

## TRADE AND THE ENVIRONMENT: FOUR SCHOOLS OF THOUGHT

Steve Charnovitz

A recent bibliography on "trade and the environment" runs 26 pages. Since the vast majority of this work was written during the past three years, the reading list demonstrates that many people are thinking creatively about these problems. It is striking how often these authors fail to understand each other, however. What is clearly needed is a new framework for connecting the differing perspectives on trade and the environment.

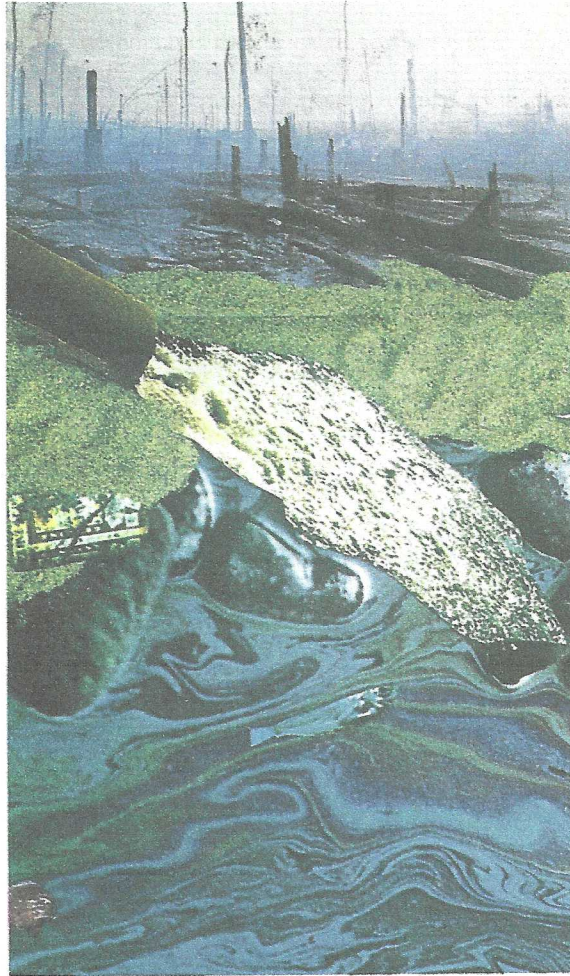
This article will discuss the four schools of thought in the current debate: (1) Commercial, (2) Environmental, (3) Trade-off, and (4) Sovereignty. Each school will be discussed in its most robust form so as to highlight the differences between them, and is followed by an examination of its institutional implications.

### Commercial school of thought

The starting position of the Commercial school is that trade and market openness are always good because they promote economic welfare. From this perspective, tariff and non-tariff barriers, including trade measures for environmental purposes, are undesirable. Also, trade between two countries is mutually beneficial, regardless of any differences in environmental standards. Eco-tariffs predicated on the level of social costs imposed by a foreign government would be economically counterproductive.

Fortunately, the disciplines of the General Agreement on Tariffs and Trade (GATT) prevent a misuse of environmentally motivated trade measures. Forestalling such "green protectionism" is important not only for the world economy, but also for the world environment. Since trade enriches countries, it enables them to afford more environmental protection and remediation in the future.

The institutional implication of the Commercial school is that the GATT is basically sound. One area where the GATT needs revision would be in the application of GATT rules to environmental trade measures (ETMs) in treaties such as the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The GATT



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should permit trade controls to carry out multilateral agreements (such as CITES) concerned with environmentally sensitive trade, while preventing environmental treaties from using trade discrimination to influence national policies.

### Environmental school

The Environmental school starts from the position that environmental protection is more important than trade, because trade is just a means, while the environment is an end. It contends that trade can be harmful to the environment, because it facilitates "externalization" of the costs of production. Trade can also be harmful, because transporting products over long distances wastes resources, and because international competition puts pressure on governments to underbid each other's environmental standards. According to this school, we should invert GATT's most-

favoured-nation principle, conditioning commercial intercourse instead on whether or not trading partners follow safe environmental practices.

In its most extreme form, the Environmental school questions all international trade. Some prominent advocates of this position are not typical environmentalists. Economics professor Ravi Batra states in his recent book, *The Myth of Free Trade*, that "since trade pollutes the earth, it is essential that it be kept to the minimum. Free trade leads to maximum trade, but environmental considerations call for minimum trade."

Whenever producers sell products abroad at less than their cost of production — that is, with input prices lower than "true" environmental costs — it is legitimate for other nations to respond to such "eco-dumping" with an antidumping duty. Whenever foreign governments implicitly subsidize their production by failing to address pollution externalities, it is legitimate for other nations to respond with a countervailing duty. In line with GATT rules, the importing country must first make a unilateral judgment as to the existence of injury. But in this case, the criterion should be changed to environmental injury, not material injury as found in the GATT.

The institutional implications of the Environmental school are profound. Since most, if not all, of this perspective violates fundamental GATT principles, it suggests that the GATT needs comprehensive reform. For example, the range of environmental subsidies allowable by the GATT should be expanded. We must rethink the whole concept of most-favoured nations, so that discrimination against countries with incorrect environmental policies becomes the norm. Indeed, since so much of GATT needs to be fixed, it might be better to create a new international institution.

### Trade-off school

The third school shuns the one-sidedness of the first two schools, instead seeking to balance trade and environmental values. This school denies any serious conflict between trade and the environment, view-

ing these goals as complementary. It holds that by prohibiting the use of ETMs that lead to bad ecological results (for example, an export ban on timber), the GATT is actually pro-environment. In the few cases where trade may not be good — for example, transborder spillovers or irreversible ecological damage — trade controls can be permitted on a case-by-case basis.

According to this school, the best way to promote a cleaner environment is through international agreements. If ETMs are needed to carry out multilateral treaties, the GATT must accommodate them, even when they violate GATT rules. For example, despite the provisions in the Montreal Protocol that require discrimination based upon the government policy of another country, the GATT should not interfere.

The use of unilateral ETMs, however, is viewed quite differently. The appropriateness of such measures must be judged by an international institution. Since current GATT rules may be insufficient, better criteria are needed for weighing the commercial and environmental aspects of disputed ETMs. The key factors should be proportionality, least trade-restrictiveness, necessity, legitimacy and non-discrimination.

A comprehensive dispute settlement system is required to weigh these factors. A reformed GATT might be able to do this, or a new institution — parallel to the GATT — might be more effective. Whatever institution has the responsibility must secure scientific input to help dispute panels judge each case on its merits.

**Sovereignty school**

The fourth school, Sovereignty, incorporates aspects of all the other schools. From the Commercial school, it accepts the view that trade is good and that a strong GATT is vital for fighting protectionism. From the Environmental school, it accepts the view that trade rules must respect environmental needs. From the Trade-off school, it accepts the view that much of the trade and environmental conflict can be resolved, and that unilateral ETMs are sometimes justifiable.

The question is what factors the GATT can review. The Sovereignty school differs sharply from the Trade-off school (and the Commercial school) in answering this question, holding that neither the GATT nor any other institution should perform a trade-off function. In other words, each country should be able to pursue policies that reflect its own values. If the European Community (EC) wants a zero-use standard on artificial hormones in beef, the GATT should have no opinion on the matter, even though such action may fail a cost-benefit test.

The GATT ought, however, to have an

opinion on whether an ETM is discriminatory or protectionist. The GATT should, indeed, do more to combat hidden protectionism. In view of all the protectionist tariffs, quotas, voluntary export restraints, and managed trade agreements persisting throughout the world, the GATT should have enough meaningful work to do without interfering in the health and environ-

**FOUR SCHOOLS OF THOUGHT IN THE TRADE AND ENVIRONMENT DEBATE**

- **Commercial**  
The environment should yield to trade.
- **Environmental**  
Trade should yield to the environment.
- **Trade-off**  
Trade and environmental aims should be weighed against each other via the GATT.
- **Sovereignty**  
Nations may pursue their own environmental policies, as long as they are not protectionist.

mental decisions that are inherent to national self-determination.

According to this school, unless environmental standards are arbitrary or protectionist, the law-making decision should be left up to each country. This means that the GATT should abandon its quest for such disciplines as proportionality and legitimacy, that can be used to judge whether an ETM is the best policy or a wise policy. The GATT must respect national choice in applying domestic environmental standards to trade, no matter how progressive (or retrograde) such laws are. Any international supervision of national value leads GATT down a slippery slope.

In this school, trade-offs are appropriate for a government's internal policy making, but inappropriate for an international institution that lacks public accountability. The GATT dispute resolution panels should practise "judicial restraint." In effect, the activism of recent GATT panels in rewriting Article XX to prevent the use of environmental measures has been unfortunate for the environment, and dangerous for the international trading system.

The Sovereignty school also differs sharply from the Environmental school in the latter's opposition to any trade that might hurt the environment. Instead, the Sovereignty school recognizes that international commerce is no more anti-environment than

domestic commerce. Both types of commerce require appropriate environmental regulation. But countries need not pursue autarkic policies, and thereby forego national income, in order to preserve the environment.

Happily, it is fairly easy to craft language to implement the views of this fourth school by simply copying Article XX. The framers of the GATT, in their wisdom, realized that certain issues, such as the environment, had to be exceptions to any multilateral discipline on trade restrictions. The institutional implication of the Sovereignty school is that the GATT should return to the subsidiary principles on which it was based.

This school would deem the controversy as to whether Article XX extends to "unilateral" or "extrajurisdictional" ETMs as missing the entire point. The health and environmental exceptions in Article XX were written expressly to prevent GATT from meddling in national conservation, health or sanitary laws.

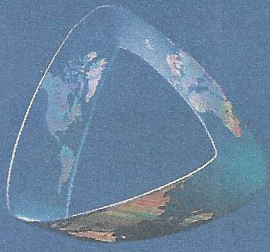
The idea that the multilateral trading system has no room for unilateralism on health and the environment is rather frightening. If the trading system really were driven by the competitive advantage derived from unsound practices — such as killing dolphins, dumping hazardous wastes in countries with GDPs below \$5,000, or beggar-thy-future environmental policies — then the anti-GATT environmental activists would be right.

**Conclusion**

If the Uruguay Round is to reach fruition, we must build stronger coalitions of beneficiaries from trade liberalization. Environmentalists ought to be a central part of that coalition. It is hard to imagine anything more anti-environment than protectionism, which squanders resources and keeps poor countries poor.

Therefore, it is extremely important that the current alienation of many environmentalists from the GATT be reversed. In part, this may require the GATT to accept new ideas. But more importantly, it will require the GATT to accept old ideas, such as the integrity of Article XX. It is this conservative approach to trade policy that caused me to join the Sovereignty school. ■

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