

TE 008  
28 July 1994

## **Report on the GATT Symposium on Trade, Environment and Sustainable Development**

This bulletin contains the report of the public Symposium on Trade, Environment and Sustainable Development hosted by the GATT in the Centre William Rappard, Geneva, on 10 and 11 June 1994. The report is available in English only.

**Report on the GATT Symposium on Trade,  
Environment and Sustainable Development**

Around 300 people participated on 10-11 June in the public symposium on trade, environment and sustainable development hosted by the GATT Secretariat. Financing from the Ford Foundation made it possible to ensure the participation of a number of representatives of non-governmental organisations (NGOs) from developing countries. Assistance in organising the symposium was provided by the Centre for Applied Studies in International Negotiations.

The symposium coincided with the start of a new phase in GATT/WTO work on the linkages between trade, the environment and sustainable development following the Decision on Trade and Environment taken by Ministers in Marrakesh when they met in April to conclude formally the Uruguay Round negotiations. The two principal objectives of the symposium were to provide information on the work underway in GATT on trade and environment and to bring together recognized experts in the field to examine and debate the role that trade policies can play in environmental protection and conservation and in accelerating sustainable development. The symposium was organised around a series of presentations by invited panellists on three topics: trade liberalization, environmental protection and sustainable development; the internalization of environmental costs and the implications for the trading system; and international cooperation. Copies of the papers presented by the panellists are available in a separate issue of GATT's Trade and Environment Bulletin (009).

### ***Opening remarks by Peter Sutherland***

GATT Director-General Peter Sutherland said the conclusion of the Uruguay Round negotiations had set the stage for further development of the positive relationship between trade, better environmental protection and the acceleration of sustainable development. Pointing to the substantive linkages between trade, environmental and development policy-making, he said that failure to implement the results of the Round in coming months would have a devastating effect on international business confidence and eco-

nomic activity. That in turn would risk undermining attention to environmental and development imperatives at national and international levels and deal a severe blow to multilateral co-operation in all areas of policy-making. Success would mean that governments would be able to move ahead confidently in pursuit of their common objectives in the areas of environmental protection and sustainable development.

The Marrakesh Decision on Trade and Environment, he said, was a bonus to add to the Uruguay Round results. Trade and the environment covered a large and complex area of national and international policy linkage, and it demanded the attention and involved the responsibilities of all members of the trading system. He mentioned four factors which had helped bring the subject to the point of maturity it needed to reach before it could be endorsed by consensus by Ministers in Marrakesh as a topic to add to the WTO's responsibilities. One was the elaboration and acceptance of the approach, by the Brundtland Commission and the UN Conference on Trade and Environment (UNCED), of the need for economic growth to go hand in hand with better environmental protection and the promotion of sustainable development. Second, acceptance that trade and environment linkages could not be defined uniquely in terms of trade restriction; in fact it was to a very large extent trade liberalization, not restriction, which held the key to producing a coordinated policy response to environmental problems by allocating scarce resources more efficiently and by generating wealth. Third, it was recognized that trade policies alone could not be asked to resolve all environmental problems and that finance and technology transfer were equally vital pieces of the puzzle. Fourth, demands for a cleaner environment and for environmentally-friendly goods and services had been increasing worldwide, and the speed and direction of events, from the demands of consumers to industry reaction in the marketplace and thereon to government legislation, made the need for multilateral policy cooperation urgent for the sake of both the environment and the trading system.

---

Recognition of that last point in particular, said Mr. Sutherland, and of the fact that many new policy initiatives in the area of the environment either involved trade policies directly or could have significant trade effects, had played an important role in persuading many countries who initially were hesitant to accept the subject of trade and the environment into the GATT to welcome it being brought now into the WTO where their trade concerns could be properly addressed. He added, however, that many countries still held concerns that the subject could generate elements of trade protectionism. One of the keys to success in the WTO Committee on Trade and Environment would be laying those concerns to rest and securing results that could attract the wholehearted support of the collective membership of the WTO.

### ***Introductory session***

Sabrina Shaw from the GATT Secretariat presented an overview of GATT's work to date on trade and environment, based on the Chairman's report on the work of the Group on Environmental Measures and International Trade since 1991 and on the GATT Secretariat's submission to the meeting of the UN Commission on Sustainable Development (UNCSD) in May 1994; both documents are available upon request from the GATT Secretariat.

With respect to future work under the WTO, she said that the new Committee on Trade and Environment had a broad-based mandate that covered all aspects of the multilateral trading system - goods, services and intellectual property. It had both analytical and prescriptive functions: to identify the relationship between trade measures and environmental measures in order to promote sustainable development and to make recommendations on whether any modification of the provisions of the multilateral trading system were required. Two important parameters would guide the Committee's work. One was that competence of the WTO for policy coordination in this area was limited to trade; there was no intention that it should become an environmental agency nor get involved in review-

ing national environmental priorities, setting environmental standards or developing global environmental policies. The second was that if problems of policy coordination to protect the environment and promote sustainable development were identified through the Committee's work, they should be resolved in a manner that upheld and safeguarded the principles of the open, multilateral trading system.

The elements of the work programme which would guide the Committee were spelled out in the Decision and had been drafted in broad and generic terms to allow a comprehensive exercise to be undertaken. Although no issues were taboo, it was clear that any eventual recommendations or results stemming from the Committee's work would need to obtain the broad support of the full WTO membership. The Committee on Trade and Environment would be established formally by the first meeting of the General Council of the WTO, which it was hoped would take place in early 1995. In the meantime, given the importance GATT member governments attached to continuing their work on trade and the environment immediately, a Sub-Committee on Trade and Environment had been established under the Preparatory Committee of the WTO. This Sub-Committee, chaired by a senior GATT Ambassador, Luiz-Felipe Lampreia of Brazil, had held its first meeting in May.

### ***The WTO work programme on trade and environment***

In the discussion which followed, several participants welcomed the fact that the future WTO work programme in this area would be confined to trade and trade-related aspects of the subject, noting that the WTO did not have the expertise to address environmental issues per se. Some went on to suggest a separate and complementary institutional framework was needed to work alongside the WTO on this issue and provide the necessary expertise (see also in this regard the panel presentation by Ronnie Hall in the third Session of the symposium).

Kristin Dawkins said the linkages between trade, environment and sustainable protection

---

were complex and that no existing institution appeared to have the competence or a mandate that covered all of the policies which the linkage required be addressed. The key question was what was the appropriate institutional mechanism for developing policies and integrating all aspects of the global system. She said there was an urgent need for an interactive process among all institutions. The UNCSD had recognized that the gap existed and in making recommendations on how it might be bridged had emphasized the need to involve NGOs in the process. Diversity was needed, and NGOs should be involved for that reason. The process should be multilateral, pluralistic and democratic, involving all governments and NGOs. Only through this kind of participatory process would it be possible to direct trade towards fully sustainable development and build up the capacity of the WTO to contribute in this area. Rather than setting up a new institution she suggested defining explicit relationships between agencies so they could develop policies within their respective mandates to support the goal of sustainable development.

Stewart Hudson thought it necessary to have an international body of environmental agreements that would help the WTO do what was needed in this area, but responsibility for environmental protection or the sustainable development agenda should not be transferred to the WTO. For one thing, he said, the interests of weak countries needed to be fully protected in the negotiation of international environmental agreements (IEAs) and the WTO was not a place where that could be guaranteed. David Runnalls agreed, but said it had to be recognized that all decisions on trade and environment would be taken in the WTO; the real issue was how to bring in environmental expertise. Leaving other agencies such as UNEP, UNDP, or UNCSD to take up environmental issues separately was not a practical solution. Political power rested with finance, trade and development ministries, and the key would be making them understand that environmental considerations had to be taken into account in their decisions.

Maria-Elena Hurtado felt that coordination and political leadership in this area could be provided through the UNCSD, which should ensure that the relevant expertise and political direction was fed into the WTO and that the WTO in turn took full account of all the perspectives involved. It was important, she said, for developing countries to have a clear set of rules linking trade and environment since otherwise there would be more disputes. As regards the WTO process, therefore, she noted that past GATT Rounds had succeeded because they had been sufficiently diverse to allow for a balancing of interests to take place and she foresaw the need for a similar process in the area of trade and environment, dealing not only with environmental issues but also with the need to increase market access for developing countries, reducing tariff escalation and achieving further liberalization of trade in agriculture.

Philippe Sands agreed that the UNCSD was able to coordinate and oversee. In his view, the GATT legal system was subject to the UN legal order and, it followed, subject ultimately to the UNCSD.

John Cuddy of UNCTAD said that while the WTO was no doubt the place for rule-making on trade and environment issues, analysis and elucidation was also needed to prepare issues to come to the WTO. UNCTAD, UNEP and UNDP were working closely together in this respect. He also saw a need for national government ministries to increase their cooperation and coordination. Environment ministers needed to be joined by their trade and finance colleagues if progress was to be made in the promotion of sustainable development. Robert Keyes said that better inter-ministerial coordination at the national level was important. Nevin Shaw added that integrating the environment and economy in order to promote sustainable development would be facilitated by taking into account the principles of efficiency, environmental integrity and equity, which would lead to more cooperation between governments, NGOs, policymakers across the board, and international institutions.

---

For Lyuba Zarsky, hearing the issue of competence expressed as a parameter for work by the WTO in this area rang a warning bell. She felt it important that the WTO coordinate its work with UNEP and the UNCSD, although that in itself would not be enough. An institution competent in the areas of international environmental law and management was needed, with strong NGO representation, from which the WTO would accept rulings in this area. Charlie Arden-Clarke supported strongly the need for a new institutional focus, and agreed that the key question would be whether it had the authority to issue instructions to the WTO.

As for the issues that needed to be tackled in the WTO's Committee on Trade and Environment, Charlie Arden-Clarke said the problem of green protectionism would have to be confronted directly. The Committee would also need to discuss the way trade took place and the way goods were produced for trade. Eva Terrvik said it was important to conduct in the Committee environmental impact studies of the Uruguay Round agreements as they were implemented, with the cooperation of UNEP and other UN agencies and of NGOs. Martin Khor cautioned that before notions of cost internalization, process and production methods (PPMs) and eco-dumping became part of the agenda at the WTO, they had first to be sorted out in other, more scientific, comprehensive and transparent contexts.

Myriam van der Stichele saw a need for direct regulation of corporate behaviour and of competition. It was clear, she said, that abuse of market power led to environmental degradation, and NGOs supported bringing the issue of competition policy into the WTO.

Ira Goldman said the WTO needed to take account of the extent to which primary responsibility for environmental policy-making and enforcement lay at the local and state government level in countries such as the United States. In his view there was more pronounced support at the state and local levels for an open world trading system than at the federal level. He was pleased to hear that the WTO would not be in-

volved in setting environmental standards. To the extent that standardisation was seen as a means of raising standards worldwide he could support the process, but there was a danger of placing downward pressure on standards that were higher than international norms. That should be avoided. He was worried in that context that there could be a commercial challenge to local government environmental standards. He also felt that local government and community interests should be represented in the WTO, especially where cross-border environmental problems among local governments and communities were involved.

Mitsusune Yamagushi said the WTO should pay more attention to (ISO) standardisation activities and cooperate to ensure that environmental standards did not create unintended trade barriers.

Stephen Locke said there seemed to be a danger of giving the WTO the impression that NGOs felt it was being asked to do too much, and that as a result it might end up doing too little. The interests of consumers in a clean and healthy environment had to be accommodated alongside their interests in access to goods and services and value for money. Within the concept of consumerism it was reasonable to include environmental quality, but the concept did not call for an unrestrained quantity of consumption; on the contrary, wise, well-informed consumers might actually consume less. Nor did the concept rule out the possibility of consumers paying for external environmental costs through higher prices and taxes. There was a need to strike a balance. The WTO could not be expected to solve all problems in this area, but it could set sensible rules that ensured trade did not stand in the way of environmental protection. One problem it needed to resolve urgently was setting guidelines for the use of trade measures in IEAs. There were too few such agreements in place, and he hoped the WTO would encourage the development of more in a form that could be used as basis for sensible multilateral trade rules. Secondly, the WTO needed to set trade parameters within which individual countries could

---

set their own environmental standards. National standards were often the leading edge of policy-making, quite properly so given that it was important to take local conditions into account in setting standards, and sensible parameters should be set in a transparent way. Third, the WTO should ensure consistency between trade and environment concerns on the one hand and other new areas it was tackling such as TRIPs, services, the Trade Policy Review Mechanism and competition policy.

### ***Improving transparency in GATT***

Peter Madden said he was expressing the hope of several NGOs that the symposium would represent the start of a process of dialogue between NGOs, the GATT Secretariat and GATT delegations and that a mechanism would be set up to ensure the dialogue could develop further. Several other participants echoed that sentiment and said they hoped the question was not whether, but how the dialogue would proceed. Grant Hewison said that the issue of public participation should have been on the agenda for the symposium and he hoped that agreement could be reached now on the agenda of the next symposium. Carmen Carmona described NGO involvement in the NAFTA process and suggested the same procedure be followed in the WTO.

Martin Khor was concerned about under-representation of NGOs from developing countries at the symposium, and emphasized the need to build up the capacity of those NGOs to enter into the dialogue so as to ensure a better balance between environment and development perspectives. Youba Sokona felt southern participants at the symposium were disadvantaged since they did not have resort to the kind of in-depth analysis of the problems involved that was available to northern NGOs. Fatima Alaoui and Ojijo Odhiambo said there was an enormous information gap in African countries about what the GATT was and what had been concluded in the Uruguay Round negotiations. The key to reaching the goal of sustainable development was the involvement of people, and to be involved they had first to be properly informed.

They recommended that information coming from the WTO be framed in a way that was understandable not only to experts, and added that NGOs had an important role to play in that context in helping to bridge the information gap. To do that, NGOs needed to work hand in hand with the WTO, to be integrated into the process and be given a collaborative role.

Lyuba Zarsky hoped there would be continuing consultations at GATT to enhance learning on all sides, and she encouraged the inclusion of researchers and scientists to make the consultations educational rather than polemical.

Maria Onestini made three suggestions for moving towards a more transparent dialogue with NGOs. First, NGO and public participation should be viewed and treated differently from WTO relations with commercial sector, private enterprises. Second, greater access to documentation and more opportunities for NGO input were needed. She suggested, in this regard, making agendas for WTO meetings on trade and environment available to NGOs well in advance of each meeting, and opening up the dispute settlement process to NGO input. Third, a GATT ombudsman should be created to receive and process the concerns of local communities, NGOs and civil society in general. Myriam Vander Stichele supported these suggestions, and asked whether any WTO budget was foreseen for consultations with NGOs.

David Warburton urged NGOs to consider how they would maintain equity, representation and transparency in their operations, and said those representing private business interests needed to be fully involved. Ian Bird agreed and said business interests should not be decoupled from social interests in the further discussion.

### ***Incorporating the development dimension***

Martin Khor said that the work of the WTO should take place within the context of sustainable development, which was a much broader and more mature concept than that of environmental protection. Environmental goals had to

---

be tempered with an understanding of the need to fulfil human needs and the pursuit of equitable methods of reaching environmental harmony at the global level. This involved the UNCED principle of "common but differentiated responsibilities" in resolving international problems, which reflected the fact that historically some societies had been more responsible than others for current environmental problems. For him, the key questions were how to deal with the fact that current patterns of consumption, production and trade were, to a significant degree, harmful to the environment and how to resolve that problem in a manner which was fair and balanced at the global level. Adjustment costs had to be borne by parties that bore most of the responsibility for the costs and were better able to shoulder the burdens that adjustment would involve. These should not fall to the poor or the weak, as had been the case with international financial adjustment, yet there was a danger that popular support for the issue of the environment would be used by powerful countries to push the burden of adjustment onto poorer countries. If there was a breakdown of confidence in developing countries among governments and NGOs, that the burden of adjustment would be equitably shared, it would be the environment that suffered. Positive discrimination in favour of the weak was needed to resolve this.

Tariq Banuri said NGOs in the developing countries were concerned that there appeared to be a Northern, "empty world" version of environmentalism and a Southern "full world" version which included countries that were highly populated and where there was tremendous conflict over resource availability, especially in Africa and Asia. Weaknesses in the systems of property rights and in institutions in the South were major obstacles, not only because of problems of emerging resource scarcities but also because of emerging conflicts in international agreements on environment and trade. When society was weak and the rules of the game suddenly changed, the changes could work to the detriment of the customary rights of the weak and the poor. He gave as an example the Green

revolution. Resource shortages did exist, for example in the case of water, and the poor would lose access to those resources if their customary rights were not respected. Trade expansion could hurt the poor and the weak for the same reason. There was therefore a need to invest in strengthening institutions and property rights in the South, and that role was very much part of the remit of organisations such as the UNCSD.

Maamoun Abdel-Fattah said he was apprehensive that industrialized country governments and NGOs would try to place the cost of improving environmental conditions onto developing countries. NGOs should understand the problems of developing countries and look at the issues not only from the point of view of the environment but also of trade, which was of great importance to developing countries.

Caroline LeQuesne said northern NGOs were aware of the problems and needs of developing countries. Equity was a key element that needed to be addressed, in two respects: first, the problem of poverty leading to environmental degradation and back to poverty again, for which debt and financial adjustment problems were part of the agenda; second, the problem of over-consumption in the North. Every citizen should have equal rights to a share of the world's resources. On the question of equity, David Runnalls agreed that the overwhelming burden of the creation of ecological problems, such as CO<sub>2</sub> emissions, ozone depletion and loss of biodiversity, lay with the North, and added that the problems would not be solved without taking equity into account, for example allowing for the increase of CO<sub>2</sub> emissions in the South as it developed.

Charlie Arden-Clarke addressed the point of who would pay for environmental clean-up by saying that exporters who were selling goods without covering the ecological costs of producing them were paying the costs already through the degradation of their local environment. In the short-term trade was very important for developing countries, but they would sell their future short if they did not cover their ecological costs. Stewart Hudson agreed that a response

---

had to be found to the question "who will pay?"; otherwise there was a risk that industry would demand trade protection because of the competitiveness problems it would find itself facing. The costs could not be passed on to developing countries. However, trade could be used to empower the South politically and to allow the South to promote and benefit commercially from environmentally-sound trade.

### **Session I:** ***Trade Liberalization, Environmental Protection and Sustainable Development***

Stewart Hudson, from the National Wildlife Federation, presented a paper which examined how close the Marrakesh Decision on Trade and Environment came to meeting his own and other organisations' proposals for environmental reform of the GATT and the international trading system, discussed ideas for diversifying the process of public and inter-governmental participation in the work and procedures of the Committee on Trade and Environment, and presented some initial views on specific agenda items that might be undertaken in line with the Committee's mandate.

His conclusions were that initial efforts in GATT to integrate the concerns of trade and environment had been dominated by a system biased towards trade-liberalization, and largely hostile to public involvement. The creation of the WTO Committee on Trade and Environment therefore represented real progress, but to succeed the work agenda of the Committee would need to be less nebulous and reflect an understanding that international trade rules needed to change in order for trade to promote sustainable development. The agenda of the Committee would profit from actions taken by other inter-governmental organisations (IGOs) — such as a new Intergovernmental Panel on Trade and Environment — and increased participation of NGOs from WTO member countries. The Committee should be driven by an awareness that, as currently structured, international trade and its

rules and procedures fell short of contributing to sustainable development. It could assist in a turnaround, as could other WTO Committees, by delivering specific recommendations to modify the international trading system to better promote environmental protection and socially equitable development around the world. Down the road, the manner in which the Committee's vague mandate resulted in specific changes to international trade would be the most critical indicator of whether trade became relevant to the sustainable development challenges being faced.

Ravi Sharma, of the New Delhi Based Centre for Science and Environment, addressed the importance of "Ownership and Governance" for ensuring that trade liberalization would be compatible with sustainable development. He said that typically in developing countries, environmental conservation was in the hands of rural communities. Most tradeable natural resources were un-owned and underpriced, and he felt that government policies, especially macro-economic policies, tended to exaggerate their undervaluation. A competitive trade advantage was often achieved by not paying the environmental costs required to maintain sustainable resource production. This led to environmental destruction in the long run, and was achieved only at the cost of local communities dependent upon the resources in question. India's experience, he said, had shown that giving local communities legal and managerial ownership of natural resources ensured that their conservation and sustainable use would be viable economically.

When commodities were traded internationally, a floor price was needed to ensure there would be resources available for investment in ecological conservation to sustain production. Consumers should pay true ecological prices for commodities, he said, yet current policy and practice was tending instead to depress commodity prices on world markets and forcing exporting countries to intensify production and engage in more environmentally damaging activities. What was needed was the internalization of environmental damage in the prices facing

---

consumers and producers if trade liberalization was to have a positive impact. Furthermore, all global commons resources provided by developing countries to the international community should be properly priced. In many cases at present they were provided without remuneration and it was time that charges were levied on the use of global common resources to finance common environmental conservation programmes. However, the generation of increased revenues was no guarantee of investment in environmental conservation unless the revenues reached the people who had a real stake in conservation. That happened either through internalization of ecological costs at the level of production and trading or through taxation.

He said that attributing ownership and cost internalization could bring sustainability to free trade only if global governance was fair. The problem was global decision-making lay in favour of the North. Using trade restrictions as leverage to promote environmental protection was likely to benefit only the North, and given the world's ecological and social diversity using trade to impose uniform global rules could well be counterproductive. Trade embargoes, however well meaning, could jeopardise sound environmental planning and he cited the case of the campaign to save the African elephant through a world wide ban on ivory trade, which several African countries considered ill-advised and counter-productive. Finally, he said that GATT's dispute settlement mechanism needed revision to make it less expensive, more transparent, and more responsive to the needs and advice of people living and working closest to environmental resources. The rights of local communities were crucial in conserving their environment and could not be replaced by international experts far removed from realities.

David Runnalls, of the International Institute for Sustainable Development, emphasized the importance of avoiding an either-or debate around the two poles of trade and environment, and of taking instead the objective of sustainable development as the point of reference. Whether sustainable development was defined in a way

that emphasized the need to centrally manage the process or more innovatively through emphasizing the role of local initiative and community participation, the transition was clearly going to be expensive, particularly since poverty eradication was a precondition for sustainable development. The resources to pay for the transition were most unlikely to come through traditional foreign assistance channels, and although direct foreign investment could help it was likely to be concentrated in relatively few countries. Most of the resources would have to come from liberalising trade, along with resort to new and more energy efficient technologies under more favourable terms and conditions.

While trade liberalization was a necessary condition for sustainable development it was by no means sufficient. Current patterns of resource use had to be changed. The world economy and world ecology had to be addressed jointly, and sustainable development required not only more growth but also a sea change in the quality of growth to make it less energy and resource intensive and more equitable in its impact. Changes had to be based on a common set of principles, acceptable to the trade, environment and development communities, and he described the principles that had been worked out and published by the IISD and how those principles should be applied to the WTO work programme.

Philippe Sands, from the Foundation for International Environmental Law and Development, discussed the place of GATT in the broader international legal context and with specific reference to the dispute settlement system. He said that the first tuna panel had acted as a catalyst for the issue of trade, environment and sustainable development. Given that the number of disputes relating to this area would increase in the future, some of the new WTO dispute settlement rules were welcome as they signalled a move away from what was presently a closed system. There existed a tension between the perspective that GATT/WTO was a hermetically sealed legal system and the perspective that it should be placed in and draw from develop-

---

ments in other international legal contexts. The first tuna panel had been a last attempt to keep the GATT system isolated from the changes which were taking place in the international legal order. The preamble to the WTO recognized that economic and trade relations must allow for the optimal use of the world's resources in accordance with the objective of sustainable development. From a legal perspective this language was relevant and the new dispute settlement system would have to take into account the body of law which had developed outside GATT, specifically those rules concerning conventions on labour standards, human rights and IEAs. The GATT legal system was part of, and should be subject to, these developments.

He noted that although the conclusions of both tuna panels were the same, the reasoning had been more coherent in the second. This suggested that the introduction of panellists with expertise in the area of international environmental law could have an effect on the reasoning and findings of other panels. Citing several sections of the second tuna panel report which, he said, differentiated it from the first, he suggested there was little in GATT to prevent one country from applying its measures extraterritorially in the proper circumstances. The second tuna panel had stated, however, that one contracting party could not try and influence the policies of another through the use of trade measures. He asked what, then, was the relationship between GATT rules and trade measures taken pursuant to IEAs? The panel concluded that measures taken to force other countries to change their policies could not be primarily aimed either at the conservation of an exhaustible natural resource or at rendering effective restrictions on domestic production or consumption within the meaning of Article XX(g). The Vienna Convention on the Law of Treaties stated that when interpreting a treaty provision to assess whether it might allow one contracting party to use trade measures to effect the conservation policies of another, any relevant rules of international law applicable between the parties could be taken into account; in that sense it was appropriate for

a GATT panel to look outside the GATT system. The new WTO integrated dispute settlement system would create a new openness and allow for greater participation by NGOs, including the right to intervene and to file amicus briefs, greater financial support for developing country participation and rights of appeal from within GATT to other international legal mechanisms. He felt that it was critical that as disputes increased in number and complexity, the composition and independence of panels and the linkages with other dispute settlement mechanisms be maintained in order to integrate environment and sustainable development into the existing trade order.

Silvia Ribeiro, of REDES, said that in a world of profound inequalities the principle of equity should form the point of reference for pursuing sustainable development. The dominant current model of production and consumption was motivated fundamentally by industrialization, the globalization of markets and trade liberalization. Environmental degradation and social inequity were inherent. The market mechanism was inadequate to distribute resources, since market prices took no account of social inequality or inter-generational equity. It deprived local communities systematically of decision-making power over their economic, social and public well-being, and led to environmental degradation. The policies of international organisations were aggravating this process.

The suggestion that trade liberalization would generate resources to invest in environmental protection and conservation, she said, ignored the problems of access to resources and social distribution of the profits. Trade liberalization, in fact, led directly to increased social and environmental problems for developing countries, and market liberalization in general, meant that many goods and services became unobtainable for the majority of the population. Fair and equitable trade conditions were needed, and that involved preventing the externalisation of social and environmental costs from the start rather than internalising costs in prices afterwards. The disappearance of a

---

species or an indigenous people could never be internalised. A starting point for analysing the links between trade, environment and development was to have social and environmental impact studies from interdisciplinary and independent bodies on the effects of trade liberalization, the implementation of structural adjustment programmes, and the results of the Uruguay Round negotiations. The WTO was not an adequate forum to analyze and decide on issues of such complexity. Independent international fora were needed where the voices of both affected local communities and NGOs could be heard.

Dariusz Szwed, of the Cracow Group of the Greens Foundation, made the case that trade liberalization in the absence of full cost internalization would create environmental problems. He said that unrestrained resource consumption for energy production and other uses could lead to catastrophic outcomes for the global environment. Free trade increased economic activity and tended to drag more materials and energy through the economic system. Such an increase was likely but not necessary since it depended on what happened to the technical coefficients between economic activity and inputs. However, even if energy inputs per unit of economic activity declined over time, as they had done in industrialized countries, then an expansion of economic activity was also likely to involve land use changes which would threaten the natural environment. If the potential environmental benefits of free trade were to be realized, GATT rules had to recognize that environmental externalities were effectively environmental subsidies and discourage "eco-dumping" and permit countries to protect themselves against "eco-dumping" by others. He went on to say that trade growth resulted in increased transport. Transportation required fuel, most of it fossil fuel, and the transport involved in international trade was estimated to account for one eighth of world oil consumption. Therefore trade contributed to environmental damage caused by emissions of carbon dioxide and other pollutants, as well as depleting a non-renewable resource. If this dam-

age were internalised in the price of oil, the volume of trade would be greatly reduced. He noted that in central European countries, public opposition to the growth of transit traffic had risen.

He concluded that a long term objective should be to internalise all environmental costs in product prices, and trade liberalization should be pursued only after that price adjustment had occurred. Trade could then be environmentally beneficial in the sense that it could increase the biophysical carrying capacity of the world. Some had argued that from a developing country standpoint such a proposal would amount to protectionism by the North, but since the bulk of world trade was handled by multinational enterprises and was North-North trade, most of the costs of internalization would accrue to industrialized countries.

In the discussion which followed the presentations by the panellists, several participants agreed that overconsumption in the North was a problem that needed to be addressed. Carlos Suarez and Chakravarthi Raghavan said that trade liberalization led directly to over-consumption via cultural homogenisation of the world and of lifestyles oriented towards consumerism and a narrow obsession with efficiency. This would destroy local culture, and consequently the environment. Carlos Suarez said it was necessary to resolve the old problem of inequitable income distribution in the world. That was what lay behind over-consumption and production and natural resource exploitation.

Claes von Ungern said stressing the need to change consumption patterns was just wishful thinking. There were no signs of real change in industrialized countries. Stewart Hudson felt the answer was to increase the political standing of the South and that trade offered one means of doing that if it could be reformed and made greener. However, for him the problem needed to be put in the positive rather than the negative, and expressed in terms of promoting sustainable development rather than attacking over-consumption.

---

Martin Khor said trade liberalization should not be equated with free or even freer trade. Free and competitive trade was based on the operations of small firms and farms. However, the system underwritten by GATT promoted the power of monopolies to impose trade on their own terms on weak parties, and the Uruguay Round negotiations, especially the TRIPS Agreement, emphasized that bias. In his view, trade liberalization did not help the environment. Growth based on structures of overconsumption and overproduction would only accelerate unsustainable development. Recent OECD studies did not support the orthodoxy that trade liberalization would lead to environmental improvement; they had said there could be positive or negative impacts of trade liberalization on the environment, and that case-by-case examination was needed. Proper analysis had to look at PPMs and technology. There must be a balanced approach towards trade liberalization, taking into account the need for equity on North-South lines. Chakravarthi Raghavan questioned how trade liberalization would help eradicate poverty if all was going to be left to market forces. In his view market management and regulation were needed to achieve sustainable development.

Ralf Bremer gave his view of how economic theory applied to the links between trade liberalization and environmental protection and concluded that trade which took no account of environmental externalities would hasten environmental damage and reduce welfare.

Tariq Banuri expressed concern about treating the environment as an externality. It was true, he said, that externalities were part of the analysis, but there was also the issue of expropriation. For him, the entire case for freer trade was based on the assumption that property rights were clear, recognized and inviolable, and that was not realised in practice. Whenever trade liberalization took place, particularly in developing countries, expropriation occurred, whether of customary rights or ambiguous rights which were often times ignored or overlaid with a new situation in which people without political power were not able to protect their own rights.

There were, for example, significant differences between sources and sinks in this context. For sources, there were often detailed customary rights which were expropriated and replaced by explicit rights only for state-based organisations. For sinks, there was often very little by way of existing rights and new rights were either legislated or they were open-access situations. The problem had been that development was generally defined in ways such that customary rights were expropriated. These issues were important and could not be captured in the term "externalities" since the welfare consequences were not clear in the absence of well defined property rights or knowledge about distributional consequences. He added that the Supreme Court in Pakistan had recently recognized the right of communities to live in a healthy environment, a right which could not be taken away for any purpose including the objective of development. It would provide the right for local communities to object to a particular development model.

Several references were made to the TRIPS Agreement. Vandana Shiva said it promoted restrictive economic activity that was highly detrimental to the environment. It threatened to destroy the exchange of genetic resources among communities, and even more importantly to disrupt ownership and control in communities through expropriation of customary rights and systems of ownership. In her view, existing systems that were protecting the environment were being dismantled by trade treaties. Ira Goldman responded that technology had to be paid for. Countries that had put together sound intellectual property regimes were finding them of great benefit. The TRIPS Agreement was not a regime for repressing part of the world. It guaranteed a monopoly of limited duration in order to spur technological development. Chakravarthi Raghavan replied that the monopoly involved was imposed on developing countries, and there was an equity issue involved which could not be avoided.

Fatima Alaoui felt it was dangerous to subject the rights of indigenous peoples over biodiversity to national laws related to the TRIPS Agree-

ment. Victoria Tauli Corpuz agreed and said that trade liberalization and environmental protection were incompatible from the perspective of indigenous peoples. The push for trade liberalization in the Philippines had undermined indigenous people's sustainable agricultural, forestry, and sustainable resource management practices. Diverse agriculture for subsistence had given way to a limited variety of monoculture for cash crop production. This had led to land degradation, and customary rights to land ownership had had to give way to plantations and mining operations. There had also been a loss of biodiversity, and she felt the TRIPS Agreement would have the effect of removing the controls that indigenous people had over their genetic resources and decrease genetic diversity. She asked whether it was realistic to expect that the WTO could help protect the diverse systems of indigenous sustainable resource management, biological diversity, and diverse social and economic systems which indigenous peoples had managed to keep until now. What could the WTO do to protect the community rights of indigenous peoples in the face of competition from intellectual property regimes of powerful large corporations? Would cost internalization also include the cost of the displacement of indigenous peoples and the destruction of biodiversity? Would sustainable development address the environmental destruction that could follow from genetically engineered micro-organisms or plants which were being introduced to increase production?

Lyuba Zarsky called for more serious research on trade and environment linkages at the national level. Geography mattered, she said, and new ways of managing the trading system flexibly were needed to take account of local environmental and sustainable development conditions. The concept of cost internalization could be of help, but new approaches were needed to manage the scale of resource use in the context of open markets and that might require new instruments such as resource agreements and tradable permit schemes which set absolute limits on the use of environmental resources. Geo-

graphical specificity required sectoral approaches, for example in agriculture. She felt there needed to be environmental rules of accession to GATT, but these should be based on common methodologies for setting standards, not common standards. Another issue for the research agenda she said was how regional trading arrangements fitted in with global agreements and approaches.

Philippe Sands agreed that geography mattered, and said this was the inherent difficulty of an international legal order created around the notion of sovereign states with neatly defined boundaries into which an ecological or environmental approach could not be fitted. He added that it was necessary to redefine the GATT term "like product" to include the possibility of differentiating products on the basis of their PPMs.

Nevin Shaw saw three issues for the WTO in relation to trade liberalization; it should create trade rules which protected the weak from the strong; it should promote the removal of trade distortions such as agricultural subsidies and tariff escalation which were environmentally damaging; and it should improve market access for developing countries to give them the resources they needed to pay for the environment. Jim Dixon drew attention to the environmental damage caused by trade distorting agricultural policies, and said this needed further examination in the WTO.

Claes von Ungern said industry wanted the WTO to concentrate on elaborating new, greener, but still fair trade rules in this area because green protectionism was increasing and creating problems for industry; there were already many examples of trade restrictions based on PPMs. Geneviève de Bauw said a liberal trading system was one of the essential conditions for achieving sustainable development because it created more resources and more efficiency. Liberal trade also increased competitiveness. Clear trade rules were needed, and technical and environmental expertise should be involved in WTO discussions.

Myriam Vander Stichele expressed disappointment that the GATT Secretariat's recent re-

---

port to the UNCSD had looked only at the beneficial effects of trade liberalization, and stressed the need for the WTO to analyze in what ways trade liberalization might be bad for the environment.

On the issue of the tuna-dolphin GATT dispute panels, Grant Hewison expressed difficulties with both panel decisions. At present, he said, the international environmental legal system was weak and there were opportunities for nations to free ride in the context of IEAs. One mechanism used in the past to reduce free riding and encourage acceptance of IEAs had been the threat or use of trade restrictions. However, the tuna panels had concluded that it was not permissible to use trade restrictions even though they might be sanctioned by an IEA to eliminate free riders. Although the first tuna panel decision had not been adopted it had had an important effect since subsequent attempts to use trade restrictions in environmental agreements had been put aside because it was feared they might be inconsistent with GATT rules. The second tuna panel decision looked as if it would reinforce that position further, even if it also was not adopted. His conclusion was that new GATT rules were needed in this area, and NGOs should be involved in drawing them up.

Ken Traynor said GATT dispute panels were undermining existing environmental laws. They had, for example, influenced the way Canada could implement its environmental laws and that in turn was having an impact on Canadian fishing communities. He hoped the WTO would craft new methods for dispute settlement in this area, starting with the need for greater transparency and participation in the process. Debating the tuna panel decisions only after the fact was unacceptable, and a poor way to make public policy.

Leesteffy Jenkins said both tuna panel decisions highlighted the fact that in terms of prescriptive and procedural rules the GATT was antithetical to strong environmental protection. Even though both the US and the EC had noted in the context of the second panel that they thought certain IEAs were relevant to the interpretation

of GATT rules, the panel had concluded that the IEAs were of little assistance or not relevant. More importantly, the panel had determined that the dolphin protection provisions of the US Marine Mammal Protection Act were inconsistent with GATT obligations based on a factual finding that the US law was not "related to" dolphins nor "necessary to" dolphin life; she found it ironic that trade experts with no competence on environmental issues could make such a determination.

Philippe Sands agreed, but said the reasoning contained in the second tuna panel report was superior to that of the first and he felt that strategically it should therefore be welcomed as a step in the right direction. Fundamentally, it remained true that the decision did not allow pressing international environmental needs, as reflected in IEAs, to take precedence over the GATT. He added that dispute settlement would be central to the operation of the WTO. It would become a quasi-legislative function, and it was essential that new working procedures were adopted to open up the system and make it more credible; otherwise there was a real risk of the panel process becoming discredited.

Carlos Cozendey said the point of departure for discussion should be intergovernmental relations at the multilateral level. Sovereignty was important for small or weak countries who did not want other countries to interfere in the establishment of their environmental priorities. Had the tuna panel decided that the GATT did allow extra-jurisdictional action, he would have felt it should be challenged. The relationship between GATT and IEAs had been discussed extensively. There was widespread support among contracting parties for IEAs since they represented multilateral cooperation. For the time being no trade measure in an IEA had been challenged in GATT and there was therefore no specific problem.

Pradeep Mehta said in his view the tuna issue was a specific aspect of the problem of overconsumption and that a better resolution of the problem, consistent with sustainable development, would have been to boycott the consump-

---

tion of tuna altogether. Ojijo Odhiambo said the discussion of the tuna disputes reflected a difference in agenda items between North and South. Few people were affected by the tuna dispute, but other sustainable development issues affected millions of people.

Ira Goldman said the problem raised in the tuna disputes was *ad hoc*. If one tried to change the way tuna was caught through the GATT, then one had to take on all the industries and interests that had concerns about changing the basic policy of the GATT on external application of national laws. The Montreal Protocol, he said, had been an *ad hoc* problem solved in a comprehensive way, and as a practical matter if 100 countries signed an IEA and decided they were going to do something that was not legal under the GATT, GATT would be unable to object. Ronnie Hall disagreed, saying that under the new WTO dispute settlement procedures a widely supported IEA would not be immune from GATT challenge. Also, she objected to the way dispute settlement took place behind closed doors. The process was creating international law, and it should not be developed on the basis of secret procedures and processes.

Nevin Shaw asked where equity or justice was reflected in one jurisdiction imposing unilaterally determined, discriminatory standards on another. Each sovereign jurisdiction had the right to set its own standards for its domestic environment. He asked also how such a situation should be related to the exchange of concessions under the GATT, and in particular to nullification and impairment of benefits. He inquired as to how NGOs could help governments to build confidence in considering justifiable changes in trade rules which would promote sustainable development. Philippe Sands said it had been claimed the GATT did not prevent countries from protecting their domestic environment, but the question for him was what was meant by a domestic environment. Pollution in one country had consequences everywhere and using national interest as a yardstick was not the right approach. The legal system was struggling to reconcile national sovereignty with the fact of

a shared environmental community. GATT should not look only to its own rules and disciplines; it had to be subject to international law, such as that which defined equity, and it had to find a way to integrate other rules developed on a higher level into its framework. Ira Goldman disagreed and said sustainable development had to accommodate the concept of legal as well as economic development. If the GATT were to look at laws external to itself and arrive at an unpopular decision, he asked, where would one go to lobby against the decision; to the external body or the GATT? If the GATT were to be respected it had to keep to its own rules and act as a single source of authority.

Christina Hernandez questioned a statement that the US tuna embargo was aimed at changing consumption patterns in the US, and said that the history of US tuna embargoes showed they were not applied for environmental reasons, but because other countries had denied the US tuna fleet access to their national fisheries resources. The US fleet had been fishing in the Eastern Tropical Pacific (ETP) for many years, during which period there had been high levels of dolphin mortality which should be taken into account, and the US fleet had stopped fishing there when countries in the region had refused to continue giving the fleet access. It had also coincided with the US fleet gaining access to the natural resources of countries in the Southern Pacific and Asian area. At that point tuna had become cheaper, even cheaper than that produced in the ETP, so that countries such as Mexico had suffered not only from the US embargo but also from competition from tuna coming from other fishing areas. Consequently, she said, the change in consumer patterns that had occurred was towards purchasing cheaper tuna and had little to do in her view with environmental concerns. David Schorr replied that the facts of the tuna dispute were difficult and said that it was clear to him that US economic power had, in the past, been used for the expropriation of resources abroad and that had fed directly into the overconsumption patterns the US suffered from. Without putting aside the seriousness of

---

Mexico's concerns, he said, nevertheless, that to overhaul consumption patterns necessitated helping consumers realize the environmental and political consequences of what they consumed, and to do that mechanisms, such as distinguishing products on the basis of their PPMs, were needed.

Wolfgang Benedek felt many WTO rules would need to be changed in order to accommodate environmental priorities, and since it would take time to reach agreement on those changes, a peace clause should be declared to prevent any further disputes arising over environmental issues under existing GATT/WTO rules and disciplines.

### ***Session II: The Internalization of Environmental Costs and the Implications for the Trading System***

Janine Ferretti, of Pollution Probe, said that cost internalization measures were central to the goal of sustainable development and it was unrealistic to believe they would not affect trade in a global economy. Three possible trade effects, she said, were on the competitiveness of producers in world markets, on market access, and on trade flows themselves in cases where trade was banned or restricted internationally for environmental purposes. Also, one of its most significant implications would be to change patterns of comparative advantage. Governments would have a number of challenges to address. One was to establish safeguards against "green protectionism" without unduly impeding environmental protection. In her view, the GATT test of "no more trade restrictive than necessary" was not reliable and should be replaced by a test of whether an environmental measure achieved any environmental gain. A second was to establish new mechanisms to better identify protectionist abuses of environmental policies, since GATT did not have the competence to assess the environmental aspects of a disputed measure. Third, was to recognize the role that trade-related environmental measures could play, for example to

enforce cost internalization measures in IEAs in conjunction with incentives such as technology cooperation, financial assistance, and training. Fourth, governments needed to regulate the use of unilateral measures designed to curtail environmental degradation of global commons and internationally shared resources. International cooperation to protect the global commons was the preferred approach, but where it failed unilateral steps should be admitted to provide leadership to the world community.

She went on to propose the development of innovative cost internalization initiatives through pilot projects, for example establishing multilateral producer and/or consumer agreements for specific sectors or products based on the Polluter Pays Principle. They should provide incentives for adopting environmentally sustainable production standards. Experience from pilot projects would allow for progress on issues such as definitions, measurement techniques, data needs, and methods of analysis. Already a number of proposals have been made for mutually agreed market access initiatives based on environmentally sustainable production, including some by UNCTAD which should be explored for their potential as a basis for a pilot project. Finally, she said that the WTO dispute-settlement process should be made more open to those whose environmental quality was potentially affected. A more transparent process, including opportunities to submit information to the panel, would ensure better and more informed decisions. It would also help act as a deterrent against green protectionism. Environmental groups were opposed to governments using environmental pretence to serve protectionist purposes, since this would in the long term damage the credibility of future environmental measures.

Ricardo Meléndez, of the Fondacion Futuro Latinoamericano, said what needed to be addressed was the relationship between human beings and natural ecosystems. Humans were taking more from the ecosystem than they gave back, as in the case of tropical rain forests. It was in this context that the internalization of

---

costs should be addressed. In the case of internalizing costs which resulted from market failures, several instruments could be used (fiscal measures, taxes, subsidies, tradeable permits, voluntary ecolabelling schemes) and the process of internalization needed to start at the domestic level with an examination of domestic production and environmental policies. He added that economic analysis would need to take into account intergenerational equity, and policy actions should be carried out through participatory and democratic processes. Cost internalization should be supported by international rules and disciplines and technological and financial cooperation which recognized the objectives of sustainable development. The WTO should proceed cautiously in examining the relationship between trade and environment policies in order not to impede the role of trade in the development process. International actions should differentiate the instruments chosen from their objectives, taking into account differing carrying capacities and social and cultural structures. Concerning economic instruments, each case should be examined separately to determine whether a measure had trade implications and if so, whether it would result in trade restrictiveness and market distortions which did not further the original objectives. In the case of agricultural subsidies, for example, what should be addressed were policies already in place.

Geoffrey Elliot, of Noranda Forest Inc., examined the theoretical and methodological problems involved in full cost pricing and reviewed some policy instruments that had been proposed to achieve it. He concluded that internalization of life-cycle environmental costs in the prices of traded commodities was not a practical objective because of the absence of any accepted definition of what the term meant and the absence of satisfactory methods for identifying and calculating the costs of environmental impacts, particularly those which were indirect or external to the production, consumption and disposal of a product. Very real progress could be made, however, in internalizing the costs of sound environmental practices in the production, con-

sumption and disposal of products through appropriate domestic regulation and through international agreements. In this respect, he said, existing trade law was not the constraint to environmental progress that it was sometimes made out to be. There were no real trade law obstacles to countries pursuing domestic environmental objectives through the direct regulation of product standards, domestic standards for discharges of industrial pollutants and regulations related to natural resource conservation and management. Caution was therefore needed to ensure that only legitimate environmental needs would be served by changing the trade rules.

As to the question of the extent to which trade should be used as a weapon to deal with alleged poor environmental performance in other jurisdictions, he said permitting unilateral trade actions including extraterritorial enforcement of domestic PPM standards, or protectionist gimmicks like "environmental countervail or dumping" would be wrong. The best answer lay in IEAs that established scientifically sound and internationally agreed standards to deal with global environmental concerns. There was room in IEAs to include administrative provisions to deal with non-compliance, including the use of trade measures under appropriate multilateral discipline and control, and developing rules in this area was a priority for the WTO. International cooperation was also urgently needed in the design and implementation of eco-labelling systems to ensure certification processes were non-discriminatory and that criteria and parameters were not constructed so as to disadvantage imported products. A combination of appropriate environmental regulation at the national level and enforceable standards in IEAs would contribute to cost internalization at the level of producers and consumers.

Pradeep Mehta, of the Consumer Unity and Trust Society, said no-one disputed the need for the WTO to confront the way in which trade and environment policies interacted and might conflict. There was, however, a wide gulf between the views of citizens' groups of the North, who favoured changing WTO rules to facilitate the use

---

of trade restrictions for environmental and consumer protection, and those in the South who feared that moves to "green the GATT" were a new form of protectionism.

He offered guiding principles on how to solve the trade-environment relationship. First, he said, more conceptual and empirical work needed to be done to identify the areas of trade-related environmental degradation which could be reversed. The WTO was not the competent forum to do this work but an appropriate alternative would be a balanced intergovernmental panel consisting of international bodies, governments and NGOs concerned with the issues at stake with adequate resources to commission research, conduct public hearings and recommend sound policy initiatives. Second, just as the Codex Alimentarius had been built into the GATT as an accepted set of standards in food safety, so too must UNCTAD, ISO/IEC and similar international bodies suggest ways and means on achieving global compatibility in conflicting and variable environment and safety related trade standards. Third, a number of countries had developed criteria for ecolabelling. Most ecolabelling programmes appeared to meet the requirements of publication and transparency but disharmony was emerging among the standards adopted by individual nations. There was, therefore, a need for an internationally acceptable ecolabelling scheme to be evolved by a democratic world forum like ISO or UNCTAD. Fourthly, there needed to be a single enforceable set of rules governing the role of TNCs in the world market place. The draft prepared by the UN since 1977 had to be revived and built into the WTO system. Finally, he said, periodic fora such as this symposium with sharper focus in specific areas would help in sharing, learning and overcoming differences of opinion and concerns among all parties.

David Schorr, of WWF US, said he understood many GATT contracting parties viewed official contacts between GATT as an organisation and NGOs with scepticism but he felt the scepticism was misplaced. If trade and environmental policies were to be made mutually supportive in

favour of sustainable development, people who contributed to policy-making had to understand one another, and in many countries NGOs played a role in developing environmental policies. He felt those asking why NGOs could not just work with national governments were preoccupied with the type of information they did not want to share with NGOs, and he suggested they focus instead on the kind of information they did want to share, in particular about how the organisation works. It was necessary for both political credibility and the quality of the substantive debate that GATT teach environmentalists as much as they felt they needed to teach the GATT, and he invited contracting parties to begin to work to that end in conformity with Chapter 38 of Agenda 21 and paragraph 18 of the recent UNCSD Decision. He went on to say that the political dimension of cost internalization was very important. It involved issues of power, value, and equity. Those tended to be obscured, this seemed to go to the heart of developing country fears of being exposed to having environmental values imposed on them in an inequitable way. The same issues, however, went to the heart of why cost internalization was so important for Northern environmentalists to change Northern consumption patterns. Reversing overconsumption involved a great deal more than changing prices and cost internalization and ways of implementing it, including PPMs, was related to efforts to change consumption patterns.

Efforts to internalise costs, he said, had to occur predominantly at the national level. There were significant limits on what trade policy could do, but it should not stand in the way of other cost internalization policies. Far more than voluntary labelling schemes were needed to bring about changes of cultural values. There must be legislative support, through for example compulsory laws on PPMs, yet compulsory laws of that kind were under attack by the GATT. The US legislation which was challenged under the tuna dispute had been motivated not only, or even mostly, by trying to change other countries' production habits but by trying to change consumption patterns in the North. There were two

---

reasons why actions such as that might affect other countries. One was the need to raise awareness of what changes were being sought, as much for domestic benefit as anything else. The second was the political and the competitiveness effect. Political perception was that competitiveness was important, and whenever environmental proposals were made, they were invariably countered by concerns about international competitiveness. In sum, he said, to proceed issues of power and equity had to be addressed. That meant linking debt relief with PPMs, linking technology transfer with taxing schemes of one kind or another, and so on, all of which needed comprehensive, simultaneous policy making. No new institution was needed for that purpose, but a formal process was needed to bring all governments and NGOs together to identify links and find cooperative solutions.

Jeffrey McNeely, of the World Conservation Union, addressed the issue of cost internalization in the context of trade and biodiversity and recommended action in six areas. (i) Assign institutional responsibility to coordinating trade and environment policies at the national level and to take account of the effects of trade on economic growth in developing countries and on sustaining the environmental and resource base of that growth. (ii) Promote sustainable development as an objective in multilateral trade negotiations. Negotiations should address the impact of trade policies on resource-use and environmental conditions, as well as how the international trade regime can help promote production processes and products that are rational and efficient in terms of energy and resource use, and generate minimal environmental externalities. (iii) Give priority to agreements dealing with those commodities whose production involves high environmental impact, or whose production is close to limits of sustainability, and ensure the agreements contain explicit treatment of the management of the resources and ecosystems in question. (iv) Apply the "Polluter Pays Principle" and "Developer Pays Principle". A comprehensive inter-

national agreement should be negotiated on the subject, spelling out responsibilities of exporting and importing countries. It should be unacceptable for the industries of the developed world to "dump" dirty, destructive and outmoded technology in the developing countries, or to cut costs in ways that transfer the ultimate financial burden to the people of these countries. (v) Require environmental impact assessments for products traded on the international market, and regulate strictly the export of banned or severely restricted chemicals, in particular to developing countries. No new chemicals should be placed on the market until their impact on the environment has been appropriately tested and assessed. (vi) Support institutions controlling trade in renewable resources. Both CITES and ITTO were suffering from insufficient resources. ITTO's conservation objective should be to promote sustainable, natural forest management through such measures as adopting an appropriate code of conduct, defining ecologically sustainable management, creating a fund to protect forest areas of high biological importance, publishing data on rates of loss and areas protected, and promoting a "real price" for tropical timber which internalised costs of reforestation and conservation.

In the discussion that followed the panel presentations, several participants questioned the adequacy of the concept of cost internalization. Martin Khor said while it might work at the national level and for micro-projects, at the international level and in a macro-context it could cause problems where the issues were resource depletion, biodiversity, and technology transfer. How should the costs of resource loss or of unsustainable and inequitable consumption and lifestyles be internalised, he asked. Prescriptive policy responses were needed that incorporated equity considerations, including those of a historical and inter-generational nature. He stressed the need to respect different national resource endowments and costs. Silvia Ribeiro said cost internalization was necessary but it was not sufficient just to give everything a price. In some instances that was in any case impossible

---

to do. More thought had to be given to avoiding externalisation and taking preventive measures. She questioned why it was so readily assumed that consumers had to be prepared to pay and asked what would happen to those without the means to do so. In her view, it was companies that would have to pay for cost internalization.

Youba Sokona said for countries with a limited export base centred on primary production, cost internalization could become a vicious circle. The need to increase agricultural production and exports for macro-economic reasons placed greater strains on the local environment. Integrating that as a cost into export prices would place pressure on the country's share of the world market and create new macro-economic problems. The whole policy interlinkage, including macro-economic policies, had to be taken into account. Muzharul Huq said it was necessary to change the paradigm of trade being dominated by large corporations operating out of industrialized countries if cost internalization was to be successfully addressed.

Victoria Tally Corpuz questioned whether cost internalization could ever be brought into the WTO process because developing countries were being forced to exploit their environmental resources to meet their debt burden and structural and financial adjustment policies. Cost internalization should apply retroactively to cover the accumulated debt owed by the North to the South, she said, and the WTO should study that issue.

Ojijo Odhiambo said the first priority for sustainable development was to reform resource ownership; until that was done, trade and environment could not be made mutually supportive. Also, all international economic policies needed to be harmonized since they affected trade opportunities for developing countries fundamentally. He opposed the idea of imposing cost internalization on countries; all aspects particular to local conditions and communities needed to be taken into account.

Robert Keyes said the concept of cost internalization was poorly understood and defined. Dealing with it in a real world context meant

asking whether it was realistic to do full cost pricing and whether the information needed was readily available. In his view it was not. Even assuming the information was available, the rules and bureaucracy needed to administer it was daunting. It was difficult enough for a single country to do on a micro basis, but at the global level and on a macro basis the task was even more difficult. His plea was for practicality and rationality. By all means bring environmental costs to the table, but treat them nationally through economic instruments and regulations that moved things forward in the area of environmental protection.

For Kristin Dawkins, the problems of using economic instruments to internalise costs were complex. One was opposition on the grounds of competitiveness considerations. Another was assigning prices when values were difficult to estimate, for example in the field of energy. Others included collection and distribution mechanisms, which were also highly political; environmental tax revenues invariably were not earmarked for reinvestment to alter production or consumption behaviour. There was also the problem of equity and how cost internalization would affect the poorest sections of society. When all those issues were placed in an international context they became more complex, perhaps impossibly so. Prices were invariably set monopolistically on the basis of market share, commodity agreements were dominated by consumer cartels, and developing countries were facing falling terms of trade which would be accelerated by the Uruguay Round agreements. If the WTO were seriously going to look at cost internalization, it should do so in a concrete fashion taking one or two products to analyze first.

John Cuddy said he was not pessimistic about the utility of economic instruments for cost internalization. Continuing incentives for internalization, which properly designed eco-taxes created, far outweighed the risk of governments using unwisely the revenues derived from the taxes. Nor were taxes the only instrument; others were tradeable permits, for example. It was

---

often easier to deal with policy failures than market failures since the former could be offset by carefully crafted offsetting policies. In contrast, the problem of cost internalization of traded commodities was difficult, although here again he would be more sanguine than most about the chances of using coordinated multilateral action to overcome the prisoners' dilemma inherent in the competitiveness issue which had so far prevented internalization in the case of commodities. He agreed, however, that there was no point in trying to manipulate markets to artificially raise prices. Rather, action was needed to reinforce internalization at the domestic level.

According to Ken Ruffing, the main rationale of market-based instruments for cost internalization was to modify consumer and producer behaviour. It was not necessary to understand their full implications before deciding to use them. A small but meaningful tax to induce a substitution process away from a product or input could be introduced as a first step, and followed up with subsequent tax increases. Finally, he said, the problem of global commons needed to be distinguished from that of public goods. Global commons problems were primarily a management issue because no clear property rights could be created. The public goods problem was more relevant to the issue of biodiversity; use of the good by non-payers could not be prohibited, and international taxation could then be the solution.

For Lyuba Zarsky it was important to look at cost internalization not only as a way of coming to terms with negative externalities but also in the context of positive externalities and environmental subsidies. The OECD's Polluter Pays Principle was problematic, especially in a developing country context, and the WTO was going to have to deal with when and under what conditions environmental subsidies would be allowed. It was clear, for example, that technology transfer would require a large level of support. Negative subsidies, such as energy subsidies, needed also to be targeted and eliminated. The WTO was also going to have to define

the environmental justifiability of trade-related measures, including cost internalization measures. The cost might be justified even if the cost fell more outside a country than within it. Flexible guidelines would be needed to allow environmental policies to be taken.

Janine Ferretti said cost internalization at the international level happened each time there was an IEA, even though it did not necessarily involve the market mechanism. She agreed it was difficult to internalise costs and that two of the biggest obstacles were gathering information and deciding how to measure costs. Those could best be overcome through experience and pilot projects were needed to provide experience. Jeffrey McNeely added another problem was what to do with the information. One estimate had suggested a full life-cycle analysis cost for a car was around \$250,000. Few people would pay that price.

Guy Salmon said that although doubts existed about the practicality or comprehensiveness of cost internalization, it was a fundamental part of the strategy for dealing with trade and environment issues. He felt the next GATT Round should include environmental obligations for contracting parties to implement at the national level, in a way which did not undermine the principle of subsidiarity. It was important for people in each country to decide on standards which were appropriate to their own circumstances, and to internalise costs to the level that reflected those standards. Each contracting party should have an environmental law that enabled its people to set standards and internalise their own environmental costs and which had a sustainable development management principle expressed as a purpose of the legislation, democratic processes for rule-making and consent granting for economic activities that used resources, a polluter pays or cost internalization principle, and a right for third party enforcement.

Ricardo Meléndez said that to build sustainable development policies meant incorporating the environment in policy design and implementation. With respect to full cost pricing, it might be better to think not of imposing prices but

---

rather of building up markets that allowed prices to emerge. Solutions that were vulnerable to market or government failure had to be avoided.

Stewart Hudson agreed that many of the solutions needed would have to be found at the national level and that it was understandable and valid to raise concerns about countries with large markets using them to bully others. He said there must be guidelines over the use of unilateral measures, but he added that another aspect was the responsibility of those countries to look after the interests of their own consumers. Labelling might have its imperfections, as might import restrictions because they could be discriminatory, so governments needed to negotiate IEAs; however, this was time-consuming and not easy to arrange. Not all solutions for cost internalization involved price fixing, he said; other priorities included reducing forest and mining subsidies, and in those areas there was a clear role for the WTO.

Julian Carroll said it was significant that EU environment ministers had failed recently to agree on packaging and packaging waste directives, and that their disagreement hinged on the use of economic instruments. Very little was known about the impact of economic instruments in this area, so the packaging industry was cautious about the use of fiscal or economic instruments for environmental purposes. It was not opposed to them, but it felt that when they were used they should not discriminate against developing countries or other imports and they should be based on scientific fact. Industry would not necessarily go for the most environmentally correct solution because it lived in a highly competitive world, but tackling the issue thoroughly could produce both economic and environmental benefits.

Carlos Roxo drew attention to trade problems facing the Brazilian pulp and paper industry as a result of eco-labelling measures being introduced in Europe. While industry agreed with the concept of a label, it disagreed with the process of development of criteria for paper products. The process was untransparent, and

while it affected all overseas producers there was no formal mechanism for third countries to participate in the development of criteria. The reason given was that the label was voluntary, but it was widely recognized that the label would give a clear market advantage to labelled products. Some of the criteria were clear trade barriers: for instance, the requirement that all producers must comply with the EC's environmental regulations, which was a clear extraterritorial application of European legislation. The Brazilian pulp and paper industry complied with world class environmental standards, yet it was having difficulty in gaining the eco-label. He urged the WTO to set proper rules for eco-labels and other environmental measures which might affect trade in order to promote a level playing field for all producers no matter where they were operating. Philippe Sands said the complaint was correct and that, in applying an eco-labelling scheme that required the whole PPM be taken into account, the EC was contradicting its own argument that it had put before the second GATT tuna panel.

Lucien Royer said working people were not responsible for overconsumption; on the contrary, by and large they were consuming less since real wages were falling. Too much of environmental cost internalization fell to workers in the form of lower wages, lower standards and lower employment. It was necessary to talk about sustainable employment, and that required respect for the fundamental standards established by the ILO and the inclusion of social conditions in the definition of sustainable development.

### ***Session III: International Cooperation***

Martin Khor, of Third World Network, said the key issue was the international distribution of the costs of adjusting economically to environmental sustainability. Equity was the most important factor against which every international action or measure should be screened, and that was why he favoured the concept of sustainable development since it incorporated the

---

environmental factor, the human needs factor, and the principle of differentiated responsibility which had come out of the UNCED. Asking whether a particular policy was equitable was insufficient; the question should be was it equitable enough? Burden sharing should take into account historical and current damage caused to the environment in the North and the South, and cost internalization should be done, if at all, in a comprehensive and fair manner that included the costs of overconsumption, past and present, and recognized that many developing countries were already internalising their costs in areas such as water, albeit under pressure from the international financial institutions. A second screen was sovereignty, which was related to equity. In an equal world, countries could bargain equally and erode each other's sovereignty for the common good. In an unequal world, the weak feared that in name of the common good or the international community, the strong would act to erode their power and control their resources and policies. This, he said, had happened in the Uruguay Round negotiations, particularly in the case of the TRIPs agreement, and he feared that environmental concerns would lead to the burden of economic adjustment being pushed again onto the South.

Most developing countries, he said, had signed the Uruguay Round results not because they expected to benefit much but out of fear that if the Round were not concluded there would be a breakdown in multilateralism and the US, in particular, would continue using its Section 301 as a unilateral threat. He hope that with the WTO, the US would not resort to Section 301 any more, but recent reports from Washington cast doubts on that and he appealed to US NGOs to persuade their government to drop the threat. It was a danger to the environment in the long-run because it would prevent countries from accepting that new issues, such as trade and the environment, be dealt with constructively in the WTO. There were three factors to consider, he said, on the question of institutions. One was the principles of operation of various institutions. The second was equity in the implementation of

their policies. The third was equity and democracy in their processes. There was much to criticize, he said, on all three counts with respect to the WTO.

Grant Hewison, of the Auckland Institute of Technology, examined multilateral efforts to establish a moratorium on high seas driftnet fishing and some of the trade issues arising from the threatened use of trade sanctions aimed at enforcing compliance with the moratorium, specifically their effectiveness vis-à-vis other compliance measures, the detrimental effects of using trade measures, whether trade measures used in this context would conflict with certain interpretations of the GATT, proposed categories for "appropriate" use of trade measures, the waiver mechanism for making the environmental trade measure consistent with the GATT, and the more flexible use of existing rules and adjudication procedures to provide for the use of trade measures to protect the environment rather than, or as well as, the establishment of new rules. His conclusion was that without the threatened use of trade sanctions by the United States to enforce compliance with the United Nations resolutions on high seas driftnet fishing, it was doubtful whether Japan, South Korea or Taiwan would have ceased their high seas driftnet fishing operations. While this highlighted the effectiveness and necessity of the use of these measures in ensuring compliance with an international environmental objective, it also highlighted the vulnerability of the use of these measures to the vagaries of United States policy. Perhaps if the United States had not been so willing to terminate this fishery or so willing to back-up its political resolve with the threat of trade sanctions, driftnets would still be used in high seas fishing.

His case study also highlighted the need for any new rules that were developed to advance the consistency of the GATT with IEAs to be flexible and built on the empirical evidence derived from the examination of as many case studies as possible. Equally necessary was that any adjudication process or dispute settlement procedure involving decisions regarding IEAs be flexible

---

and base decisions on a painstaking understanding of the background and policy objectives of particular international or domestic environmental standards. While the GATT tuna panel decision might be criticised for not appreciating the significance of its deliberations, he said, it was agreeable to see more recent panel decisions appreciated the need to find mechanisms where international trade rules complemented rules for international environmental protection.

Ronnie Hall, from Friends of the Earth International, addressed the process of international cooperation by describing how her organisation, as a federation of autonomous national environmental groups, was coordinating its work on trade and environment internally. If governments wanted effective international cooperation, she said, they had to involve all the stakeholders and make sure that they all were able to meet each other, and that there were resources available to fund this process. Countries and groups that were most often affected by international deliberations on economic and environmental issues were frequently unable to participate, sometimes because they could not afford it, sometimes because they were not invited. That was a state of play that would have to change if the trade and sustainable development debate was to have any chance of success. She went on to say that Friend's of the Earth's work in this area currently covered the issues of positive incentives, transparency in trade and the structure of the WTO, and its high-priority campaign areas included the need for transparency and equity in international negotiations, for environmental and social impact assessments of trade negotiations, for real transfers of resources and technological know-how from rich to poor countries, and for a revision of the TRIPS Agreement to ensure it did not undermine efforts to conserve biodiversity and traditional lifestyles. Areas for further discussion were the value of internalising environmental and social costs in the price of goods, of incorporating environmental principles into trade regulations, and the problems of developing common stand-

ards and determining permissible production and processing methods.

Her organisation, she said, supported the creation of an Intergovernmental Panel on Trade and the Environment (IPTE) since it believed that this was the only way that the international community as a whole, industrialized and developing countries, NGOs and IGOs, would be able to look at trade and sustainable development in a balanced, equitable and detailed way and where trade, environment and social concerns could be given equal weight. She envisaged the IPTE as a standing committee rather than a new and expensive institution. It should be able to consider all aspects of the trade and sustainable development debate, including structural adjustment programmes, economic reform, debt repayments and lack of access to resources and technological know-how, as well as current levels of consumption and pollution in industrialized countries. Those issues could not be dealt with in GATT. The IPTE might be established as an intersessional committee of the UNCSD and could be administered by UNEP and UNCTAD. As for the WTO Committee on Trade and Environment, she considered its traditional tendency towards secrecy blocked effective international cooperation. It should be mandated to prepare WTO input to the IPTE and implement recommendations coming from the IPTE. Recalling her organisation's view on the evolution of the International Tropical Timber Organisation and the lessons it had drawn from that, she suggested the WTO should work only on its limited mandate of trade, involve environmental experts in its discussions, and work in a transparent manner in cooperation with an independent IPTE. She emphasized in particular the need for it to involve NGOs and repeated her organisation's desire to contribute to the WTO work programme.

Arthur Dahl, of UNEP, said that UNEP was preparing background papers on the use of trade measures in IEAs to help inform the debate about the environmental motivation and intended purpose of the measures. Beyond immediate legal issues, there were longer-term trends

---

in international cooperation in pursuit of sustainability that might have major implications for trade policy. In many ways, he said, it was easier to consider sustainability at the global level because the planet was essentially a closed system except for energy flow. Within that global system, resource endowments and needs were unevenly distributed, limiting the sustainability of development in most areas. Trade was an important mechanism for redistribution. By compensating for local limits to development, eliminating imbalances and supporting more efficient global systems, trade should in theory be able to raise the general level of sustainable development around the world. To do that, it needed to be seen not just as an aspect of economic development but as the essential flux of materials and information that were increasingly integrating the world into a single global human system.

Referring to the examples of forest and food resources, he said there was a need for mechanisms to manage trade as a key factor in sustainability, considering other measures and values than the present narrow pricing on the marketplace. New kinds of accounting would be required to supplement financial accounts and trade statistics would need to consider not only the monetary value of trade items but also their resource value. Beyond environmental resources, the human dimension of global sustainability was ultimately the most important and trade represented the potential to reduce the injustice of extreme differences of living standards between countries and to push societies towards more sustainable patterns of consumption. The nature of the emerging global system linked by trade had other implications. Exchange of materials and resources had to be managed so that all accounts balanced, and raising the level of wealth globally would have to come from increasing the information content, connectivity and productivity of the system and through increased trade. While tariffs as an instrument of national protectionism must fall to facilitate the evolution of a world trading system, trade had always been an activity that lent itself to systems of taxation, and he felt that might well be an area

where global taxes could be levied without distorting trade patterns, competitive advantages and the balance between countries.

Taparendava Mavenke from the Campfire Association addressed trade in natural resources, mainly wildlife in Zimbabwe, and indicated how it could simultaneously benefit local communities and environmental conservation. The ban on ivory marketing, he said, assumed that the African elephant was one homogenous herd that was endangered. The reality of the situation was that there were different national herds and in the Zimbabwean case, the African elephant was far from being endangered. The best environmental policy in this situation was to market some of the elephants and buffaloes for the benefit of the environment and the species themselves. A key factor in finding the appropriate policy response was that nationals of a particular country knew best how to manage their natural resources, and local communities needed to be fully involved in protecting their environmental assets. He gave a number of examples, in this regard, of where trade, environment and sustainable development were being achieved with the assistance of his own organisation in Zimbabwe. The lesson it had learned, he said, was that to achieve meaningful conservation in rural areas of developing countries there was need for more incentives and less sanctions.

He went on to explore what were the key problems in international co-operation and what would be possible solutions. One problem was to view all natural resources as "global commons" and viewing free trade as impacting negatively on the environment. Some natural resources such as wildlife had to be dealt with through a national policy framework, and trade in such species had to be left to national consideration. There was also the problem of "elite protectionism" that drives environmental resources away from the people to the realm of theory and speculation. Narrow definitions of environment and development were allowed to reign, whereas in reality in developing countries definitions had to take account of local realities

---

and economic needs. Effective international co-operation could only work where each partner was prepared to adjust and learn from the rich experiences of others. Multilateral conventions and regulations governing trade, such as CITES and the GATT, sometimes contradicted each other. A concerted effort should be made to harmonize their operations lest international trade would be littered with chaos and a multiplicity of vested interests would interpret environment to suit their own concerns. International trade in natural resources had to begin to divest itself of the idea that trade activities took place between countries and accept that the critical target group was the rural poor who bore the cost of living with these resources. The agenda of these marginalized groups must be taken into account by GATT, IUCN, CITES and other international groups dealing with trade and environment. In sum, he said, international co-operation had to be based on equity rather than paternalism, realism rather than idealism, and be people-oriented.

Vandana Shiva, from the Research Foundation for Science, Technology and Natural Resources Policy, said that international co-operation had become asymmetric, and the belief that trade measures were the most effective means through which to achieve environmental objectives related to this asymmetry. She identified two problems which were leading to confusion in the dialogue and complexities in the search for solutions. First, trade was assumed to concern only international trade. In her view, local markets created the best solutions for economic survival for local communities. For the South, environmental and trade issues were about the livelihoods of local communities, their survival and having rights and access to resources to ensure sustenance. In her experience, most environmental movements had emerged from local environmental problems. Yet since Rio it had been assumed that environmental problems were only global.

She made specific reference to the Biological Diversity Convention and enquired how biodiversity could be considered part of the global

commons when it was a national, sovereign resource. The only transborder effect of biodiversity was economic and cultural, not ecological. Those communities who lived with wildlife would have to conserve it in order to survive. In this respect it was far easier to mobilize international cooperation on specific species, such as whales, dolphins or tigers, and more difficult to mobilize for the complex set of species diversity that made livelihood and life support systems possible. The tuna-dolphin debate exemplified this problem. A global environmental problem must be one that was either related to the commons as ecologically defined or that occurred everywhere on a wide scale and was becoming a threat to life. Rio had been the platform where a balanced presentation of urgent issues should have been made but the decision had not been taken and there had not been the political will on the part of Northern governments to create institutions that would deliver. Yet the same governments now considered environmental issues so urgent that the political cost to the Third World was being ignored and the wrong institutions, such as the GATT/WTO, were being used for the task. She wondered what the need for trade restrictions was when one of the simplest remedies to technologies that were considered dangerous was an across the board ban, such as for domestically prohibited goods. The Uruguay Round had made the border paradigm collapse, bringing in the notion of trade-related aspects, specifically TRIPs. At this point, there was neither the institutional setting nor the intellectual capacity to deal with multinational corporation-dominated production which she considered to be the major issue in environment and trade.

Gustavo Alanis Ortega, from the Centro Mexicano de Derecho Ambiental, said from the point of view of developing countries, the main objective of international cooperation should be to adopt programmes and measures to reduce ecological damage caused by overconsumption in the North and to ensure sufficient resources for the sustainable development of the South and alleviate the poverty of its people. Before consid-

---

ring environmental problems, developing countries had to begin solving their severe social problems including rapid population growth and poverty, the transition to market economies, the conversion to democracy, deterioration of basic infrastructure, unemployment, corruption, and foreign debt. In the meantime, harmonization of environmental standards to levels applying in industrialized countries would not be possible.

He concluded by listing those issues which he considered to be among the most important facing the global community in this area. They were that: protection of the environment had to be viewed as an integral part of trade, development, energy, transport, agriculture and economic planning; forest management had to be improved and deforestation reversed, the efficient use of energy had to be promoted, and more invested in research and development; social and economic development had to be carefully planned; industrialized countries had to reduce their overconsumption and the world as a whole should streamline its production and consumption; educational programmes were needed to manage population growth, financial and technical assistance had to be provided, and more financial and human support for technological advancement was needed; political and business leaders should be conscious of the need for a sustainable global environment; global economic growth, which facilitated environmental protection, could best be achieved in balance with other human goals and was necessary to achieve sustainable growth; efficiency had to be promoted, less waste created, packaging, distribution, and waste disposal changed and recycling promoted; institutional coordination among U.N. entities was needed; global economic integration must proceed with sensitivity to environmental concerns; and environmentally sustainable development should be promoted worldwide, with the participation of all countries and all sectors of society.

Ken Ruffing said the Uruguay Round agreements offered a range of options for dealing with the free rider problem in IEAs. One was to rec-

ognize UNCED language that evidence of a valid multilateral framework should provide sufficient support to meet the criteria of general acceptability, and that countries not initial parties to IEAS should be encouraged to join primarily through inducements in the form of technology and financial transfers. If those two criteria met, he asked, why should there be any difficulty in securing a waiver under GATT rules. Related to that, he said, the new dispute settlement rules allowed countries to offer compensation in lieu of changing their legislation and that could resolve the problem of payment for joining the IEA.

Martin Giese said that under the new WTO rules seeking cover for an IEA through the waiver process would not work. If a large country challenged an IEA with wide support and won its dispute, the panel finding would be automatically adopted.

Sabine Voogd agreed multilateral cooperation was the best way to ensure environmental protection, especially where pollution was trans-boundary, but it could take a long time to achieve. One or more countries could obstruct the process, for fear of not being able to pay or because they represented specific business interests which opposed it. Individual countries which led the way should then have the ability to protect themselves from others which refused to raise their environmental standards. Using trade rules to provide legal cover for unilateral action in that case was not meant as a sanction but as protection of domestic interests and a motor for progress. There had to be, as a corollary, compensation measures in the form of financial and technical assistance for weak and poor countries to enable them to raise their environmental standards.

Ravi Sharma said the Montreal Protocol was being managed and implemented in a trade restrictive way. The Fund which had been established to assist countries that could not afford to buy the patented substitute chemicals provided financing to pay the incremental costs of shifting to new technologies based on those chemicals but not for efforts by countries such as India and China to develop their own substitutes. The Fund

---

was therefore oriented towards maintaining the trade advantages of TNCs and not towards environmental objectives.

Carmen Carmona said within the notion of international cooperation it was necessary to differentiate national sovereignty from economic sovereignty. The latter was a concept of supremacy, which was perpetuated by the current trade rules and the international trading system. It had brought about the deterioration of the environment and trade needed to be made more rational.

Ian Booth said he had doubts that the WTO should play an exclusive role in trade and environment issues but that it should at least set the trade rules and principles. He felt the problems should be resolved primarily at the local and national level, and that local communities needed to take action. However, in the case of the global commons the appropriate response was IPIAs, and he felt that they should be screened in terms of their core trade conditionality by the following factors: wide membership, equitable burden sharing, only using them after non-trade measures had been tried, necessity, effectiveness, proportionality, and specificity, scientific basis, and good faith attempts to avoid unilateralism and extra-territoriality.

### ***Closing remarks***

Warren Lavorel, Deputy-Director General of GATT wound up the two day symposium saying that in his view it has achieved the objectives the Secretariat had set for it. He was coming away from the discussions not only with a better sense of the complexity of the task ahead but also with a heightened appreciation of the necessity to do it right. The Secretariat, he said, had noted the desire for an active dialogue and for regular information on WTO work in this area, and would do its best to respond constructively and to build upon and improve its existing efforts. One constraint was the Secretariat's limited resources but the importance of the trade, environment and sustainable development dossier was recognized and it would do its best. With respect to various proposals on the relationship of NGOs to the WTO and the many comments related to the procedures for the settlement of disputes, those were issues for the members of the WTO to take up. He was confident delegations attending the symposium had taken note of the interest shown and comments made on these points. Concerning the need for better cooperation and task sharing between international organisations dealing with various aspects of the matter, the Secretariat was actively working with other inter-governmental organisations and it would continue to seek to improve coordination so as to avoid duplication of efforts.