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**Sub-Regional Brainstorming Workshop
on the Trade and Environment Issues Contained in Paragraphs
31 and 32
of the WTO Doha Ministerial Declaration**

**Project on Building Capacity for Improved Policy Making and Negotiation on Key Trade and
Environment Issues**

Bangkok, 30 July – 1 August 2003

Paper

Paragraph 31

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Workshop on

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Declaration”**

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Paper on Paragraph 31 submitted

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I Introduction

Environment is a vital issue the importance of which is increasingly felt over time in the overall global development context. With the growth income and higher living standards of the people on the nations, the improved education and scientific knowledge people are generally being more conscious on environment matters. This is particularly so in the developed countries where the 'Greenism' concept has already got its solid footing. Various vocal environmental interest groups constantly pressurize their governments to pursue more environment-friendly policies. Judged from the local environmental benefits the actions taken by their governments sometimes goes against the interest of trade liberalization benefits in other parts of the globe. In many cases it causes serious economic as well as environment damages there. There lies the importance of coherent policy making in trade taking into account the genuine environmental issues for the nations. That also shows the importance of organizing the workshops like this one.

2.0 We have to remind that WTO is not an environmental protection agency. Its mandate is to achieve a rule-based multilateral trading system in the world. Influenced by the growing environmental concerns, WTO policies strive to take into account environmental impacts in the trade policies pursued. As long the WTO member countries observe the basic WTO principles of MFN treatment (non-discrimination and equal treatment for products imported from different trading partners) and National Treatment (equal treatment for imported and domestic products), they are allowed to adopt national policies for protection of environment. We have to judge the prior activities of WTO on environment related aspects and the relevant paragraphs of the Doha Ministerial Declaration (DMD) in that perspective.

II Paragraphs of DMD

3.0 Paragraph 31 of DMD: The paragraph starts with the mutual supportiveness of trade and environment. Free and fair international trade of goods and services are the means to achieve the WTO objectives. WTO believes that with liberalization schemes and more open international trade the environmental concerns could be addressed more effectively, at least in the long run. Any environmental damages caused by enhanced trade flows can

be redressed by diverting a portion of the flow of income generated by the enhanced trade.

4.0 As per Paragraph 31(a) of DMD, negotiations are to be started to find the relationship between existing WTO rules and specific trade obligations set out in Multilateral Environment Agreements (MEAs). The result of the negotiations are applicable to the countries who are parties to both MEA and WTO. The decisions from that negotiations are not to be imposed to any country who did not sign the respective MEA. So the attitude seems to soft towards favoring trade expansion rather than straight way solution to immediate environmental concerns. The reasons behind that standing seems logical. Because liberalized trade can ensure more income to its trading partners. Economic growth brings increased awareness and resources needed to address environmental degradation. This reality was admitted in the 1992 UN Conference on Environment and Development (UNCED) which is popularly known as 'Rio Earth Summit'. That summit drew attention to the role of international trade in poverty alleviation and in combating environmental degradation.

5.0 WTO stressed the importance of mutual supportiveness between trade and environment. In the practical world that mutual supportiveness is not rare. This is reflected by the fact that since WTO establishment in 1995, there has been no case of formal dispute between any MEA and the WTO. If there arises something like that, the problem has to be solved by the two separate bodies of international law- one being the WTO Dispute Settlement Body and the other being the MEA's legal regimes. A real conflict between these two entities on trade and environment issues are to be addressed in light of the customary rules of interpretation of public international law. Article 3.2 of the Agreement on Dispute Settlement Understanding (DSU) incorporates the flexibilities of WTO in such cases. In today's world of environmental degradation, most of the causes are not related with trade. Only a few issues have some trade related aspects. Till now, approximately 200 MEAs are signed out of which only about 20 of them contains specific trade obligations (STO). STOs are those obligations which are related to export and import and also mandatory

for signing parties. Non-trade environment issues need to be tackled by respective environment related national and international organizations excluding WTO.

- 6.0 As per Paragraph 31(b), the Committee on Trade and Environment (CTE) of WTO regularly meets once or twice a year with the secretaries of relevant MEAs and they exchange views on trade related environmental issues. Any important decisions to be taken, based on their exchange of information, should be reported to the Trade Negotiations Committee (TNC) through the General Council and final decisions are always taken by the Ministerial Declaration. In the coming Cancun Ministerial some decisions might be taken to further expand the cooperation between activities of WTO and different MEAs.
- 7.0 Paragraph 31(c) of DMD stresses the importance on reduction or elimination of tariff and non-tariff barriers to all environmental goods and services. Actually, the broader objective of WTO policies are directed towards eliminating or at least reducing the tariff and non-tariff walls of protection for all goods and services including environment related ones. Being induced by the majority views of trade economists, WTO, on behalf of the trading nations, believes that only by free and fair trade the optimum utilization of scarce global resources can be possible with specialization in sectors by nations having the comparative advantages and welfare of nations be maximized. In the short term, there might be some problems of dislocation, increased unemployment or the similar problems but in the long run, resources would flow to the sectors with best potentials and higher productivity in each country.
- 8.0 Although DMD laid importance on reduction and elimination of tariffs on environmental goods and services, the very definition of such goods and services are not yet finalized by the WTO member countries. Some works have been done to specify the environmental goods and services by different national, regional and international trade related bodies but those are not enough. The relevant bodies of WTO identified the nature of some goods and services which can be treated as environmental ones. Some of them are-

- (i) Water and Waste-water Treatment: Products- chemical dosing, pipes and conduits; Services- pollution control systems, facilities management
- (ii) Air pollution Control: Products- filters, catalytic converters and emission scrubbers; Services- turnkey contracts
- (iii) Waste Management: Products- landfill liners and composters; Services- collection and disposal
- (iv) Marine Pollution Control: Products- booms and adsorbents; Services- emergency response
- (v) Noise and vibration Control: Products- noise barriers; Services- installation and maintenance
- (vi) Energy Management: Products- electronic high efficiency light bulbs and low-energy boilers; Services- energy audits

(Source: Adapted from P Brink and R. Haines, 1997)

9.0 The above lists are not exhaustive. So many goods and services can be treated as environmental ones depending on their use for environmental purposes. Some products and services may have the possibility of using purely for non-environmental purposes. In Bangladesh Concentrated Natural Gas (CNG) use in automobiles are generally deemed to be environment friendly whereas the same CNG are used in other normal industrial purposes. Therefore, any reduction in tariffs and non-tariff barriers for environmental goods and services requires setting up the specific criterion which is a difficult task.

III Conclusion

10.0 DMD through its Paragraph 31 gives the mandate for negotiation based only on mutual supportive nature of trade and environments. Current global environmental degradation problem is unlikely to be stopped by unilateral trade restrictive measures by the developed countries. Concerns and problems of developing countries on environmental compliance also needs to be taken into account. A judicious trade liberalization scheme particularly for environmental goods and services seems to be a

right step forward. Coherent trade policies of all the member countries of WTO is very much needed. To solve environmental problems nothing should be done to create additional difficulties of market access for the products of poorer nations. Those issues are covered in the Paragraph 32 of DMD.