

**GENERAL AGREEMENT  
ON TARIFFS AND TRADE**

RESTRICTED  
**L/7500**  
13 July 1994  
Limited Distribution

(94-1431)

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UNCED FOLLOW-UP: RESULTS OF THE SECOND SESSION OF THE  
COMMISSION ON SUSTAINABLE DEVELOPMENT

Note by the Secretariat

1. This note has been prepared to provide background information on the outcome of the second session of the Commission on Sustainable Development (CSD), the body established by the United Nations General Assembly in paragraph 12 of its resolution 47/191, to follow-up the results of the United Nations Conference on Environment and Development (UNCED). It updates and follows a similar report prepared on the results of the first session, contained in document TRE/W/14. Annex I contains a summary of the activities of the United Nations Conference on Trade and Development (UNCTAD) and the United Nations Environment Program (UNEP) on the subject of trade and the environment.

2. The CSD held its second session from 16 to 27 May 1994. In accordance with the multi-year thematic program of work adopted at the first session, this session focused on all cross-sectoral clusters A through E.<sup>1</sup> In particular, under cluster A, the focus was on Chapters 2 and 4 of Agenda 21 (International cooperation to accelerate sustainable development in developing countries and related domestic policies, and changing consumption patterns respectively). More specifically, under Chapter 2, the discussion focused on the subject of trade and the environment. It should be recalled that the UNCED follow-up activities agreed to be taken up in the GATT in the Group on Environmental Measures and International Trade and in the Committee on Trade and Development, are contained in Chapter 2 of Agenda 21. Further, this session of the CSD also focused on the sectoral clusters A and D (health, human settlements and freshwater, and toxic chemicals and hazardous wastes respectively).<sup>2</sup> The Commission adopted Decisions in all the areas of focus. A general theme throughout many of the Decisions was the need for improved coordination and cooperation among organizations and agencies. Of particular interest to the

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<sup>1</sup>The cross-sectoral clusters are described more fully in TRE/W/14. They are:

- Cluster A: "Critical elements of sustainability" (Chapters 2, 3, and 4 of Agenda 21);  
Cluster B: "Financial resources and mechanisms" (Chapter 33);  
Cluster C: "Education, science, transfer of environmentally sound technologies, cooperation and capacity-building" (Chapters 16, 34, 35, 36, and 37);  
Cluster D: "Decision-making structures" (Chapters 8, 38, 39, and 40);  
Cluster E: "Roles of major groups" (Chapters 23, 24, 25, 26, 27, 28, 29, 30, 31, and 32).

<sup>2</sup>The sectoral clusters are described more fully in TRE/W/14. They include:

- Cluster A: "Health, human settlements and freshwater" (Chapters 6, 7, 18, and 21);  
Cluster B: "Land, desertification, forests, and biodiversity" (Chapters 10, 11, 12, 13, 14, and 15);  
Cluster C: "Atmosphere, oceans and all kinds of seas" (Chapters 9 and 17);  
Cluster D: "Toxic chemicals and hazardous wastes" (Chapters 19, 21, and 22).

GATT is the Decision on Trade, Environment and Sustainable Development (discussed below and attached as Appendix I).<sup>3</sup>

3. The GATT Secretariat submitted, on its own responsibility, to this session of the CSD a report on its ongoing and future activities related to trade and the environment.<sup>4</sup> This was in response to a request to the Director-General of the GATT by the Under-Secretary-General of the United Nations Department for Policy Coordination and Sustainable Development for such a report, as was decided at the first session of the CSD. This report was enthusiastically received as comprehensive, accurate, and timely by the Commission which welcomed GATT's cooperation and involvement.

4. The CSD also received 39 submissions from national governments on their UNCED follow-up activities. In addition, the United Nations task managers of the various cross-sectoral and sectoral clusters submitted reports on the activities of the various UN organizations involved in the different sectoral areas. On the subject of trade and the environment, UNCTAD submitted a report on its activities<sup>5</sup> and UNCTAD and UNEP submitted a report on their joint program of work on trade, environment, and development.<sup>6</sup>

#### The Decision on Trade, Environment and Sustainable Development

5. The subject of trade and the environment was a subject area of much interest during this session and considerable discussion revolved around the role for the CSD in this area. Discussions resulted in the adoption by the Commission and subsequently by the high-level Ministerial segment of a Decision on Trade, Environment and Sustainable Development. This Decision reaffirmed the role of the CSD as a forum for monitoring progress, ensuring cooperation among agencies involved and for giving broad political guidance in the implementation of Agenda 21 and activities related to the integration of environmental and developmental goals throughout the United Nations system. Toward this aim, paragraph 16 of the Decision states that the Commission "agrees according to its mandate to review annually developments in the area of trade, development and environment with a view to identifying possible gaps and to promote cooperation and coordination", and "recommends that GATT/WTO, UNCTAD and UNEP continue to provide annual reports on their activities on trade and environment". Also, the Decision states that "the Commission calls on the Secretary-General to ensure an appropriate division of labour within the United Nations system in the area of trade and environment through the IACSD (Inter-agency Commission on Sustainable Development) and its task-manager approach".

6. The Decision underlines the important role of trade liberalization in contributing to sustainable development. In this context, its third paragraph is a direct quote from the preambular language on sustainable development in the Agreement establishing the WTO. In the seventh paragraph, the Decision recognizes that the CSD needs to "interact" with the WTO in future work on these matters and in the tenth paragraph "emphasizes the need for close cooperation and

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<sup>3</sup>Other Decisions adopted are on Finance, Changing consumption and production patterns, Toxic chemicals, Hazardous wastes, Protecting and promoting human health, Human settlements, Freshwater, Radioactive wastes, Information provided by Governments and organizations, Decision-making structures, Matters related to the inter-sessional work of the Commission, and on Major groups.

<sup>4</sup>GATT document Let/1873.

<sup>5</sup>United Nations document E/1994/47.

<sup>6</sup>United Nations document E/CN.17/1994/CRP.2.

complementarity in the work of the GATT/WTO, UNEP and UNCTAD. Of importance, the ninth paragraph calls for "developing a framework to facilitate the assessment of the environmental impact of trade policies..." and adds that "further work in this area by UNEP and UNCTAD, in cooperation with other relevant organizations, would represent a valuable contribution..."

7. Further, in the tenth paragraph, the Commission "underlines the importance of complementarity in work on the identification and development of international trade rules and international environmental law". In particular, "there should be close cooperation between GATT/WTO and UNEP, in particular, when considering the relationship between the provisions and dispute settlement mechanisms of the multilateral trading system and those of multilateral environment agreements, including with respect to the question of compliance with the trade provisions in multilateral environmental agreements negotiated under the auspices of the United Nations".

8. In the thirteenth paragraph, the Commission takes note of consultations on the establishment in UNCTAD of an ad hoc Working Group on Trade, Environment and Development (see terms of reference in Appendix II) and encourages interaction with GATT/WTO and UNEP. The Commission further welcomes the joint UNEP/UNCTAD programme of work in this area and again welcomes the participation of GATT/WTO as well as other relevant organizations. In this regard, the Commission "supports the proposal of UNEP and UNCTAD to hold in a forum complementary to the WTO... a working level session and a high-level/ministerial meeting on trade, environment and sustainable development to examine (i) the role of environmental policies as they relate to trade liberalization policies, (ii) the promotion of trade in environmentally friendly products and technologies and (iii) the promotion of international cooperation in the field of product-related environmental policy instruments".

9. Also, in the seventeenth paragraph, the Commission "recommends that the Secretary General, through ECOSOC, undertake an analytical study on the relationship among the protection of the environment, international competitiveness, job creation and development with the input of various relevant institutions such as the World Bank, GATT/WTO, UNCTAD; UNEP..."

10. Finally, on the issue of transparency, in the eighteenth paragraph the Commission "highlights the importance of achieving transparency, openness and active involvement by the public and experts, in relation to work on trade and environment, including with the WTO, UNEP and UNCTAD and to dispute settlement processes. The Commission recognizes that there is a considerable need for improvement in these areas, and looks forward to the development of specific recommendations in this regard by governments and the appropriate organizations, in accordance with Chapter 38 of Agenda 21."

#### Decision on Finance

11. Trade issues also arose in the discussions on finance. The Decision on Finance thus states that "following the conclusion of the Uruguay Round, efforts need to be undertaken to ensure that all countries, particularly developing countries, reap the benefits from trade liberalization, including gains through improved market access and better terms of trade for developing countries. To this end, it will be necessary to assist developing countries, particularly in Africa and the LDC's to diversify their economies and to make the necessary adjustments to take advantage of new market opportunities. It will also be important to make trade and environment policies mutually supportive and to further promote an open, equitable and non-discriminatory multilateral trading system that is consistent with the goals of sustainable development".

### Decision on Changing consumption and production patterns

12. This Decision noted that UNCED, for the first time, formally placed the issue of changing consumption patterns on the agenda for multilateral negotiations. Of particular interest to trade, the Decision states that "policies and measures to change production and consumption patterns should be predictable for producers and consumers, and should be supportive of sustainable development. The price of a product should be related to its life-cycle costs... the Commission urges national authorities to endeavour to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution, with due regard to the public interest and without distorting international trade and investment".

13. In the Decision, the Commission further "urges Governments and the private sector to consider measures to: (i) encourage greater efficiency in the use of energy and resources; (ii) minimize waste; (iii) assist individuals and households to make environmentally sound purchasing decisions; (iv) exercise leadership through government purchasing; (v) move towards environmentally sound pricing, and (vi) reinforce values that support sustainable consumption and production". The Commission also urges governments to "consider using pricing policy to internalize the costs of risk and damage to the environment... depending on the varying circumstances of developed, developing countries and economies in transition and to consider reporting on action taken to the Commission on Sustainable Development in 1997".

### Conclusion

14. The three-day high-level segment of this session of the CSD brought together environmental ministers to underscore the high political profile of the Commission. The Chairman's Summary of the High-Level Segment, adopted at its conclusion, stressed the aim of the Commission "for more fruitful cooperation with the Bretton Woods institutions and the GATT/WTO to promote sustainable development through sound macroeconomic policies and a favourable international economic environment".

15. The Summary also noted that Ministers recognized "that trade liberalization and measures to make trade and environment mutually supportive are essential to achieving sustainable development. In this context the participants welcomed the successful conclusion of the Uruguay Round and its positive impact on international trade. Acknowledging that further liberalization in international trade may also have some short-term negative impacts on some developing countries, they stressed that an open, equitable and non-discriminatory multilateral trading system, improved market access for products from developing countries, effective environmental protection in close cooperation with all policy-makers involved as well as the private sector and non-governmental organizations will be of long-term benefit to all countries. Attention should be given to the special situation and needs of developing countries. Market opportunities and export prospects can be stimulated by a better understanding and assessment of the environmental impact of trade policies. There is a need to consider interaction between trade, technological cooperation and changes in production and consumption patterns. The Commission will annually review progress and developments in this area with a view to identifying possible gaps and to promoting cooperation and coordination among all parties involved".

16. Also of interest to GATT's work on domestically prohibited goods, the Ministers expressed a "strong sentiment to urge the Inter-sessional Meeting of the Intergovernmental Forum on Chemical Safety and other relevant bodies to seek legally binding status to the Prior Informed Consent Procedure (PIC) with regard to the export of banned or severely restricted chemicals and

subsequently ban the export of domestically prohibited chemicals from OECD countries to other countries".

17. The next session of the CSD is scheduled to be in April 1995. Among the cross-sectoral issues, the third session will focus on Chapters 3 and 5 of Cluster A (poverty; and demographic dynamics and sustainability respectively), Cluster B (finance), chapters 16, 34, and 35 of Cluster C (environmentally sound management of biotechnology; transfer of environmentally sound technology, cooperation and capacity building; and science for sustainable development), Chapters 8 and 40 of Cluster D (integrating environment and development in decision-making; and information for decision-making), and Cluster E (roles of major groups). Among the sectoral issues, the third session will focus on all chapters in Cluster B plus the Forest Principles (land resources; deforestation; desertification and drought; sustainable mountain development; agriculture and rural development; and conservation of biological diversity). The Commission has also decided to keep under annual review the issues of trade, environment and sustainable development, and changing consumption and production patterns.

## ANNEX I

### ACTIVITIES OF THE UNITED NATION CONFERENCE ON TRADE AND DEVELOPMENT AND THE UNITED NATIONS ENVIRONMENT PROGRAM ON TRADE AND ENVIRONMENT

#### United Nations Conference on Trade and Development (UNCTAD)

1. The Trade and Development Board (TDB) carries out UNCTAD's work program and has decided to organize its deliberations on sustainable development (a) taking into account the importance of the theme "trade and environment", a topic under this theme is considered at the first part of each of its annual sessions; and (b) another theme or themes on sustainable development is considered at the second part of each of its annual sessions. With regard to trade and environment the 39th Session of the TDB decided to give consideration to the following areas as elements of its work program on trade-related aspects of sustainable development:

- Trends in the field of trade and environment within the framework of international cooperation;
- The reconciliation of environmental and trade policies, including the necessity to ensure that environmental measures do not become an instrument of protection;
- Analysis of the impact of environment-related regulations and standards on export competitiveness, particularly of developing countries;
- Building of increased awareness and understanding of the interlinkages between trade, environment and development;
- Consideration of the special conditions and development needs of developing countries;
- Collection, analysis and dissemination of environmental regulations and measures which may have an impact on trade, especially that of developing countries;
- Comparative analysis of country experiences with ways and means of promoting trade expansion and diversification without deteriorating or depleting the natural resource base (with special focus on export competitiveness).

2. The TDB considered the first element above at the first part of its fortieth session (September 1993) and the theme "the effects of the internalization of external costs on sustainable development" at the second part of its fortieth session (April 1994). It will consider the theme "the impact of environment-related policies on export competitiveness and market access" at the first part of its forty-first session (September 1994).

3. In December 1992 the Ad Hoc Working Group on the Expansion of Trading Opportunities for Developing Countries decided as one of the elements of its work program to "consider the impact of environmental policies and measures on trading opportunities of developing countries with a view to making recommendations for enhancing those opportunities". It initiated this discussion at its second session.

4. With regard to Commodities, the Standing Committee on Commodities included the following areas in its work program on fostering sustainable development in the commodity field:

- Analysis of national experiences in the management of natural resources with regard to commodity production;

- Exploration of the links between commodity policies, use and management of natural resources and sustainable development;
- Identification of environmental problems that are specific to commodity production and processing and an examination of ways of improving developing countries' access to international financial and technical support, including environmentally sound technologies to cope with such problems;
- Identification of means by which the competitiveness of natural products with environmental advantages could be improved; and
- Examination of the manner in which prices of natural commodities and their synthetic competitors could reflect environmental costs.

5. On policy analysis and conceptual work, UNCTAD has developed a broad program of policy-oriented research. Reports on specific topics, some of which have been indicated above, are being prepared as well as activities such as information briefings, workshops and seminars. UNCTAD is also adjusting its Trade Control Measures Database to incorporate environmental measures which may have an impact on trade. It is also developing GREENTRADE which is a computerized information system that allows encoding and retrieval of information on environmental product concerns and measures, using a personal computer.

6. Technical assistance to developing countries is being provided by UNCTAD in cooperation with UNDP and UNEP to create awareness and understanding of the complex linkages between trade, environment and development, to assist in building institutional capacities for moving towards integration of trade and environmental policies at the national level, and to support the participation of developing countries in international deliberations on trade and environment. UNCTAD is implementing a project on eco-labelling and trade the purpose of which is to help developing countries to examine under what conditions they may benefit from eco-labelling and under what conditions eco-labelling can act as a barrier to trade.

7. A training course on trade and environment is being developed as part of UNCTAD's TRAINFORTRADE program. A pilot version was delivered in a workshop in Kuala Lumpur from 8-12 November 1993 and a second course was held in New Delhi from 24-25 January 1994. UNEP is contributing to further improvement of this program and will host a seminar on trade and the environment for African countries from 26-29 July 1994.

#### *Cooperation with the United Nations Development Program (UNDP)*

8. UNCTAD and UNDP are pursuing a broad program of activities. One important feature consists of country-specific case studies on the interactions between trade and environment policies, involving government institutions and national research institutes in developing countries and countries in transition. The participating countries are Brazil, Cameroon, China, Colombia, Costa Rica, Egypt, India, Jamaica, Malaysia, Nigeria, the Philippines, Poland, Senegal, Uganda, Thailand, Turkey, Vietnam and Zimbabwe. The two organizations have organized a number of regional workshops and national seminars to assist in this process. In addition, studies, workshops, seminars and other activities are undertaken under "trade and environment" components of UNDP financed regional projects for Asia and the Pacific and for Latin America and the Caribbean which are implemented by UNCTAD. The two organizations are planning to establish a high-level advisory group to assist them in implementing a "trade/environment and development agenda" in accordance with their respective mandates and areas of competence.

*Cooperation with the United Nations Environment Program (UNEP)*

9. UNCTAD and UNEP have identified ten issues related to trade, environment and sustainable development linkages which they will address in a cooperative manner. These are:

- (a) Internalization
- (b) Environmental standards
- (c) Emerging trends in environmental policy-making
- (d) Eco-labelling and certification
- (e) The role of science
- (f) Indicators of sustainable development
- (g) Multilateral environmental agreements
- (h) Additional financing and technology transfer
- (i) Positive incentives to build compatibility between trade and environment
- (j) Capacity building.

10. In addressing these issues, the two secretariats will provide governments - particularly of developing countries - with background information, additional research, issues analysis and case-studies. The proposed work will draw from the expertise and in-house activities of the respective secretariats and is intended to complement work under way in other organizations, particularly the GATT/WTO and OECD. The purpose of the work program is to provide decision-makers with more detailed analysis of relevant issues; to keep governments up-to-date with regard to new strategies, information and approaches; and to help promote a common approach to the linkages between trade and environment in the context of sustainable development.

11. A formal institutional structure is not envisaged however, the UNCTAD and UNEP Secretariats are planning to jointly host another, two-day high-level or ministerial meeting on trade and environment in November 1994. The purpose will be to help facilitate a dialogue between environment and trade ministers, from both developing and developed countries. In addition, at least one working-level session on trade, environment and sustainable development will be held in 1994. For that meeting, working papers dealing with two or three of the issues will be circulated in advance.

United Nations Environment Program (UNEP)

12. UNEP's approach to trade and environment can be divided into three main clusters: legal, economic and science. As the most important multilateral environmental agreements, namely CITES, the Montreal Protocol and the Basel Convention are closely associated with UNEP, a first step in UNEP's legal work is to help clarify some of the environmental reasons why trade measures have been chosen, as one means to help protect the environment. In cooperation with the Environmental Law Unit, UNEP is publishing a series of legally related papers over the course of this year, as part of its broader series on environment and trade. Subjects in the series include: concepts and principles in international environmental law; trade measures in multilateral environmental agreement; trade measures in the Montreal Protocol; the TRIPS Agreement and its relationship to the Convention on Biodiversity; the environmental provisions in NAFTA, and trade in domestically prohibited goods. Other subjects will include: dispute settlement procedures; the scientific justification clause in the Uruguay Round text; border effects of market-based instruments for environmental management, with special emphasis on developing country exports; intellectual property rights and technology transfer; and trade and sustainable development.

13. In the area of economics, UNEP's overall approach falls under the rubric of the internalization of environmental externalities. Over the next year, UNEP will research and hold workshops on the following areas: preparing case studies and guidelines for developing countries on the use of environmental impact assessment tools for trade policy; preparing a background study on the border effects of market-based instruments, with special emphasis on developing country exports; and linking environmental valuation work to appropriate pricing policies of traded goods. UNEP has also prepared background papers for the OECD Joint Group of Experts on trade and environment and has increased its participation in that Group.

14. The third area, elaborating the role of scientific data in the trade-environment debate, is conceptually the broadest and most important for UNEP. In this regard, UNEP's work involves analysing how scientific data help clarify environmental issues in the trade-environment debate. In this context, UNEP with UNCTAD will play a role in facilitating a dialogue between developing and developed countries, as well as providing scientific inputs into an environmental forum on trade and environment. UNEP's Earthwatch program is focusing on how to link environmental data and sustainable development indicators to economic and development policy areas, including trade. UNEP will also work with other relevant international organisations - including ISO, WHO, FAO, and ILO to identify how environmental data, particularly related to international standards, can help support and clarify the environmental dimensions of the trade-environment debate. Further, it will also begin preparing specific case studies - most likely involving natural resource exports, chemicals, timber and migratory species - to link data on these issues to trade issues.

15. Finally, UNEP is cooperating with UNCTAD in the area of mutual recognition of environmental criteria for national eco-labelling schemes relating to standards equivalency only. The two organizations will prepare case studies of three or four product categories of particular importance to developing country exports - textiles, leather, footwear and electronics. Throughout UNEP's activities, a major focus is also on capacity building. In cooperation with the International Trade Centre, discussion have begun on developing a data-base of practical information for developing countries on environmental regulations affecting developing country exports. UNEP has also been cooperating closely with UNCTAD and UNDP in supporting four country-case studies on trade-environment linkages; UNEP's input will focus on the environmental issues of trade.

APPENDIX I

CHAIRMAN'S TEXT ON  
TRADE, ENVIRONMENT AND SUSTAINABLE DEVELOPMENT

1. As the organization responsible for monitoring progress in the implementation of Agenda 21, the Commission sets forth some initial perspectives for consideration in subsequent work on trade and environment issues.
2. In the framework of the implementation of Chapter 2 of Agenda 21 the Commission emphasizes the aim of moving towards the overall concept of sustainable development. In aiming at sustainability, full consideration should be given to the special conditions and development needs of the developing countries and countries with economies in transition. An open, balanced and integrated approach towards sustainability through an open, equitable and non-discriminatory multilateral trading system, improved market access for products from developing countries, effective environmental protection and mutually supportive trade and environmental policies should ensure close cooperation with all policy-makers involved as well as the private sector and non-governmental organizations.
3. The Commission recognizes that relations in the field of trade and economic endeavour should be conducted with a view of raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production of and trade in goods and services, while allowing for the optimal use of 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 the respective needs and concerns of countries at different levels of economic development.
4. The Commission considers that trade liberalization can make a major contribution to sustainable development and stresses that protectionism should be resisted. The Commission also regards the achievement of a safe and healthy environment, through strong and effective international and domestic environmental protection efforts, as an essential component of sustainable development. The Commission further stresses that there is a need to decrease subsidies which have harmful environmental and trade distorting effects. In addition, market opportunities and export prospects could be improved by complementing trade policies through sound domestic economic and environmental policies. The Commission points out that an open, equitable and non-discriminatory multilateral trading system and the adoption of sound environmental policies are important means to address environmental implications of trade. The Commission urges national authorities to endeavour to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution, with due regard to the public interest and without distorting international trade and investment.
5. The Commission welcomes the successful conclusion of the Uruguay Round of multilateral trade negotiations which is expected to bring about the further liberalization and expansion of world trade; its full implementation will enhance the trade and development possibilities of developing countries and provide greater security and predictability to the international trading system. It notes that regional and sub-regional economic integration processes, including those among developing countries, have the potential of contributing to improving the medium-term prospects for world economic growth and for an even more rapid extension of world trade.

6. The Commission also notes with concern that the benefits of trade liberalization will accrue more to those developing countries that have already been pursuing more export-oriented policies than to certain developing countries that will continue to face major difficulties, particularly those highly dependent on trade preferences, those that are net food importers and those dependent on primary commodity exports particularly in Africa. In this regard the Commission takes note of the decision taken by Ministers at Marrakesh on "Measures Concerning the Possible Negative Effects of the Reform Programme on Least Developed and Net Food Importing Developing Countries". The Commission emphasizes that for all developing countries to benefit more fully from trade liberalization, the achievements of other objectives identified in Agenda 21, particularly better functioning of markets with regard to commodity trade, increasing foreign direct investment in developing countries and financial assistance including debt relief are important. It notes that mutually supportive trade and environment policies and structural adjustment policies that would, *inter alia*, remove biases against exports, discourage inefficient import substitution, improve infrastructure important to trade, diversify economies to reduce dependence on primary commodities, particularly in Africa, and improve domestic market efficiency would also increase the potential for gains from trade liberalization. It hopes that the promotion of trade in environmentally friendly products and technologies could also further improve trading opportunities for developing countries. Bearing in mind the objective to make trade and environment mutually supportive, the Commission underlines the importance of effective multilateral cooperation to protect the environment, and also of preserving and enhancing the ability of countries to achieve and maintain high levels of environmental protection while pursuing an open, non-discriminatory, multilateral trade system.

7. The Commission notes that important progress was made to address trade and environment issues in the Uruguay Round but recognizes that further progress is needed to address unresolved issues and ensure that the international trading system is responsive to environmental concerns. In this regard, the Commission supports the decision taken at the Ministerial session of the GATT contracting parties in Marrakesh, Morocco, in April 1994 to establish a Committee on Trade and Environment with a broad mandate which will report to the first Ministerial Conference of WTO to be held probably in 1997. Together with the improved framework for dispute settlement, the Uruguay Round Agreements and the Decision on Trade and Environment advance several of the trade, development and environment agenda items of Agenda 21. The Commission recognizes that it needs to interact with the World Trade Organization in future work on these matters. It also considers that work undertaken in the Trade and Environment Committee of WTO would benefit from cooperation with the UNCTAD and UNEP.

8. The Commission emphasizes the results of UNCED relating to trade, environment, and sustainable development, including Principle 12 of the Rio Declaration, and Agenda 21, paragraph 2.22, which calls upon Governments to encourage GATT, UNCTAD and other relevant international and regional economic institutions to examine, in accordance with their respective mandates and competencies, *inter alia*, a number of propositions and principles including to ensure that environment-related regulations on standards, including those related to health and safety standards, do not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade; and to avoid unilateral actions to deal with environmental challenges outside the jurisdiction of the importing country. Environmental measures addressing transborder or global environmental problems should, as far as possible, be based on an international consensus. Domestic measures targeted to achieve certain environmental objectives may need trade measures to render them effective. Should trade policy measures be found necessary for the enforcement of environmental policies, certain principles and rules should apply. These could include, *inter alia*, the principle of non-discrimination; the principle that the trade measure chosen should be the least trade-restrictive necessary to achieve the objectives; an

obligation to ensure transparency in the use of trade measures related to the environment and to provide adequate notification of national regulations; and the need to give consideration to the special conditions and developmental requirements of developing countries as they move towards internationally agreed environmental objectives.

9. The Commission notes the importance of developing a framework to facilitate the assessment of the environmental impact of trade policies, taking into account the special needs and conditions of developing countries. Any such assessment should be carried out within the overall perspective of the promotion of sustainable development. In this context, there is a need to foster a better understanding of the trade implications of a number of environmental concepts and principles, such as the polluter pays principle, the precautionary principle and life cycle management. In this context, there is also a need to consider the interactions between trade, technological cooperation and changes in production and consumption patterns. Further work in this area by UNEP and UNCTAD, in cooperation with other relevant organizations, would represent a valuable contribution to the objective of making trade and environment policies mutually supportive in favour of sustainable development.

10. In the context of the overall aims of sustainable development the Commission welcomes the substantial progress achieved in GATT/WTO, UNCTAD and UNEP as described in their reports to the Commission. The Commission further underlines efforts to make trade and environment mutually supportive through, *inter alia*, strengthening technical assistance in capacity building undertaken by UNCTAD, UNDP and UNEP. As key factors in the implementation of Chapter 2 (A, B) of Agenda 21 the Commission emphasizes the need for close cooperation and complementarity in the work of GATT/WTO, UNEP and UNCTAD as well as the need for appropriate inputs of other relevant organizations involved such as UNDP, the World Bank and OECD. The Commission underlines the importance of complementarity in work on the identification and development of international trade rules and international environmental law. For the purpose of fostering cooperation, the CSD, UNCTAD and UNEP should be appropriately represented at the WTO Trade and Environment Committee. In addition, there should be close cooperation between GATT/WTO and UNEP, in particular, when considering the relationship between the provisions and dispute settlement mechanisms of the multilateral trading system and those of multilateral environment agreements, including with respect to the question of compliance with the trade provisions in multilateral environmental agreements negotiated under the auspices of the United Nations.

11. Regarding national environmental requirements and international trade, the Commission notes further examination and work are needed to ensure that the trading system is adequately responsive to the needs and possibilities of governments to take action in accordance with international law to protect the environment including health and environmental requirements. Further consideration will have to take into account that: (i) there are legitimate reasons for diversity in environmental regulations across countries; (ii) differences in the relative costs of production constitute the very basis for gains from international trade; (iii) effects of national environmental regulations should be studied to determine whether they have a greater potential impact on trade competitiveness than other non-trade policy measures; (iv) disguised protectionism in the name of environmental standards should be avoided; (v) efforts should be geared at promoting the convergence of environmental standards and regulations at a high level of environmental protection, while taking into account that regulations and standards that are valid in the most advanced countries may be inappropriate and of unwarranted social cost for the developing countries; (vi) transparency of environmental regulations and standards should be ensured and adequate information should be provided, in particular to developing countries.

12. Regarding further international cooperation in the field of environmental requirements, the Commission notes the need for a careful examination of the issues relating to competitiveness, particularly in light of evidence that, in some cases, environmental compliance costs are a small proportion of total costs. It should, on the other hand, be clearly seen that investing in environmental activities has many positive effects such as the improvement of market opportunities and job creation.

13. The Commission takes note of the ongoing consultative process in UNCTAD on the establishment of an ad hoc Working Group on Trade, Environment and Development as a result of the UNCTAD VIII Mid term Review and encourages interaction with GATT/WTO and UNEP. The Commission welcomes the joint UNEP/UNCTAD programme and welcomes the participation of GATT/WTO as well as other relevant organizations including the OECD, the private sector and non-governmental organizations. In this regard the Commission supports the proposal of UNEP and UNCTAD to hold in a forum complementary to WTO and other fora as a follow-up activity of the joint informal Ministerial meeting in February 1994 in Geneva, a working level session and a high level/ministerial meeting on trade, environment and sustainable development to examine (i) the role of environmental policies as they relate to trade liberalization policies, (ii) the promotion of trade in environmentally friendly products and technologies and (iii) the promotion of international cooperation in the field of product-related environmental policy instruments.

14. The Commission also takes note of the relevant provisions of the Programme of Action on Sustainable Development of Small Island Developing States and calls for adequate support to be given to the implementation of the provisions of the Programme.

15. The Commission suggests consideration be given by governments and relevant organizations to (i) further development of trade compatible environmental instruments such as non-discriminatory eco-labelling as well as non-discriminatory certification and verification schemes, taking into account the financial and institutional capacity of developing countries to do so; and (ii) cooperative work on environmental standards based, *inter alia*, on input from the International Standardization Organization (ISO) with due regard to the differentiated responsibilities of developed and developing countries.

16. The Commission reaffirms its role, in accordance with General Assembly Resolution (47/191), to monitor progress in the implementation of Agenda 21 and activities related to the integration of environmental and developmental goals throughout the United Nations System. The Commission agrees according to its mandate to review annually developments in the area of trade, development and environment with a view to identifying possible gaps and to promote cooperation and coordination. The Commission recommends that GATT/WTO, UNCTAD and UNEP continue to provide annual reports to the CSD of their activities on trade and environment. The Commission recommends that relevant reports from the International Financial Institutions should be made available to facilitate the work of the CSD. The Commission calls on the Secretary-General to ensure an appropriate division of labour within the United Nations system in the area of trade and environment through the IACSD and its task-manager approach.

17. In order to gain a better understanding of the impact of internalization of environmental costs on competitiveness and trade earnings, particularly in developing countries, the Commission recommends that the Secretary-General, through ECOSOC, seek the views of governments, regional economic integration organizations, the private sector and non-governmental organizations, on an analytical study to be undertaken on the relationship among the protection of the environment, international competitiveness, job creation and development. The Commission

stresses that this work could benefit from the input of various relevant institutions such as the World Bank, GATT/WTO, UNCTAD, UNCEP, UNIDO, UNDP, OECD and ILO.

18. Finally, the Commission highlights the importance of achieving transparency, openness and active involvement by the public and experts, in relation to work on trade and environment, including within the WTO, UNEP and UNCTAD and to dispute settlement processes. The Commission recognizes that there is a considerable need for improvement in these areas, and looks forward to the development of specific recommendations in this regard by governments and the appropriate organizations, in accordance with Chapter 38 of Agenda 21.

## APPENDIX II

### TERMS OF REFERENCE OF THE UNCTAD AD HOC WORKING GROUP

#### I. TERMS OF REFERENCE OF THE AD HOC WORKING GROUP ON TRADE, ENVIRONMENT AND DEVELOPMENT

##### The Trade and Development Board

Recalling General Assembly resolution 1995 (XIX), as amended, and "A new Partnership for Development: the Cartagena Commitment", adopted at the eighth session of the United Nations Conference on Trade and Development which recognizes that "UNCTAD should play an important role in the implementation of Agenda 21 ... taking into account the interrelationship between development, international trade and environment and in accordance with its mandated of sustainable development",

Referring to Agenda 21, and particularly paragraph 2.21 which requests governments to strive to make international trade and environmental policies mutually supportive in favour of sustainable development through relevant multilateral forums, including GATT (WTO) and UNCTAD,

Taking note that the Trade and Development Board, at the first part of its fortieth session, focused UNCTAD's role on policy analysis and debate, conceptual work, the building of consensus among member States on the interaction between environmental and trade policies, the dissemination of information to policy-makers and encouragement and provision of assistance in capacity building,

Decides to establish an Ad Hoc Working Group on Trade, Environment and Development to examine, with a view to promoting sustainable development, the interlinkages between trade, environment and development and related policies, paying particular attention to the problems and special circumstances of the developing countries, including the least developed among them, with the following terms of reference:

1. To examine the effects of environmental policies, standards and regulations on market access and competitiveness, in particular of the developing countries, especially the least developed among them, and countries in transition, taking into account the financial and technological implications;
2. To identify and analyse emerging environmental policy instruments with a trade impact, bearing in mind the need for international cooperation towards ensuring transparency and coherence in making environmental and trade policies mutually supportive;
3. To explore the market opportunities and implications for exporters which may flow from the demand for "environmentally friendly" products, taking into account the benefits and costs associated with reducing the negative environmental affects of production processes and consumption. The work of the Working Group will initially consider ways and means to define and certify environmentally friendly products;
4. To study eco-labelling and eco-certification schemes, and possibilities for international cooperation in this field, taking into account the trade and sustainable development interests of producing countries, particularly developing countries and countries in transition. The work of the Working Group will initially focus on:

- (a) a comparative analysis of current and planned schemes, with a view to discussing concepts such as mutual recognition of eco-labels and equivalencies between environmental objectives and criteria;
  - (b) an examination of the possibilities for taking into account the interests of developing countries in the elaboration of eco-labelling criteria.
5. The Working Group should identify for consideration areas in which technical cooperation should be strengthened.
6. The work of the Working Group should be coordinated with that of other Committees and Working Groups, including the Standing Committee on Commodities.
7. The Working Group may recommend for the consideration of the Board the establishment of expert groups.
8. The work of the Working Group should complement that of other international bodies, while seeking to ensure that no duplication occurs. The Working Group should consider ways to promote interaction between UNCTAD and other intergovernmental and regional organizations working in this field, taking into account the relevant decisions of the second meeting of the Commission on Sustainable Development.
9. The Working Group shall complete its work before the ninth session of the Conference. It may submit interim reports and shall submit its final report on the results of its work to the Trade and Development Board.
10. The Working Group plans its work schedule according to established practice, bearing in mind the work load and the need to finish before the ninth session of the Conference.