Center will address the problem of poor information flow from WTO to developing country NGOs, and vice-versa.¹⁷ If there is sufficient NGO or business support, this approach to addressing information dissemination problems might be applied to the issue of regulatory transparency.

Broaden Dialogues

As noted above, the government should encourage business-environmentalist dialogues. Efforts should be made to bring particular dialogue groups together on a regular basis in order to forge stronger ties among the participants. When several dialogues are well established, efforts should be made to bring members of all dialogue groups together in a broader setting. Broader dialogues would legitimize the process of consensus seeking and create a shared sense of identity and objectives among former adversaries. Initial meetings could establish the broadest possible constituency with which to seek consensus and influence policy making.¹⁸

Invite Developing Country Representatives to Dialogues

As discussed in Part Two, business-environmentalist dialogues on developing country issues will be skewed until developing country interests are legitimately represented at these discussions. Initial dialogues might focus on a tradeoff package in which developing countries address business and

environmentalist concerns while satisfying their own concerns within existing constraints.¹⁹ For example, parties might agree to a package calling for verifiably improved developing country compliance with existing domestic and foreign environmental standards; an effort to liberalize developing country investment regimes;²⁰ increased technical and advisory assistance to developing countries; and a program providing financial incentives for technology transfer.

Conclusion

Participants in the trade and environment debate often hold diametrically opposed views on the prospects for successful business-environmentalist dialogues. Optimistic observers emphasize that trade and environment can and should be mutually supportive while glossing over important differences between business and environmentalists in ideology, interests, and motivation to negotiate. Pessimists describe differences in interests and ideology as insurmountable obstacles to consensus and question the value of dialogues. Such assessments of the debate are overly simplified. Although an optimistic viewpoint may facilitate discussion, it must inevitably be reconciled with the more adversarial, distributive aspects of the debate. Pessimistic assessments may ignore the progress that has been made in a number of business-environmentalist dialogues and eliminate opportunities to seek a mutually beneficial convergence of views. Progress in dialogues has demonstrated that ideological rhetoric and philosophical differences do not tell the whole story. In assessing the likelihood that business and environmentalists will seek a convergence of views, one must also consider their direct interests on particular issues and the variety of factors affecting their motivation to enter into dialogues and seek consensus.

The outlook for progress in current and upcoming dialogues may be somewhat more encouraging than the assessments in this paper indicate for two reasons. First, triggering events cannot always be foreseen. The WTO could conclude, for instance, that developing country companies are significantly affected by insufficient or unenforced regulatory transparency requirements. Such a finding may trigger an outbreak of dialogues on regulatory transparency and related issues. The recent unexpected announcement that the TEPAC will finally be convened may also act as a trigger for other dialogues. Second, several observers have noted the potential for a political backlash to globalization in which the impacts

of economic interdependence trigger a rejection of international cooperation and a return to isolationism. The emergence of Patrick Buchanan as a potent force in the 1996 Republican primary suggests that a globalization backlash, if not already here, is not far off. A backlash might trigger an effort led by business to rebuild support for a free trade consensus. Some environmental groups might participate in such an effort, fostering cooperative ties between the two communities. The need to rally a pro-trade consensus might also be triggered by trade wars, originating from frictions between the U.S. and China, Japan or the European Union.

This paper equates business and environmentalist views with those of only a handful of influential organizations. In doing so, it may overstate differences in ideology and interests and underestimate the motivations of members of each community to seek a convergence of views. Some businesses may in fact have an interest in assisting developing country companies. Furniture manufacturers in industrialized countries, for example, may be interested in addressing problems faced by developing country exporters of tropical timber (Levy 1996). In addition, mediators generally take individuals' interest in seeking consensus into account when choosing potential participants for dialogues.²¹ Although some dialogues may represent only a limited range of views, they may nonetheless have an influence over the debate. In conclusion, a number of reasons indicate that current dialogues, which are persevering despite an unsolicitous negotiating atmosphere, are likely to play an important role in transforming the trade and environment debate.²²

Notes

¹In this paper, "business community" or "business" will refer to both business and industry.

²The National Wildlife Federation does not plan to participate in the Trade and Environment Council dialogue, citing other priorities (Hudson 1995).

³Agenda 21 is the UNCED's lengthy listing of environmental needs and concerns. See especially, chapters 1, 2 and 33.

⁴The debate over the use of process and production methods (PPM) has been described by former Deputy U.S. Trade Representative Michael Smith as the most vexing issue faced by trade and environment policy makers, and perhaps the most difficult conceptually as well. Since a discussion of the PPM debate could easily constitute an entire article, this particular article does not analyze it. This exclusion is not intended to suggest that the PPM

debate is a peripheral issue; it is among the most important issues within trade and environment politics.

⁵The quotes come from the World Industry Council for the Environment (WICE) which was created as an initiative of the International Chamber of Commerce (WICE 1993a). Since issuing this and other publications cited here, WICE merged with the Business Council for Sustainable Development to form the World Business Council for Sustainable Development (WBCSD).

⁶The Global Environment Facility (GEF) is an international financial institution that transfers financial resources to developing countries to compensate them for the incremental cost of implementing projects or programs that address problems of global environmental concern. The GEF funds in four focal areas: climate change, stratospheric ozone depletion, biodiversity loss, and pollution of international waters. A partnership of three international agencies manages the GEF: the World Bank, the United Nations Development Programme, and the United Nations Environment Programme.

⁷In the tuna-dolphin conflict, Mexico challenged the GATT-compatibility of a U.S. ban on tuna imports from Mexico. The ban was imposed pursuant to the U.S. Marine Mammal Protection Act (MMPA).

⁸There are certainly other environmental organizations, such as the Center for International Environmental Law (CIEL), with whom the U.S. government consults on trade and environment issues. These organizations are relatively moderate in their goals (hence their cooperative relationship with government policy makers).

⁹Upward harmonization refers to the incremental strengthening of developing country standards to match standards in industrialized countries.

¹⁰If the US. makes a strong stand against additional measures to increase regulatory transparency, however, this will have a negative impact on business and environmentalist motivation to enter into dialogues on the topic.

¹¹In the case of regulatory transparency, the development of trust between participants in a dialogue would be critical in light of environmentalists' suspicions about business' intentions. Environmentalists might be willing to join business in supporting regulatory transparency in the interest of avoiding charges of green protectionism and possibly to gain concessions on other issues. One environmentalist notes that such convergence could serve the function of fostering cooperation (Schorr 1995).

¹²Of course, the potential list of parties who might sign on to such a statement would be limited to those who have no direct ties to the agricultural industry

or to businesses affected by the proposed tariff reductions. Again, a more visible joint effort on these issues would probably be considered too politically risky for business.

¹³Particularly for the mutual integration category, the lines delineating ideological views, interests and strategies are blurred. For instance, parties may make ideological statements regarding their strategies and willingness to bargain. In addition, interests are often suggested if not stated in ideological pronouncements. Interests and ideology are often distinguishable, as suggested by the discussion of developing country issues. Nevertheless, since ideologies, interests and strategies on mutual integration issues blend together, this paper discusses them under a single heading.

¹⁴Some of the areas of common ground, as interpreted by the facilitators, included the need for "broad access to information about WTO activities and decision-making;" "a presumption of open access to all final WTO documents including panel decisions, with the exception of documents related to negotiations;" and the establishment of "an office or officer responsible for regular liaison with NGO representatives, not only from environmental groups but from other interested communities." The parties also expressed support for a "managed process" for NGO involvement "tailored to the special needs and circumstances of the WTO and governed by principles and rules, including limits on the number of participants ("a formula of three representatives from environmental organizations, three from business and three from labor, was discussed with some interest"), equitable geographical distribution, and a requirement that the participants be knowledgeable in the subject matter" (Policy Dialogue on Trade and Environment 1995, 1-3).

¹⁵According to the facilitators, participants agreed that a decision should be taken at the WTO ministerial "interpreting Article XX of the GATT as covering restrictions mandated under selected existing MEAs." A list of criteria to be applied to potential MEA trade measures was agreed upon, and possible additions to the list were debated. In addition, several participants agreed that a "special 'fast-track' procedure might be established whereby the WTO Council could pass on the consistency of a particular MEA with the criteria adopted" (The Policy Dialogue on Trade and Environment 1995, 5-7).

¹⁶This calculation would assume that the government would choose a consensus view over others.

¹⁷It should be noted that the World Business Council for Sustainable Development (WBCSD) was one of the organizations involved in the decision to create the NGO Center. Nonetheless, the majority of the other

organizations involved were environmental organizations, and WBCSD is perhaps the "greenest" of business organizations. Therefore, this solution can be considered as originating largely from the environmental community (Cosbey and Bidwell 1995).

¹⁸Such events as the "Trade and Environment: Challenges for 1996" conference sponsored by the Global Environment & Trade Study and New York University Law School could provide the starting point for broad-based efforts to seek a convergence of views.

¹⁹Again, the article refers here to the poor political climate for promoting financial assistance to developing countries.

²⁰Business has argued that investment liberalization would bring environmental improvements to developing countries by opening their economies to multinationals using cleaner technologies. Clearly, business interests would be satisfied as well (Heine 1995).

²¹For example, participants in the Trade and Environment Council and the IISD dialogue to draft a set of principles for sustainable development were selected in this manner (Smith 1995; Cosbey 1995).

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References

- Arden-Clarke, Charles. 1993. An Action Agenda for Trade Policy Reform to Support Sustainable Development: a United Nations Conference on Environment and Development Follow Up. In *Trade and the Environment: Law, Economics, and Policy*, edited by Durwood Zaelke, Paul Orbuch, and Robert Housman. Washington, D.C.: Island Press.
- Audley, John. 1995. Environmental Interests in Trade Policy: Institutional Reform and the North American Free Trade Agreement. *The Social Science Journal* 32 (4): 327-360.
- Business and Industry Advisory Committee to the OECD (BIAC). 1993. *Environmental Perspectives on Trade-Environment Issues*. BIAC Statement to the Special Session of the OECD Environmental Policy Committee, 30 November.
- Caldwell, Jake. 1996. Community Nutrition Institute (CNI). Conversation with author, 19 January.

- Cameron, James and Ross Ramsay. 1995. Participation by Non-Governmental Organisations in the World Trade Organisation. Study No. 1: Global Environment & Trade Study. London: Foundation for International Environmental Law and Development (FIELD).
- Charnovitz, Steve. 1994. Symposium: Free Trade, Fair Trade, Green Trade: Defogging the Debate. *Cornell International Law Journal* 27 (Summer): 459-525.
- Connolly, Barbara. 1995. Conclusion. In *Institutions for Environmental Aid*, edited by Robert Keohane and Marc Levy. Boston: MIT Press.
- Cosbey, Aaron. 1995. International Institute for Sustainable Development (IISD). Telephone conversation with author, 26 October.
- Cosbey, Aaron and Katherine Bidwell. 1995. NGO Resource Centre on Trade and Sustainable Development: Report of a Feasibility Study for the Neptune Group and the World Conservation Union (IUCN). Geneva, October.
- Esty, Daniel C. 1995. International Trade and the Environment: Opportunities for Business and Environmental Cooperation. Commissioned for the National Wildlife Federation Corporate Conservation Council (NWFCCC) Synergy '95 Conference. Washington, D.C.
- Fisher, Roger and William Ury. 1983. *Getting to Yes: Negotiating Agreement Without Giving In*. New York: Penguin Books.
- Gavin, Joseph. 1995. U.S. Council for International Business (USCIB). Telephone conversation with author, 22 December.
- Global Environment & Trade Study (GETS). 1995. Report of Eco-Labeling Workshop. Report circulated at the Roundtable Discussion of Ecolabelling, Cosmos Club, Washington, DC, 1 December.
- GATT: U.S. Calls for NGO Observer Seats in NGO Meetings. 1994. *Greenwire*, 19 September.
- Heine, Robert. 1995. Dupont Corporation. Telephone conversation with author, 14 November.
- Housman, Robert. 1995. Center for International Environmental Law. Telephone conversation with author, 14 November.
- Hudson, Stuart. 1995. National Wildlife Federation. Telephone conversation with author, 30 November.
- Institute for Agriculture and Trade Policy (IATP). 1995. *Ecolabelling: Consumers' Right-to-Know or Restrictive Business Practice?* Minneapolis (revised September).
- International Institute for Sustainable Development. 1994. *Trade and Sustainable Development Principles*. Winnipeg: IISD.

- . 1995. *GATT, the WTO and Sustainable Development: Positioning the Work Program on Trade and Environment*. Winnipeg: IISD.
- Kane, Hal. Managing Through Prices, Managing Despite Prices. In *Trade and the Environment: Law, Economics, and Policy*, edited by Durwood Zaelke, Paul Orbuch, and Robert Housman. Washington, DC: Island Press.
- Levy, Marc. Woodrow Wilson School of Public and International Affairs. Conversation with author, 22 February.
- Moore, Christopher. 1986. *The Mediation Process: Practical Strategies for Resolving Conflict*. San Francisco: Jossey-Bass.
- Morris, Robert. 1995. U.S. Council for International Business. Conversation with author, 30 November.
- Natural Resources Defense Council, Inc. (NRDC) and Foundation for International Law and Development (FIELD). 1995. *Environmental Priorities for the World Trading System: Recommendations to the WTO Committee on Trade and Environment*. New York: NRDC.
- Policy Dialogue on Trade and Environment. 1995. Summary Report, Third Meeting, Talloires, France (28–29 September 1995). Cambridge: Consensus Building Institute.
- Schorr, David. 1995. World Wildlife Fund. Conversation with author, 30 November.
- Sebenius, James K. 1992. Challenging Conventional Explanations of International Cooperation: Negotiation Analysis and the Case of Epistemic Communities. *International Organization* 46 (Winter): 323–365.
- Smith, Michael. 1995. SJS Advanced Strategies. Conversation with author, 1 December.
- . 1996. SJS Advanced Strategies. Comments at the “Trade and Environment: Challenges for 1996” conference, New York University Law School, 19 January.
- United Nations Conference on Trade and Development (UNCTAD). 1995a. *Newly Emerging Environmental Policies with a Possible Trade Impact: A Preliminary Discussion*. Publication Number TD/B/WG.6/9. Geneva, 28 August.
- . 1995b. *Environment, International Competitiveness and Development: Lessons from Empirical Studies*. Publication Number TD/B/WG.6/10. Geneva, 12 September.
- U.S. Council for International Business (USCIB). 1992. Policy Statement on an Integrated Approach to Environment and Trade Issues and the GATT. New York, 1 May.

- . 1993a. Policy Statement on Implementation of the Polluter Pays Principle. New York, 20 May.
- . 1993b. Policy Statement on International Environmental Agreements and the Use of Trade Measures to Achieve Their Objectives. New York, 15 December.
- Van Hoogstraten, David. 1995. Environmental Protection Agency. Conversation with author, 30 November.
- von Moltke, Konrad. 1993. Dispute Resolution and Transparency. In Environmental Protection Agency, *The Greening of World Trade*. Washington: U.S. Government Printing Office.
- World Industry Council for the Environment (an initiative of the International Chamber of Commerce). 1993a. *Trade and Environment in Developing Countries*, Executive Brief.
- . 1993b. *Trade and Sustainable Development*, Executive Brief.
- . 1993c. *Trade, International Standards Setting and Global Competitiveness*, Executive Brief.
- World Trade Organization. 1995a. Trade and the Environment. Publication Number PRESS/TE 003. Geneva, 22 May.
- . 1995b. Trade and the Environment. Publication Number PRESS/TE 004. Geneva, 14 August.
- . 1995c. Trade and the Environment. Publication Number PRESS/TE 005. Geneva, 10 October.
- . 1995d. Trade and the Environment. Publication Number PRESS/TE 006. Geneva, 8 December.
- WTO Environment Group Narrows Focus for Next Year of Work. 1995. *Inside U.S. Trade* 3 (November).