THE ROYAL INSTITUTE OF INTERNATIONAL AFFAIRS

Greening the WTO

Duncan Brack

(printed in 'Inside Track', newsletter for the Green Alliance, Spring 2000)

The interrelationship between international trade and environmental protection is becoming increasingly important – and controversial. Since trade and environmental policies both affect the use of natural resources, it is hardly surprising that the two interact.

Trade is often seen as negative for the environment, but in fact it is not international trade – the exchange of goods, services and ideas across national boundaries – that itself causes pollution or depletes scarce resources. It is economic activity that causes the impact, because in modern economies prices and decisions seldom reflect the environmental costs and benefits of the activity in question. International trade tends to magnify economic activity, so in that sense it does damage the environment. But at the same time it allows countries to specialise in the production of goods and services in which they are most efficient, which is positive for the environment. And trade encourages the spread of new technology, which is almost invariably cleaner and more efficient than old equipment.

So trade liberalisation *can* help to improve environmental quality, as long as policies are applied in the right way. The WTO system, however, currently fails adequately to integrate environmental objectives. There are five main priorities for reform:

The removal of subsidies. Many major areas of economic activity remain heavily subsidised, and in agriculture, fisheries and fossil fuel production and consumption, the subsidies almost invariably have negative environmental impacts, as well as pushing up prices for consumers and constraining export opportunities for developing countries. The removal of subsidies in these fields would be beneficial for trade, environment and development.

The relationship between multilateral environmental agreements (MEAs) and trade rules. A number of important MEAs, such as the Convention on International Trade in Endangered Species (CITES), or the Basel Convention on hazardous waste, apply regulatory controls to trade, such as requirements for permits or licences. Others, such as the Montreal Protocol on ozone-depleting substances, require parties to the treaty not to trade with non-parties in controlled substances – this acts both as an incentive to adhere to the treaty and as a disincentive to industry to migrate to non-parties to escape the controls. Trade measures have proved their value in implementing these MEAs, but possibly conflict with WTO disciplines of non-discrimination.

The WTO treatment of trade restrictions based on environmental regulations applying to processes. Process-based regulation – for example, the taxation of emissions from energy use, or ecolabelling based on life-cycle analyses of impact – is becoming increasingly important in strategies for environmental sustainability, and it is not unreasonable for countries to want to apply similar restrictions to imports as they do to their own producers. This may not, however, be allowable under the GATT prohibition on discrimination between 'like products'. Originally incorporated into the GATT in order to prevent discrimination on the grounds of national origin, the term has usually been interpreted more broadly to prevent discrimination in cases where process methods, rather than product characteristics, have been the justification for trade measures. The 1998 shrimp-turtle case (involving US restrictions on imports of shrimp fished with methods which killed sea turtles) may mark a change of approach, but considerable uncertainty remains.

The WTO's use of international standards. The WTO encourages the use of internationally-agreed standards in areas such as technical regulations or food safety standards, but places a high – arguably too high – burden of proof on countries seeking to apply *higher* domestic regulations (for example, in the beef-hormone case, where the WTO dispute settlement system found the EU ban on beef treated with growth hormones unjustifiable). This procedure fails adequately to integrate the precautionary principle which underlies much environmental policy; and in any case the institutions which set international standards – the International Organisation for Standardisation, for example, or the Codex Alimentarius Commission – are insufficiently transparent and dominated by producer interests.

The WTO dispute settlement system. Since many terms in the GATT (such as 'like product') remain undefined, the WTO dispute settlement system – dispute panel followed by the Appellate Body – bears much of the burden of applying WTO disciplines. Since trade policy cannot avoid interacting with environmental policy, however, the system must be more open to seeking and accepting environmental expertise from scientists, NGOs and industry.

None of this will be easy. But without the negotiating environment provided by a broad trade round – in which countries are able to make deals and trade-offs on issues where they may not like each individual component but where the overall package is acceptable – it will be impossible. As long as the environmental agenda can be fully injected into the negotiations, the next trade round needs to go ahead.