

TE 007
26 July 1994

Sub-Committee on Trade and Environment begins work programme

At the first two meetings of the Sub-Committee on Trade and Environment, participating governments discussed organizational aspects of their work, reviewed the substance of the Sub-Committee work programme and agreed to a schedule of meetings for the fall of 1994.

The Sub-Committee was established with detailed terms of reference at the Marrakesh Ministerial Conference in April 1994 (see annex). The Committee on Trade and Environment will be formally established at the first meeting of the General Council of the World Trade Organization (WTO), which is scheduled to enter into force on 1 January 1995.

Ministers, however, had agreed that pending the entry into force of the WTO, the work of the Committee should be carried out by a Sub-Committee, one of four such committees now active under the Preparatory Committee (PrepCom) for the WTO. The Sub-Committee on Trade and Environment is chaired by Ambassador Luiz Felipe Lampreia (Brazil).

At its first meeting on 11 May, the Sub-Committee considered various organizational matters, including requests for observerships and requirements related to documentation;

record keeping and the frequency of meetings. At its meeting on 12 July, the Chairman announced the following dates for meetings until the end of the year. Each meeting will focus on a specific element of the work programme of the Ministerial Decision on Trade and Environment. The meetings have been scheduled as follows:

Week of 12 September 1994

Item 3 of the work programme - the relationship between the provisions of the multilateral trading system and :

- (a) charges and taxes for environmental purposes
- (b) requirements for environmental purposes relating to products, including standards and technical regulations, packaging, labelling and recycling.

Week of 24 October 1994

Item 1 of the work programme - the relationship between the provisions of the multilateral trading system and trade measures for environ-

mental purposes, including those pursuant to multilateral environmental agreements.

Week of 28 November 1994

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

At the July meeting, members gave their initial views on a range of areas covered by the work programme. Various suggestions were also made concerning new studies or updating existing research. Some members stressed that progress should be made not only on the items selected for the remainder of the year, but on all the items in the work programme in a balanced and integrated manner. Trade in services and trade-related aspects of intellectual property rights, the new areas under the WTO, needed to be examined; practically no analysis had taken place in regard to the relationship of these new multilateral rules with environmental measures. Furthermore, several participants said that work on the issue of domestically prohibited goods, item seven of the mandate, should be carried forward especially since a draft decision existed already. No priorities should be established, but the work should be organized so that analytical understanding reached the same level for all the items of the work programme. Only then, they considered, could the work move towards any prescriptive stage.

Other participants suggested that the Sub-Committee should not let the aim of trying to discuss all the items prevent more detailed consideration of some of them. One delegation called for the Sub-Committee to take a pragmatic approach and deal with certain pressing problems. One was the trend of unilateral action which had already been discussed in the Group on Environmental Measures and International Trade, where the view emerged that this prob-

lem should be addressed by way of international consensus for global transboundary problems.

Some members outlined approaches for future orientations. For example, with regard to the first item of the work programme, one member said a core issue was to find an equilibrium between promoting multilateral solutions when dealing with environmental problems on the one hand, and ensuring that WTO members would not be arbitrarily affected either by disguised protectionism or the imposition of environmental values through trade policy action on the other. Accordingly, a key element in this "balancing exercise" concerned the definition of multilateral environmental agreements. Some delegations considered that the Sub-Committee could advance its work on several items of the work programme by examining different types of measures in different contexts. This examination could proceed on a generic case study type approach, and could consider trade effects and the consequent effects on economic activity of various types of trade measures taken for environmental purposes in different situations and in the context of different types of policies. One member stressed this should be an impartial analysis of actual measures viewed within the framework of an open, equitable, non-discriminatory multilateral trading system. Once there was a better understanding of measures, members could focus on their relationship to the provisions of the multilateral trading system. Another member stressed that trade measures for environmental purposes should only be employed within such a framework and on the basis of transparency, justifiability, non-discrimination and least trade restrictiveness.

Several participants suggested that further work in the context of item three of the work programme could focus on energy taxes and other internal taxes for environmental purposes, emission charges, tradeable permits and waste management and recycling requirements. A few noted that this work related to the concept of cost internalisation and the "Polluter Pays Principle". Some members commented that many of

the related concepts and trade effects of taxes and charges could be similar to those already identified in the EMIT Group on packaging and labelling requirements. Some members suggested that delegations provide information to the GATT Secretariat so that appropriate data could be compiled on environmental measures with trade effects, particularly those that were not covered by the EMIT Group. Some delegations also considered that further background documentation could be useful in conducting analysis on such measures, and that this analysis should lead to the same level of understanding as that achieved on the issues examined in the EMIT Group.

Discussion also focused on market access, the sixth item of the work programme. Several participants stressed the importance of this item to developing countries. Many said this item permeated all the others of the work programme and that these overlapping issues, as well as the issues that arose specifically under this item, would need to be addressed. One member stressed that every time an environmental measure which had a trade effect was discussed, its impact on market access should be borne in mind. It was noted that some work had already been carried out in the Committee on Trade and Development, which had identified issues in need of further work. Such issues could comprise initial work under this item.

One member suggested that future discussions could work toward selecting and examining primary industries of interest to de-

veloping countries that were vulnerable to trade measures for environmental purposes, for example, timber, metal and ore industries. Several members suggested that the Sub-Committee examine environmental effects of tariff escalation. Low duties for raw materials and higher ones for processed goods might have an influence on where production took place and how a country's natural resource base was used. Some members added that consideration of this item should also include the positive effects which such measures could have in terms of promotion of environmentally friendly products and services from developing countries.

In his concluding remarks, the Chairman noted the usefulness of the July meeting as a prologue to the meetings scheduled for the autumn where it was foreseen that separate items would be the subject of one to two-day meetings. Although members could take up other issues during the autumn meetings, he requested members to focus on the identified issues so that steady progress could be made on all items of the work programme. He would consult with the Secretariat with the aim of best responding to the requests for background documentation. Furthermore, it was agreed to extend observer status to the governments and inter-governmental organizations that had been accredited observer status in the Preparatory Committee. This included the UN (UNEP and CSD), UNCTAD, the IMF, and the World Bank. The Chairman would consult further to determine any expansion of this list of observers.

ANNEX

Decision on Trade and Environment

Ministers, meeting on the occasion of signing the Final Act embodying the results of the Uruguay Round of Multilateral Trade Negotiations at Marrakesh on 15 April 1994,

Recalling the preamble of the Agreement establishing the World Trade Organization (WTO), which states that members' "relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production of and trade in goods and services, while allowing for the optimal use of 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,"

Noting:

- the Rio Declaration on Environment and Development, Agenda 21, and its follow-up in GATT, as reflected in the statement of the Chairman of the Council of Representatives to the CONTRACTING PARTIES at their 48th Session in December 1992, as well as the work of the Group on Environmental Measures and International Trade, the Committee on Trade and Development, and the Council of Representatives;
- the work programme envisaged in the Decision on Trade in Services and the Environment; and
- the relevant provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights,

Considering that there should not be, nor need be, any policy contradiction between upholding and safeguarding an open, non-discriminatory and equitable multilateral

trading system on the one hand, and acting for the protection of the environment, and the promotion of sustainable development on the other,

Desiring to coordinate the policies in the field of trade and environment, and this without exceeding the competence of the multilateral trading system, which is limited to trade policies and those trade-related aspects of environmental policies which may result in significant trade effects for its members,

Decide:

- to direct the first meeting of the General Council of the WTO to establish a Committee on Trade and Environment open to all members of the WTO to report to the first biennial meeting of the Ministerial Conference after the entry into force of the WTO when the work and terms of reference of the Committee will be reviewed, in the light of recommendations of the Committee,
- that the TNC Decision of 15 December 1993 which reads, in part, as follows:
 - "(a) to identify the relationship between trade measures and environmental measures, in order to promote sustainable development;
 - (b) to make appropriate recommendations on whether any modifications of the provisions of the multilateral trading system are required, compatible with the open, equitable and non-discriminatory nature of the system, as regards, in particular:
 - the need for rules to enhance positive interaction between trade and environmental measures, for the promotion of sustainable development, with special consideration to the needs of developing countries, in particular those of the least developed among them; and
 - the avoidance of protectionist trade measures, and the adherence to effective multilateral disciplines to ensure responsiveness of

the multilateral trading system to environmental objectives set forth in Agenda 21 and the Rio Declaration, in particular Principle 12; and

- surveillance of trade measures used for environmental purposes, of trade-related aspects of environmental measures which have significant trade effects, and of effective implementation of the multilateral disciplines governing those measures;"

constitutes, along with the preambular language above, the terms of reference of the Committee on Trade and Environment,

- that, within these terms of reference, and with the aim of making international trade and environmental policies mutually supportive, the Committee will initially address the following matters, in relation to which any relevant issue may be raised:

- 1 the relationship between the provisions of the multilateral trading system and trade measures for environmental purposes, including those pursuant to multilateral environmental agreements;
- 2 the relationship between environmental policies relevant to trade and environmental measures with significant trade effects and the provisions of the multilateral trading system;
- 3 the relationship between the provisions of the multilateral trading system and:
 - (a) charges and taxes for environmental purposes
 - (b) requirements for environmental purposes relating to products, including standards and technical regulations, packaging, labelling and recycling;
- 4 the provisions of the multilateral trading system with respect to the transparency of

trade measures used for environmental purposes and environmental measures and requirements which have significant trade effects;

- 5 the relationship between the dispute settlement mechanisms in the multilateral trading system and those found in multilateral environmental agreements;
- 6 the effect of environmental measures on market access, especially in relation to developing countries, in particular to the least developed among them, and environmental benefits of removing trade restrictions and distortions;
- 7 the issue of exports of domestically prohibited goods,

- that the Committee on Trade and Environment will consider the work programme envisaged in the Decision on Trade in Services and the Environment and the relevant provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights as an integral part of its work, within the above terms of reference,

- that, pending the first meeting of the General Council of the WTO, the work of the Committee on Trade and Environment should be carried out by a Sub-Committee of the Preparatory Committee of the World Trade Organization (PCWTO), open to all members of the PCWTO,

- to invite the Sub-Committee of the Preparatory Committee, and the Committee on Trade and Environment when it is established, to provide input to the relevant bodies in respect of appropriate arrangements for relations with inter-governmental and non-governmental organizations referred to in Article V of the WTO.