

Center for International Environmental Law

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## WTO High-Level Symposium on Trade and Environment

Speech as written by Durwood Zaelke, CIEL President

### 1. INTRODUCTION

Excellencies, Distinguished Delegates, Ladies and Gentlemen,

It is my great pleasure to address you here today on behalf of CIEL, the Center for International Environmental Law, a non-governmental organization with offices in Washington DC and Geneva.

Before I address the main topic of this session today – “linkages between trade and environmental policy” - I want to offer an initial comment about this High Level Symposium on Trade and Environment, and the parallel High Level Symposium on Trade and Development.

These two High-Level Symposia are an acknowledgement of the importance of these issues and of the urgent need for the multilateral trading system to integrate these concerns more closely into its day-to-day work.

They touch on two aspects of a single, indivisible and overarching goal – sustainable development. This goal is enshrined in the

preamble of the WTO Agreements, which exhorts WTO members to promote trade:

“while allowing for the optimal use of the 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.”

Before we can make real progress towards this goal, discussions about environment and development – including those in these two WTO Symposia - must be combined and considered together. Development and environment are partners in a common endeavor: one that was defined by the nations of the world in the Rio Declaration and Agenda 21, which articulated a detailed plan for achieving sustainability. The liberalization of trade in goods, investment, services, government procurement and the creation of rules on intel-

lectual property as well as every other aspect of the WTO’s work program must promote this goal.

So I hope it is with a sense of urgency that our governments address these interlinked issues of trade, development and environment, both at the WTO, as they prepare for the 1999 Ministerial, and in other international institutions, so as to strengthen the rules-based multilateral trading system and create a fair and sustainable international economic system.

To return to the topic of today, what are the main linkages between trade and environment policies? The linkages are extensive. They covers the relationship between WTO rules and other international law such as the MEAs; WTO and national environmental laws; government procurement policies; eco-labeling; biodiversity protection and so on.

I am not going to repeat almost a decade of discussion on these topics. Instead I want to step back and observe that these linkages between trade, other economic

activity and the environment is what sustainable development is all about.

As the WTO is now required to pursue the goal of sustainable development, it must understand and embrace three key principles that are the heart of sustainable development – full cost pricing and market efficiency, equitable wealth distribution and sustainable scale. In the context of these three key principles, I will discuss the linkages between trade and environment, focusing mainly on where trade liberalization moves us away from sustainability. Three main issues arise:

First is the relationship between trade liberalization and *efficiency*. To what extent does international trade promote efficiency, and thereby allow us to produce more from less and minimize our impacts on the natural environment?

Second is the relationship between trade liberalization, *equitable wealth distribution and the demand for environmental protection*. To what extent does economic liberalization encourage a fair distribution of wealth and how does this distribution, in turn, encourage greater demand and capacity for environmental protection?

And third is the relationship between trade liberalization, growth and what I will call a “*sustainable scale of economic activity*”. In other words, to what extent does international trade allow us to create an economic system that operates within the boundaries of our ecological

systems – the various source and sink capacities – of the planet?

These three issues are almost unimaginably complex, and it is impossible to do them justice in a 10 minute talk. Nevertheless, I will attempt to outline some of the main considerations and some issues that deserve further consideration. I will discuss each in turn.

## 2. TRADE AND EFFICIENCY

It is often argued that international trade promotes sustainable development by improving efficiency. The argument runs something like this: Efficiency is important because it allows us to produce more with less, and thereby reduce our use of the world’s scarce resources. Efficiency, in turn, is promoted by trade liberalization in at least three ways: it encourages national specialization according to comparative advantage; it promotes economies of scale; and it promotes competition, which acts as a catalyst to innovation and productivity growth. These arguments are correct, but unfortunately for the environment they are only part of the story.

The other part of the story is that for trade to promote efficiency, we need to use law to get the price right. Economic liberalization is not enough – we need regulation to ensure that market failures are addressed; that costs are fully internalized; that resources such as forests, fisheries, and minerals are valued correctly; and that property rights are assigned. These are basic economic truths that every first year economic student under-

stands.

Yet, accurate pricing is overwhelmingly the exception rather than the rule, and thus market failures are exacerbated by trade liberalization, which, by extending these national market failures into an international market, may promote inefficiency rather than efficiency and environmental damage rather than environmental protection.

The extent of this inefficiency and environmental damage is unknown. But it is potentially massive. By consuming our natural capital in this way, we are borrowing from the future. This is a debt that must ultimately be repaid.

Over the last decade, hundreds of theoretical articles and papers have been published that acknowledge this fact. What is missing, however, are detailed, on the ground studies of how past liberalization has affected the environment and what policies are required to address these affects. The UNEP/UNCTAD cases studies are therefore a welcome step in the right direction.

In some cases, technical analysis will show that better national environmental law and enforcement will be required. This will often be the case in countries that do have or cannot afford effective enforcement. By failing to implement national measures, these countries are impoverishing themselves by selling off their natural heritage at far less than its true value. The real beneficiaries of these policies are consumers in the

North, whose consumption is effectively subsidized by current and future generations in the developing country – something that is repugnant to both distributional equity and sustainable development.

However, the answer to these problems is not to impose unilateral trade sanctions. Nor is it to turn the WTO into an environmental organization. Rather, the WTO should work more closely with other intergovernmental organizations to examine how economic liberalization affects social and environmental systems and what responses will be both efficient and equitable. How can a system be established to internalize costs and, at the same time, ensure, as required by the WTO Preamble, that developing countries still receive a “share in the growth in international trade commensurate with the needs of their economic development”?<sup>1</sup>

A couple of considerations are relevant here. Where the price of environmental improvement can be passed on to the consumer, then developing countries will benefit from both higher prices and greater environmental protection. In these cases the Polluter Pays Principle should be implemented to ensure that costs are fully internalized.

Conversely, where the price cannot be passed on additional measures will be necessary to ensure that developing countries maintain the same or improved market access and receive a fair share of their product’s value. In these cases, industrialized countries must actively assist by granting favor-

able access to new technology and offering technical and financial assistance as promised at Rio.

### 3. TRADE, WEALTH AND ENVIRONMENTAL PROTECTION

A second linkage between trade and environment is the question of whether trade promotes environmental protection by increasing and equitably sharing wealth. Once again, the link is not so clear. It is true that studies have shown that as wealth increases, so too does the demand and capacity for environmental protection. However, two questions may be raised about this conceptually pleasing win-win hypothesis.

First is that, wealth and environmental damage may in reality be positively linked. OECD over-consumers, for example, undoubtedly do far more damage to the environment than do people in developing countries. According to one estimate: one person in the United States represents twice the impact of a Swede, three times that of an Italian, 35 times that of an Indian, 140 times a person born in Bangladesh or Kenya and 280 times the impact of someone born in Chad, Haiti or Nepal.<sup>2</sup>

Second, even if there is a positive relationship between wealth creation and environmental protection, liberal trade may not promote an equitable distribution of wealth that promotes environmental protection. According to the United Nations Development Programme incomes are diverging; the ratio of the income of the world’s wealthiest 20% to that of

the poorest 20% rose from 30 to 1 in 1960, to 60 to 1 in 1991, to a startling new high of 78 to 1 in 1994.<sup>3</sup> This should come as no surprise to anyone versed in the basics of economic theory: while markets may produce wealth, they are not very good at distributing it.

In our national systems governments have the role of redistributing wealth to create a just and equitable society. By contrast, at the international level, in the absence of a global government – something that is neither desirable nor possible - there is no guarantee that global markets will ensure a distribution of wealth that creates a just world society. Indeed the present system, despite the cooperative institutional arrangements that govern it, resembles more a form of “international economic Darwinism”.

Why then, in practical terms, is this unjust distribution of wealth occurring? One reason is that WTO rules in new areas of economic liberalization may prevent countries from regulating to ensure that wealth produced in their national market stays at home.

For example, rules at the WTO apparently consider the inappropriate application of the “national treatment” principle to new areas of the national economy. While under Ricardo’s theory of comparative advantage, “national treatment” makes sense in the context of trade in goods, it is less clear how it should apply to new areas such as foreign investment, services and government procurement.

In these cases, foreign firms –

often large, transnational firms with industrialized country shareholders and management – exploit the comparative advantage and take the profits home. While the host country certainly benefits from trickle-down advantages such as technology transfer and more sophisticated managerial practices, these benefits must be weighed carefully against the resources and income transferred out of the country both now and in the future.

Clearly more work is required to examine how trade liberalization is affecting the distribution of income, and how, in turn this affects the capacity and demand for environmental protection.

More work also needs to be done to implement the principles of “common but differentiated responsibility” and “special and differential treatment” that are necessary to ensure that the transition to a sustainable economy is a just and equitable transition for developing countries and labor.

And more work needs to be done on the principle of “technology transfer”; to be meaningful, promises of technology transfer must be backed up with new amounts of money. The TRIPS Agreement would be a good place to start – to make sure developing countries get the technology they need.

Given the extent of income divergence, and the impact of this divergence on developing countries, WTO Members may wish to explore the use and limits of the national treatment obligation, and whether other approaches could be

adopted to ensure a more just distribution of wealth from trade liberalization.

#### 4. TRADE AND SCALE

Now, having discussed briefly the relationship between trade and efficiency, and between trade, wealth and environmental protection, I would like to move to a third linkage – that of “sustainable scale”. This is the big one – the 1<sup>st</sup> principle – yet it is the one most often overlooked.

Does economic liberalization promote a scale of global economic activity that will remain within the ecological boundaries set by the planet? According to the ecological economist Herman Daly:

“Further economic growth beyond the present scale is overwhelmingly likely to increase costs more rapidly than it increases benefits, thus ushering in a new era of “uneconomic growth” that impoverishes rather than enriches.”<sup>4</sup>

The concept of sustainable scale is finally entering into the mainstream literature, albeit in more mildly phrased language. According to the OECD:

“the negative scale effects of globalization may turn out to be very large, effectively swamping any positive technological and/or structural effects.”<sup>5</sup>

The OECD also notes that:

“There is considerable uncertainty about the long-term ability of the environment to withstand the pressures of even the current

scale of economic activity, let alone the scale that might exist after the world economy has become more globalised.”<sup>6</sup>

Given these uncertainties, governments must take precautionary measures to prevent environmental harm. Waiting until science is certain, or technological developments or structural shifts mitigate these pressures, is not enough to ensure our survival.

A powerful example of the limits on the scale of economic activity is global climate change. Climate change shows that the scale of economic activity has already exceeded the sink capacities of the Earth’s environment.

The Inter-governmental Panel on Climate Change estimates that we must cut greenhouse gas emissions by half to stabilize the planetary climate system. Yet we all know how far we are from achieving this goal.

How can questions of scale be better addressed? Government action through MEAs offers the best tools. WTO rules must ensure that governments, collectively, can adopt precautionary measures to ensure that the economy respects the limits of ecology. Ultimately, we will need stronger MEAs, with stronger sanctions and other positive measures.

#### 5. CONCLUSION

These three principles of ecological economics – economic efficiency, just distribution and sustainable scale – are the heart of sustainable development, and the WTO and Member governments must embrace them and their related legal principles in order to promote the real welfare gains the

world needs in the coming century.

To conclude, I would like to offer four ideas about next steps for the trade, environment and development communities, working in conjunction with the WTO:

First, the WTO should promote policy integration. Trade policy cannot be considered in isolation from other environment and development policies. Environment and development are what are often referred to as “horizontal issues”; they affect and are affected by each aspect of the WTO’s work program. All WTO committees should therefore have the mandate to examine these issues explicitly as part of their ordinary work. This would require greater cooperation among environment, development and trade officials in national governments. It would require organizational restructuring of the Secretariat. And it may slow the WTO’s work down - but it is critical nonetheless.

Second, the WTO should expand its recent efforts to work with other institutions to ensure global policy coherence. We welcome the statements by governments, UNEP and others this morning in favor of greater cooperation between the WTO and UNEP. Greater cooperation with other UN agencies would allow the WTO to help countries determine what kinds of national and international policy frameworks are necessary to address the market failures I mentioned earlier, and to ensure trade promotes efficiency.

Third, environmental rules and institutions, including the MEAs, should be strengthened to help countries mitigate the environmental

impacts of economic liberalization in a manner that respects their development priorities and rights of market access. For example, environmental agreements must include dispute settlement mechanisms that are as effective as the WTO’s.

And finally, WTO Members should pause and evaluate before proceeding with further liberalization. The WTO must assess the role of national treatment principle in new areas of economic liberalization. As the institution moves from liberalization of trade in goods into new areas – government procurement, investment, services - its work is no longer legitimized by the theory of comparative advantage and the risk grows that new rules will be designed to enable economic exploitation by multinational actors.

In addition, the WTO Members must evaluate the impact of the economic liberalization on their social and environmental systems. This assessment must be both forward looking – it must examine the impacts on sustainability of proposed liberalization – and it must be backward looking – it must consider the impacts of the Uruguay Round.

If we are really committed to creating the best trading system possible, then we must learn from the past and plan carefully for the future. A sustainability assessment is an essential part in this process. Civil society is unlikely to accept proposals for further trade liberalization in Seattle or beyond until we all fully understand the impacts of the Uruguay Round. This is our best guide to the future.

Thank you for your attention.

<sup>1</sup> WTO Agreement, Preamble.

<sup>2</sup> Erlich P., and A. Erlich, *How the rich can save the poor and themselves*, Pacific and Asian Journal of Energy 3.

<sup>3</sup> UNDP, *Human Development Report* (1997).

<sup>4</sup> Daly H and Cobb J, in *INTERNATIONAL ENVIRONMENTAL LAW AND POLICY*, Hunter, Salzman & Zaelke, INSERT (1998).

<sup>5</sup> *ECONOMIC GLOBALIZATION AND THE ENVIRONMENT*, 26, (OECD, 1997).

<sup>6</sup> *Id.*, at 26.

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