Think globally, act globally. The green movement’s greatest challenge is the turbulent world of international trade. Lyuba Zarsky explains why it’s not good enough to argue for an isolationist green protectionism.

In the past decade, the environment has risen to the top of the global diplomatic agenda. International meetings on the greenhouse effect, biodiversity and the preservation of rainforests have proliferated as governments, scientists and activists try to find global solutions to global problems. Now the environment has made it into the big league of international trade diplomacy. With almost 100 member nations, the General Agreement on Tariffs and Trade (GATT) is the primary vehicle governing world trade. In October, GATT’s member nations agreed to convene a working group on Trade and Environment.

A Trade and Environment Working Group was first established in 1971, but it was stymied by conflicts among GATT’s contracting parties and was never convened. The recent push to get the environment onto the trade agenda was spearheaded by northern and western European countries such as Austria and Sweden. European countries with strong domestic commitments to ecologically sustainable development want a more level ‘environmental playing field’ in global trade. They fear that lower environmental standards in the countries with whom they trade will allow those countries to undercut costs in the international arena, undermining their own ecological goals and international competitiveness.

Pressures for GATT to embrace environmental concerns are coming from both international and national directions, yet the situation is fraught with contradiction and conflict. At the national level, diverse health and environmental policies have triggered trade conflicts. The United States and the EC, for example, recently had a row over growth hormone residues in US beef exports to Europe. Claiming higher sensitivities to chemical residues, the Europeans forbade the beef imports. The Americans contended the hormones were safe and argued that the restrictions aimed to protect not consumers but European farmers.
In what will likely be a precedent-setting case, Mexico and the US are currently involved in a dispute over US legislation to impose dolphin-kill limits on caught tuna. A 1988 amendment to the US Marine Mammal Protection Act, driven by American environmentalists, set dolphin kill limits on both domestic and imported tuna. Importers were threatened with embargoes if they could not achieve an average dolphin-kill no more than 1.25 times that of the US fleet. With a large but technologically less sophisticated tuna industry, Mexican exporters faced a virtual ban on imports. Mexico filed a complaint with GATT, claiming that the legislation constituted a disguised trade barrier aimed at protecting the US tuna industry from foreign competition. A GATT dispute resolution panel is currently evaluating submissions.

On the international side, GATT faces the conundrum that international environmental agreements aimed at protecting global resources are increasingly hedged with trade provisions. GATT was originally set up in the 1940s as an anti-tariff watchdog, and these trade provisions are often at odds with GATT's own charter. The resulting potential for confusion and conflict undermines the role of GATT as a comprehensive trade organisation. The threat of trade sanctions has been used both to get nations to endorse emerging agreements and to enforce existing agreements. The Montreal Protocol on Ozone Depleting Substances, for example, calls for trade sanctions against non-signatories. Such sanctions are contrary to the spirit and the letter of GATT.

Besides the essentially negative tool of trade sanctions, international environmental diplomacy increasingly aims to use trade in a positive way to promote ecologically sound development. The chief mechanism is the design and implementation of a range of product standards and
especially process standards. Product standards put restrictions on end-products—for instance, requiring that they not contain ozone-depleting CFCs. They have been around for a long time as a tool of domestic policy by governments. However, aiming them at protecting the environment, rather than consumer health and safety, and setting or ‘harmonising’ them internationally are relatively new and controversial concepts. Process standards, on the other hand, put restrictions on how products are produced, such as requiring that they not be manufactured by technologies which contain CFCs. In short, environmentally benign product and process standards aim to squeeze out environmental vandals by market forces.

The tool of process standards arose out of international agreements to conserve species or primary resources. The Convention on International Trade In Endangered Species, for example, restricts trade in plants and animals in danger of extinction to those harvested under sustainable management plans. The Wellington Convention on Drift Net Fishing prohibits the use of drift nets in commercial fishing. The International Tropical Timber Organisation aims to restrict trade in rain forest timbers to those produced under certified sustainable management plans by the year 2000. Proposals have been floated for international resource agreements to set process standards for sustainable agriculture and the harvesting of genetic resources.

Environmental process standards present an entirely new approach to regulating markets. They are probably the single most innovative and important mechanism to conserve the environment while encouraging economic development. Without requirements for sustainable forestry management—and the higher prices such requirements bring—the world’s rainforests will be logged out within thirty years.

Yet, except for products made by prison labour, process standards are generally not allowed by GATT and are seen as a non-tariff trade barrier. GATT does contain provisions which allow exceptions to free trade which are ‘necessary to protect human, animal or plant life or health’ and which relate to the conservation of (domestic) exhaustible natural resources. However, there is very little definition of such conditions, and there is no provision for placing explicitly environmental conditions on trade.

Besides international agreements, process standards are creeping into national and regional environmental policies. The US dolphin-kill legislation sets a process standard for harvesting tuna. The European Parliament has passed a regulation known as the Muntingh Proposal which, if adopted by the European Commission and Council of Ministers, would introduce comprehensive controls over imports of tropical wood and wood products. Quotas would be set for each exporting country based on individualised forest management and conservation plans. Australian environmental groups are considering ways to use process standards to promote sustainable forestry management in Papua New Guinea and the Solomon Islands.

The national or regional use of process standards poses the additional problem for GATT of extra-territoriality. Under what conditions can a nation’s regulatory arm extend beyond its own land, sea and air boundaries? In the US-Mexico tuna dispute, the US attempted in effect to regulate use of international waters. If the Muntingh proposal is adopted, the EC, which has no rainforests, would in effect be regulating foreign production. Besides the problem of extra-territoriality, the EC restrictions could be seen as violating two of GATT’s fundamental principles; non-discrimination among trading partners; and transparency of trade barriers.

GATT’s Trade and Environment Working Group will have to consider how to respond to both these national and international pressures. The key problem is how GATT can respond to ecological imperatives while still maintaining its commitments to liberal, multilateral trade rules. At minimum, the working group must consider how to make international trade and environmental agreements consistent. Some voices at GATT will no doubt argue that the way to consistency is to roll back environmental agreements for the sake of freer trade. However, it is unlikely that they will win the day; the environmental diplomatic momentum is too strong. It is more likely that GATT will create exceptions to its provisions in cases where international agreements have been reached in other forums.

At best, the working group could consider how GATT could join the environmental bandwagon and set broad guidelines actively to promote ecologically sustainable development. International rules governing the protection of intellectual property, for example, have a potentially important significant impact on the transfer of environmentally clean technology, especially to developing countries. The Uruguay Round of trade talks is presently considering ways to tighten up intellectual property protection, but without considering how it could affect the environment.

At the national level, GATT must consider how to establish broad guidelines for national approaches to environmental policies which affect international trade. One item on the Working Party agenda, for example, is the effect on trade of new packaging and labelling requirements aimed at protecting the environment. Some countries, especially in what used to be described as the Third World, worry that such a requirement and others like it represent disguised non-tariff trade barriers. To reduce that likelihood, GATT will need to develop criteria for justified environmental regulation which affects trade—which could include transparency, environmental purpose and effectiveness in achieving environmental purpose.

The overarching issue is whether GATT itself should develop global environmental conditions on trade or whether it should enlarge the scope for nations to regulate their own trade. The former approach could require, for example, that process standards apply only to specified products agreed to by GATT members or in other international forums. The latter approach would allow nations to set their own process standards and spell out conditions under which they could do so. Likewise, a global approach would seek to harmonise international environmental
product standards, while the latter would specify conditions for differing national standards.

The best environmental standards would probably come from a combination of the two approaches. A global approach points towards mechanisms such as global minimum environment standards. Just as they agree not to use slave or prison labour, nations would agree not to use tactics which would degrade the environment. However, ecological and social conditions differ across nations, requiring different national standards. A global floor, rather than ceiling, on standards, combined with specified conditions for higher national standards, would provide the best integration of trade and environment objectives.

Some environmentalists, however, worried about GATT's pro-free trade bias, are pushing for amendments which seek to extend the sphere of national policy rather than develop a global framework. Heralding a regime of 'green protectionism', they want nations to be able to unilaterally exclude environmentally degrading imports or to slap 'environment tariffs' on them, as well as develop process standards. Support for such policies often grows out of general hostility to trade in groups which favour local self-reliance.

The nexus between environment and trade is a new issue and many green groups are still coming to terms with it. In the US there is a chasm between environmental groups who support environmental regulation of the proposed US-Mexico Free Trade Agreement and those who oppose the agreement altogether. Greenpeace surprised many American conservation groups when it opposed the US dolphin-kill legislation and embraced a global approach. The solution lay instead, it argued, in the establishment of an international regime "in which all the governments, the fish processing and distribution industry, the purse seine fleets, and non-governmental environmental and consumer organisations work co-operatively to regulate the fishery and the international encirclement of dolphins".

The effectiveness of GATT's working group will depend to a large extent on whether it incorporates the concerns of developing countries. Like most international forums, GATT is split by a North-South divide. Powerful developed countries have excluded key commodities of developing countries. Some developing countries, including India and ASEAN, initially opposed the formation of the working group. They worry that environmental regulation of trade is a new form of economic protectionism aimed primarily at maintaining the North's lead over newly industrialising countries. They agreed to support the group only after the GATT secretariat had consented to produce 'factual papers' on the evolving process of the UN Conference on Environment and Development and the key issues surrounding trade and environment.

Incorporating the concerns of developing countries is important on three counts. First are ethical imperatives to improve the welfare of nearly 80% of the world's people. Average income in the South is about 6% of that in the North. Second, with a rapidly expanding population, developing countries will have an increasing impact on global and local environments. Helping them to chart ecologically sound economic development paths will benefit everyone. Third, international co-operation is the key to solving nearly all the world's developmental problems. Polarisation on the environment issue at GATT will undermine prospects for co-operation on other economic and environmental issues.

Two leading concerns for the South are access to the markets of developed countries and technology transfer. The working groups will have to consider ways to promote ecologically sustainable North-South trade. One idea is to create North-South 'environmental trade preferences'. Preferential access could be given to particular products from developing countries produced under strong environmental guidelines; or to a developing country as a whole which adopted sweeping, multi-sectoral commitments to sustainable development. For example, a country which undertook land reform, promoted sustainable agriculture and agro-forestry, and implemented sustainable forestry management could get preferential access for its agriculture or forest-based products or be allowed to protect infant food or timber processing industries.

Technology transfer can be accomplished through a variety of means, including aid programs and the generation of new sources of revenue. International forestry agreements, for example, could pay developing countries for the environmental service of conserving standing rainforests. On the other hand, the South should be able to gain revenue from the development of its crop and rainforest genetic resources. Currently, international seed companies and developed countries reap enormous benefits from developing country plant varieties. Royalties and other payments to developing countries are a pittance.

The trade environment agenda at GATT and elsewhere is still at an early stage. The active, informed, and articulate participation of development and environment groups could make a significant difference in its evolution. Besides providing a strong 'voice of conscience', non-governmental groups can call on scientific expertise. Unburdened by the requirements of the narrow political goals which beset governments, they can be creative and bold. Conscience, science, creativity, courage and democracy are all needed in large amounts to point international trade towards ecologically sustainable paths.

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