

STEVE CHARNOVITZ assesses the outlook and impact of the new World Trade Organization

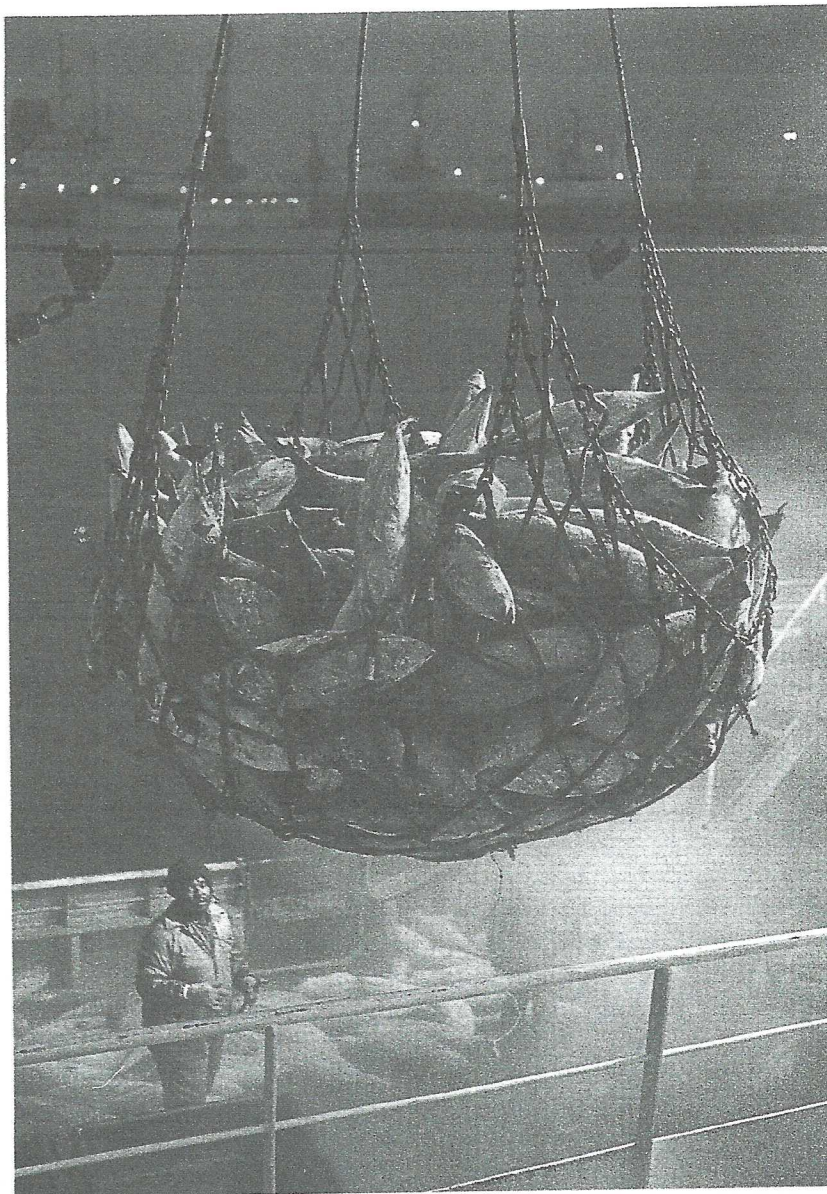
The new World Trade Organization (WTO) links together a dozen important economic agreements – but only a few have provisions regarding the environment. Its potential environmental significance rests not only on these provisions, but on what the Uruguay Round negotiations failed to address.

The General Agreement on Tariffs and Trade (GATT) governs trade policy, but the WTO starts down the road of governing domestic policy as well. It includes, for example, new rules on subsidies, the protection of intellectual property, trade-related investment measures and product standards.

Two agreements in the WTO are designed to limit the ability of governments to set product standards in a protectionist way – the Agreement on Technical Barriers to Trade (which applies to any domestic standard that is enforced on an import) and the Agreement on Sanitary and Phytosanitary Standards (which covers food safety and applies both to import regulations and to domestic standards). Curiously, some commentators have described these two agreements as making it *easier* for countries to maintain their environmental sovereignty. This is misleading and inaccurate.

The impact of these two agreements on national environmental laws will depend on how they are implemented. The WTO establishes a committee to oversee each of them, but neither, unfortunately, will include representatives from non-governmental organizations.

The WTO facilitates the use of trade sanctions against offending countries to ensure that its rules are followed. Under GATT, these could be authorized only by a consensus of all



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ENVIRONMENTAL BLINDNESS?

GATT members – and this has not happened in the past 40 years. Under the WTO, however, trade sanctions are *automatically* authorized if the country does not change its law when told to do so by a dispute panel. This hasty recourse to countermeasures is at variance with GATT's perennial

advice to environmentalists that disagreements between countries should be settled by negotiations – and by applying carrots, not sticks.

The Uruguay Round did not resolve any ongoing disputes, and there are now three pending GATT decisions involving environmental laws. Many ►

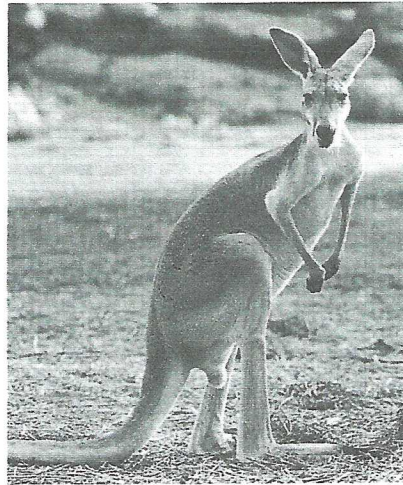
nations are anxious to see these decisions officially approved in order to establish a clear ruling that such process standards as a ban on driftnet-caught fish violate GATT. Approval of the pending decisions would also establish rulings that importing nations may not use trade measures to 'force' the adoption of better environment laws in other countries or to benefit the environment beyond their own borders. The United States currently bans the import of some foreign species, like kangaroos, which are not listed as threatened by the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES): many trade experts view such bans as illegal under GATT.

Both GATT and the WTO permit parties to impose discriminatory trade measures against non-parties. That is why countries like China are so interested in joining the WTO – to escape such discrimination. Environment treaties do the same: the Montreal Protocol on Substances that Deplete the Ozone Layer, for example, requires parties to ban imports of chlorofluorocarbons from nations that have not ratified the treaty. But trade officials regularly preach non-discrimination to environmentalists – and GATT officials have frequently criticised the Montreal Protocol – even though they practise discrimination themselves.

The WTO agreement will require countries to lower their tariffs and to open their markets to imports and inward investment. As a result, there will be a worldwide increase in production, consumption and transportation. It will also lead to new patterns of land use and the economic changes that it induces could strain renewable resources and increase pollution.

Despite these potential effects,

- This 'environment-blind'
- approach is a
- serious defect in trade
- policy-making.



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GATT was seemingly uninterested in the environmental implications of the Uruguay Round. Its Secretariat has not done any environmental modelling, although it routinely publishes results from economic modelling of trade liberalization. The Clinton Administration fought suggestions by United States environment and public interest groups that it prepare an 'environmental impact statement' for the Uruguay Round – and no other government has done such an analysis either. This 'environment-blind' approach is a serious defect in trade policy-making.

The Uruguay Round contains a new Declaration on how the WTO can achieve 'greater coherence in global economic policy-making'. This discusses linkages to the World Bank and the International Monetary Fund, but says nothing about UNEP, the United Nations Conference on Trade and Development, or the International Labour Organisation. Indeed, the WTO preparatory committee has rejected any formal link to the United Nations system. Such parochialism manifests the *incoherence* of current international governance. One might go so far as to say that the WTO is too important to be left to trade ministers.

Many environmental groups have pointed to the WTO's new Committee on Trade and Environment (CTE) as the only sign of progress of the Round. It may turn out to be an environmental plus – but there are many reasons to doubt it.

The CTE's terms of reference call for focusing on the *negative* impact of environmental measures on trade. But

this is just one subset of the 'trade and environment' debate. The CTE apparently will not look at the *positive* impact of environmental measures on production and trade. Nor will it look at the effects of trade liberalization on the environment. And it will not consider whether the protection of the environment should be incorporated into WTO rules alongside the protection of intellectual property.

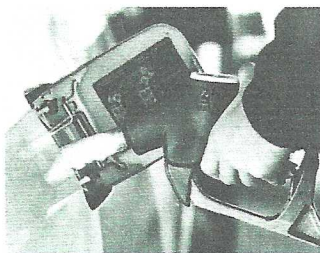
Given its unbalanced mandate, the CTE will be prone to counterproductive activity. In recent meetings, CTE members have pondered whether multilateral environmental treaties actually need the trade measures they contain, and have launched inquiries into their effectiveness. There are some legitimate technical issues here, of course. But it seems unfruitful for a committee of trade bureaucrats to be examining such questions, without being chaperoned by any environmental realism.

Rather than looking for ways to undermine environmental treaties, the WTO should be looking at how to integrate environmental concerns into trade policy-making. One little-known provision of GATT calls for collaboration in expanding trade 'through international harmonization and adjustment of national policies and regulations'. If the WTO were to work with UNEP to promote needed adjustments in national environmental policies, the trade regime might be able to make a substantial positive contribution to sustainable development •

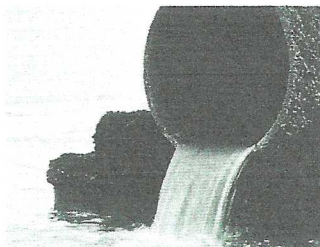
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The next issue of *Our Planet* will carry an interview with HE Luiz Felipe Lampreia, formerly Chairman of the Sub-Committee on Trade and Environment, a Sub-Committee of the Preparatory Committee for the WTO.

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