

Trade and Environment Handbook

Australian APEC Study Centre
Monash University
Melbourne, Australia
www.apec.org.au

ITS Global
Consultants on Global Issues
Melbourne, Australia
www.itsglobal.net

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This handbook is the result of a joint research project undertaken in 2001 and 2002 between the Australian APEC Study Centre at Monash University, Melbourne, ITS Global (formerly International Trade Strategies), a consultancy on international strategic issues, Peking University and the Ministry of Foreign Trade and Economic Cooperation and Trade (MOFTEC) and the Chinese State Environment Protection Agency (SEPA). It was funded by the Australian Development Assistance Agency.

... *The debate*

The debate appears complex. There are conflicts between the obligations of countries as members of the WTO with their obligations as members of MEAs. This generates debate and analysis by lawyers. The WTO is represented as a barrier to international efforts to protect the environment. It is contended that the 'precautionary principle' needs to be applied, that labelling and traceability for environmental purposes must be permitted, that countries should have the right to restrict imports according to how they are processed and produced (according their process and production methods – 'ppms') and that new notions of sovereignty now apply. Recently there has also been a push to recognise the 'multifunctional' role of agriculture for addressing 'non-trade concerns' such as the environment and animal welfare. There is a large body of writing by NGOs about why the WTO is deficient.

The EU has for some time advocated the use of these measures.⁸ It has recognised the potential conflict between environmental regulations that restrict trade and WTO rules. It proposed several years ago that the WTO be amended to legitimise trade measures in environmental agreements, recognise the precautionary principle and permit trade restrictions based on ppms. Following strong opposition from most WTO members at the Cancun Ministerial in September 2003, the EU announced that it would cease proposing changes to WTO rules and would instead pursue its goals by "political" means.⁹ **This includes pursuing environmental policies in bilateral and regional trade agreements, seeking to legitimise environmental trade restrictions outside the WTO through other MEAs,¹⁰ and pressing for development and acceptance of precaution, traceability and labeling for biotech products in**

international standards forums such as Codex. It is supported by only a few countries in the WTO but its position reflects the position of leading environmental NGOs.

10 See National Foreign Trade Council (NFTC) (2003) EU Regulation, Standardization and the Precautionary Principle: The Art of Crafting a Three-Dimensional Trade Strategy that Ignores Sound Science, National Foreign Trade Council Inc, Washington and National Foreign Trade Council (2003) Looking Behind the Curtain: The Growth of Trade Barriers that Ignore Sound Science, National Foreign Trade Council, Washington, at 3. (at p. 8).

... 4. The rise of environmental trade barriers

Increased environmental regulations have led to pressures for new trade restrictions based on environmental grounds. A major push is now underway. Measures generally restrict trade by conditioning market access on adherence to environmental standards. They include restrictions based on the precautionary principle,49...

49 See National Foreign Trade Council (NFTC) (2003) EU Regulation, Standardization and the Precautionary Principle: The Art of Crafting a Three-Dimensional Trade Strategy that Ignores Sound Science, National Foreign Trade Council Inc, Washington and .National Foreign Trade Council (2003) Looking Behind the Curtain: The Growth of Trade Barriers that Ignore Sound Science, National Foreign Trade Council, Washington. (at p. 24).

...Country positions on trade and environment

1. Positions of the leading industrialized economies

There are significant differences towards trade and environment issues among industrialized economies.

The EC has been the leading advocate of introducing provisions on the environment in the WTO. The EU opposes exercise by the US of unilateral trade sanctions, but supports the discriminatory provisions in MEAs and seeks their legitimization in the WTO. It proposed several years ago that the WTO be amended to legitimise trade measures in MEAs, recognise the precautionary principle and permit trade restrictions based on ppms. Following strong opposition from most WTO members at the Cancun Ministerial in September 2003, however, it announced that it would cease proposing changes to WTO rules and would instead pursue its goals by “political” means.

Since this time it has indicated it is likely to seek to legitimise environmental trade restrictions through MEAs,68...

68 See National Foreign Trade Council (NFTC) (2003) EU Regulation, Standardization and the Precautionary Principle: The Art of Crafting a Three-Dimensional Trade Strategy that Ignores Sound Science, National Foreign Trade Council Inc, Washington and .National Foreign Trade Council (2003) Looking Behind the Curtain: The Growth of Trade Barriers that Ignore Sound Science, National Foreign Trade Council, Washington.