



UNCTAD



**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

**Liberalization of International Trade in Environmental
Goods and Services**

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**Paper for UNCTAD's Sub-Regional Brainstorming Workshop
on the Trade and Environmental issues Contained in Paragraphs 31
and 32 of the WTO Doha Ministerial Declaration**

**Environmental measures and impacts on market access of
developing countries**

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July 30, 2003

1. In Doha Ministerial Declaration, Paragraph 32(i) provides that: the effect of environmental measures on market access, especially in relation to developing countries, in particular the least-developed among them, and those situations in which the elimination or reduction of trade restrictions and distortions would benefit trade, the environment and development. According to our understanding, environmental measures mean all trade-related environmental measures(except for multilateral environmental agreement) that have been adopted to protect the environment, as well as the health and safety of wildlife, plants, animals and humans.

2.No WTO member should be prevented from taking measures necessary or the protection of human, animal and plant life and health, of the environment, or for properly exploitation of natural resources. But there are more and more trade restricting and distorting effects caused by many environmental measures especially those adopted by the developed countries. Market access of developing countries has been seriously affected. Paragraph 32(i) should be listed into the formal negotiation of trade and environment for the following reasons:

(1)There are increasing number of trade-related environmental measures which vary in forms. In total, 115 measures potentially affect international trade for environmental concern, however only 43 measures are effectively enforced by importing countries(Lionel Fontagne 2001). Based on CTE's Environmental Database for 2001, there were 200 environmental related notifications each year. There had been 1021 notifications from 1997-2001(see Table1). There are more notifications if considering the measures related to pesticides.

Table 1 Environmental-related notifications by agreements(1997-2001)

Specific Agreement	1997	1998	1999	2000	2001	Total
TBT Agreement	89	98	84	97	67	435
SPS Agreement	9	21	12	27	26	95
SCM Agreement	22	36	27	32	21	138

Agreement on Agriculture	20	22	28	40	40	150
Agreement on Anti-Dumping	4	1	3	0	0	8
Agreement on Import Licensing Procedures	15	20	10	17	7	69
Agreement on Safeguards	0	1	1	1	1	4
Agreement on Customs Valuation	0	1	1	3	1	6
State Trading	0	1	0	0	1	2
Regional Trade Arrangements	6	26	24	16	10	82
TRIPs Agreement	0	1	3	5	5	14
Quantitative Restrictions	0	3	2	5	2	12
GATs	0	1	0	0	0	1
Unstanding on the Balance-of-Payments, Provision of GATT 1994	1	0	0	0	0	1
Agreement on Government Procurement	2	0	0	0	2	4
Other Notification Provisions	0	0	0	0	1	0
Total	168	232	195	243	184	1021

Source: WT/CTE/ED/EDB/1, May 31, 2002.

(2) Much more attentions should be paid to new development trends of trade-related environmental measures.

- The characteristics of strong spread effect of some environmental measures appears. The effect of environmental measures on trade spread from one product to one industry, or even to all related products and related products; from one country to many other countries. There are many such kind of cases such as European Community's prohibition of azo-dyes and prohibition of animal sourcing food with CAP over 0.1 ppb.

- Environmental measures have been developing from restriction or prohibition of specific indicator to systematic indices, from specific measures to integration of development strategy, technical regulations, standards and certifications. European Community's "Strategy of A Future Chemicals Policy "and " the Registration, Evaluation, Authorization and Restriction of Chemicals" cover not only chemical industry, but also toy, textiles, electronic and mechanical industry.
- There is a trend of transforming some voluntary measures into mandatory measures or the combination of them.
- **There is a trend of combinations of environmental measures with tariff and other NTBs. The importing country chooses the specific measures according to its own requirements and use the mixed measures.**

(3) Trade-related environmental measures are affecting the full range of trade products. "A first Assessment of Environment-related Trade Barriers(ETBs)" finished by Lionel Fontagne, etc. in October 2002 shows that ETBs almost affect most of importing products. Out of 4917 products, only 1171 products do not face any barriers anywhere. The imports of 3746 products facing ETBs reached US\$4732 billion and accounted for 88% of world merchandise imports in 1999(see Table 2). The vast majority of international trade consists of products affected by ETBs.

Table 2 Distribution of environmental measures by decreasing importance of affected world imports, 1999 Unit: US\$1 billion

Percentage world imports subject to ETBs	Number of affected products	World imports(1)	Affected imports(2)	Coverage ratio(2)/(1)(%)
90 to 100	44	41	40	96
80 to 90	43	100	82	82
70 to 80	50	74	57	76
60 to 70	54	57	37	65
50 to 60	67	43	23	54
40 to 50	117	228	105	46
30 to 40	207	260	95	37
20 to 30	365	404	108	27
10 to 20	600	518	83	16
> 0 to 10	2199	3006	50	2
Sub-total	3746	4732	680	14
0	1171	670	0	0
Total	4917	5402	680	13

Source: Lionel Fontagne(CEPII), Friedrich Von Kirchbach & Mondher Mimouni(ITC UNCTAD-WTO), a first assessment of environmental-related trade barriers, October 2001.

(4) There are significant impacts of environmental measures adopted by the developed countries on exports of developing countries.

The degree of exposure to ETBs is quite similar for exports based in developed market economies, transition economies and developing

countries in general. However, the number of exported products affected by ETBs in importing countries differ, with 3629 products for developed market economies, 3212 for developing countries and 2677 products for transition economies. Exporters from LDCs are significantly more exposed to ETBs than those from any other group of countries(Lionel Fontagne, 2001).

The performance of environmental measures is to increase risks and costs of exporters, distort comparative advantages many products of developing countries. Developing countries meet the adverse effects of environmental measures on market access and competition because of :

(a)Low economic development level, lack of infrastructure-both human and physical-and monitoring facilities;

(b)From the aspect of commodity and industrial structures, the exports of pollution-intensive products and industries with comparative advantages(such as textiles and clothing, leather and leather products, footwear) account for high percentages. The gap of environmental level in these products and industries between developing countries and developed countries are very big, developing countries must bear high cost in order to meet the environmental requirements of developed countries.

(c)Low technology level, limited technology choice and inadequate access to technology;

(d) Inadequate access to information and low participation to the process of making environmental measures adopted by developed countries;

(e) The effect, in particular, is more on the small and medium-sized enterprises in developing countries.

As a developing country, China's exports especially those labor intensive products face strong challenges from environmental measures adopted by the developed countries. Trade-related environmental measures is becoming one of most important factors affecting China's exports. Two surveys by Department of Science and Technology of Ministry of Foreign Trade and Economic Cooperation (now renamed as Ministry of Commerce) in 2001 and 2002 shows that owing to technical barriers to trade, China's exports suffers from losses of US\$11 billion and US\$17 billion respectively. In general, the enterprises restricted by technical barriers to trade reached 66% and 77%. The surveyed enterprises point out that environmental measures should take 36% to 49% of the responsibility (see Table 3).

Table 3 Specific reasons for adopting restriction on China's exports

Sector	Protecting domestic industry	Discriminatory treatment	Different standards and regulations	Different custom	Protecting human health and environment	Others
Foodstuff and animal products	45	53	44	0	49	7

Light industry	28	16	36	0	48	16
Electronic and mechanical industry	21	21	64	7	46	0
Textile and garments	69	23	46	8	38	0
Chemicals & Metal	55	0	64	0	36	9

Source: Department of Science and Technology of China's Ministry of Commerce, Report on Impacts of Technical Barriers to Trade on China's Exports in 2002, April 2003.

(5) The existing rules provided in WTO agreements and provisions (such as: Article 20 of GATT 1994, TBT agreement, SPS agreement, Agreement on agriculture), are very simple, abstract, vague or just in principle. Therefore, it is easy for trade protectionism to make use of trade related environmental measures. A protectionist measure has presumably been imposed. Some US\$900 billion imports in 1999 are potentially affected by environmental protectionism, of which only one percent of world trade manage to reach the requested standards. If one relaxes this tight criterion and draws the boundary between environmental concern and protectionism using the "up to five countries" criterion, we find that half of world trade is potentially affected by environmental protectionism. It is necessary for WTO to make a new rule to deal with the relationship between environmental measures and market access of developing countries.

4. Some recommendations

(1) Paragraph 32(i) should be listed into formal negotiation of trade and environment;

(2) Trade and environment policies should be mutually supportive in order to achieve the objective of sustainable development. Some basic principles should be followed, such as:

(a) Promote the sustainable development in broad sense (integrated targets of environmental efficiency, social efficiency and economic efficiency).

(b) Keep balance between economic benefits and environmental efficiency, environmental measures with minimum adverse effect on market access should be adopted. The comparative trade advantages should not be distorted in the name of environmental protection;

(c) Principle of non-discrimination. The domestic strictly restricted or prohibited goods, technology should also be strictly restricted or prohibited in exports.

(d) Principle of transparency;

(e) Equivalence of environmental measures and mutual recognition;

(f) Coordination between precaution principle and scientific evidence;

(g) Set a definite time and appropriate protection;

(h) Importing countries cannot intervene the environmental policies of exporting countries;

(i) General speaking, PPM is not a suitable instrument to deal with trade and environment;

(j) Special, specific and differential treatment of developing countries, especially LDCs:

- Environmental measures should be developed and adopted in such a manner so as to minimize the adverse effects on market access for developing countries;
- Longer time frame for compliance shall be accorded to products of interests to developing countries so as to maintain their export opportunities; Developing countries should have adequate time to adjust to new requirements.
- **Under conditions of adopting principle of precaution, developing countries should be allowed to adopt lower the standards (such as international standards) which can reach the minimum requirements of safety;**
- **Much more attentions should be paid to equivalence of environmental measures and mutual recognition;**
- **More international environmental standards for the exporting products of interest of developing countries should be established;**
- **Trade effects on developing countries should be considered at the beginning stage of making environmental measures and opportunities should be given to participate at an early stage in**

the design of environmental measures;

- **As the special treatment to developing countries, internalization of environmental costs should not be considered.**
- **Capacity building should be emphasized, such as transfer of technology with concessional and preferential terms; information exchange and environmental measures clear houses in developing countries should be established under support of developed countries; Financial supports and technical assistances are also very important to developing countries.**

(3) Any trade-related measures which has discriminatory effect and are used by trade protectionism should be removed. The deliberate spread effects of environmental measures should be prohibited.

(4) All of the existing trade-related environmental measures adopted by developed countries should be examined in consider of mutual support of trade and environment.