

re so. With fewer impediments to and industries, the home nation source of the skills and technology *Competitive Advantage of Nations*

Guimaraes characterizes Brazil in and industrialization over conser- s [that] constitutes, perhaps, the ating back to colonial times" (*The Politics and Environment in Brazil* [191]: 159).

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Improving Environmental and Trade Governance

STEVE CHARNOVITZ

The purpose of this commentary is to discuss the need for improving international governance to take into account both economic and environmental factors. I begin by dissecting the new environmentalist critique of international trade and explaining why some of these concerns are misplaced. Next I move to a discussion of GATT and the environment and offer narrow and broad proposals for reform.

The concepts of a world economy and of a global ecosystem have been recognized for some time. Throughout the century, statesmen have attempted to devise international institutions and agreements establishing rules for human activities involving both of these systems. Of course, not all of these attempts were successful. For example, the effort in 1927 to establish an international treaty on trade restrictions failed.¹ But two years later, the effort to establish an international treaty to control plant diseases succeeded.²

The recognition that the world economy and the global environment should be viewed as closely linked systems is also not new. For example, in 1925, William Smith Culbertson, one of the architects of America's trade reciprocity policy, called for an international conference on commercial policy to consider issues such as most-favored nation rules, unfair competition, market access, and investment.³ That alone was visionary, but Culbertson sought even more. He suggested that "Following, or perhaps as part of, a conference on commercial policy, there should be held a world conference on the conservation of natural resources."⁴

What is relatively new is the notion that the world economy and the global environment should be viewed as the same system.⁵ The Bergen Declaration on Sustainable Development of 1990 pointed out the "symbiotic nature of economy and the environment."⁶ The Rio Declaration of 1992 (a product of the United Nations Conference on the Environment and Development or

GATT governs only trade restrictions and distortions.²¹ So far, it has operated by consensus, which limits the decisions it can take. The International Labor Organization (ILO) can draft standards regarding the workplace, but they do not become obligations without subsequent ratification by governments. Ratification experience in recent years has been disappointing. There is no institution comparable to the International Labor Organization for the environment. The UNEP plays a coordinating and educational role. And the new U.N. Commission on Sustainable Development has not yet left a mark.

On the other hand, progress in governance is being made. The creation of the World Trade Organization (WTO) in 1993 was a significant achievement in international economic cooperation.²² In recent years, nations have attained treaties on ozone protection, trade in hazardous waste, driftnet fishing, climate change, and biodiversity. The Global Environment Facility is in place.²³ The World Bank is now taking the environment seriously.²⁴

Trade and the Environment

The links between international trade and environmental damage go back hundreds of years.²⁵ This commentary focuses mainly on the past few years, however, during which the linkage has become a serious concern in both the trade and environmental policy camps. The trade camp largely sees it as a threat to business as usual. The trade liberalizers worry that environmental rationales will be put forward to justify new restrictions.²⁶ For example, the GATT Secretariat set up its environmental staff as an appendage to its division on "technical barriers" to trade. The protectionists want to reserve trade leverage for commercial rather than environmental goals.

The environmental camp has articulated three major concerns. One, that international trade rules will be invoked to deny the use of environmental trade measures or domestic environmental standards and taxes. Two, that trade liberalization may degrade the environment by putting competitive pressure on environmental standards.²⁷ Three, that protectionism may degrade the environment by leading to the overuse or misuse of resources. Environmentalists have also seized upon the creation of the World Trade Organization as an opportunity to sensitize the GATT to environmental concerns, and have been frustrated by GATT's disinclination to be greened.²⁸

Both camps have their extremists. For example, William H. Lash III fears that the GATT "is in danger of becoming the latest sacrifice to the environmental lobby."²⁹ The view that trade measures should never be used for environmental purposes is predicated on three assumptions:

1. Environmental problems and concerns are purely domestic, in response to national values. No one cares about the external environment (for example, foreign tigers).

"Earth Summit") declared that: "In order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it."²⁷

Although there are some variations on this theme, the basic insight is that any significant environmental issue has economic implications and that any significant economic issue has environmental implications.⁸ The Earth Summit's other major document, Agenda 21, calls for governments to "ensure that environment and trade policies are mutually supportive, with a view to achieving sustainable development."²⁹ The U.S. Congress has declared it to be the "policy of the United States that sustainable economic growth must be predicated on the sustainable management of natural resources."¹⁰

There are many economic issues that are far more domestic than international. There are also environmental issues that are more domestic than international. And there are surely economic issues that have no serious environmental implications. There are also environmental issues that have small implications for the economy. Nevertheless, the insight remains valid: the world economy and the global ecosystem are, to a large extent, and probably an ever increasing extent, two sides of the same coin.¹¹ So far, the coin lacks a name.¹² So I propose to call it the *economy*.¹³ Thus, the economy is the world economy and ecology viewed as the same system rather than as separate systems with important linkages.¹⁴

In introducing this term, I do not mean to imply that all ecological issues fit into an economic paradigm. Many ecological issues are about values.¹⁵ So are many economic issues. My point simply is that we should be more aware of the need to think more systemically about economic and environmental issues.

Once it is accepted that humans inhabit one economy, the inadequacy of current international governance becomes apparent.¹⁶ There is the General Agreement on Tariffs and Trade (GATT), but it has no competence for the environment. There is the United Nations Environment Programme (UNEP), but it has limited competence for economic coordination.¹⁷ There are numerous treaties on economic policy and on the environment, but they seldom are linked.

Recognizing the economy also raises the question of when economic borders and national decisionmaking cease to be useful.¹⁸ As Allan G. B. Fisher once noted:

The hard fact is that we live in a world where, in part at least, our fate depends inexorably on what other people do . . . The beginning of wisdom in modern international economic life is to realize that in this sense no nation, great or small, can be free, independent or sovereign.¹⁹

The sovereign nations of the world have been slow to yield authority to international institutions.²⁰ There is no institution governing trade itself; the

2. There are no physical transborder spillovers.³⁰
3. There is no global commons, no ocean, no atmosphere.

It is not being suggested that any commentator necessarily believes all three, only that the trade über alles view would follow if all three assumptions were true. In reality, none of these assumptions is true. The closest one might come is the example of Nauru with respect to the second assumption.

The environmental camp is also susceptible to hyperbole. During the past year, there has been a proliferation of economic Dadaism by Ravi Batra and others who inveigh against free trade.³¹ Some, like Tim Lang and Colin Hines, see no embarrassment in identifying themselves as "protectionists," despite the great harm done by protectionists in the past.³²

Leaving the extremists aside, both camps seem to want to blend their disparate views. This commentary contributes to this merger by analyzing some of the main issues and offering new policy recommendations. Part I will discuss some conceptual points. Part II will discuss GATT and World Trade Organization reform. Part III will discuss the need for the creation of a global environmental organization.

I. Conceptual Points

The expanding issue

Over the past few years, the topic of trade and environment has broadened considerably.³³ The debate is no longer just about GATT rules and the environment or the environmental effects of trade policy. Rather, the issue has expanded to embrace: (1) the environmental effects of all production involved in trade, (2) the use of the global commons, (3) appropriate development strategies, and (4) ways to promote international environmental cooperation.

This expansion presents both challenge and opportunity. The challenge is that the additional issues are complicated. The opportunity is that the linkage between trade and environment has captured the attention of key governments, the GATT, other international organizations, nongovernmental organizations, and the media. This rare attentiveness can be used to develop public support for new policies to address seemingly intractable problems.

When the trade and environment issue is viewed broadly, it becomes apparent that many of its elements go beyond the GATT. One response to this is to broaden GATT's mandate. Perhaps this will happen. But in the meantime, there is a need to enlist UNEP, the International Labor Organization, OECD, U.N. Development Program (UNDP), and other organizations to look at the non-GATT aspects of the issue. Indeed, it can be argued that the GATT aspects are not solvable without such parallel action.

For example, consider the issue of unilateral environmental trade measures, such as the U.S. law banning shrimp from countries that do not have comparable turtle protection regimes.³⁴ Some would try to deal with this issue by clarifying GATT rules. Yet it seems evident that either permitting the United States to continue its law, or denying this right to the United States will not, in itself, solve the problem of incidental damage to endangered turtles. What is needed is an enforceable international regime for turtle protection combined with technical assistance to poor countries.³⁵ The GATT does not promote this kind of cooperation through standard-setting or dispute settlement.³⁶

International cooperation

In considering cooperation, it is useful to distinguish two kinds—essential and mutually reinforcing. Essential cooperation occurs when joint action is absolutely necessary. The treaties on fur seals and narcotics control in the early twentieth century are an example of where solitary action by any one nation would have been ineffective. Common action is needed to protect a shared resource.³⁷

Mutually reinforcing cooperation occurs when countries find that, due to political considerations, they can act better in concert. For example, countries may adopt the same regulations in order to level the competitive playing field. This was the one of the rationales for the International Labor Organization. Unlike the first situation described above, cooperation is not essential in these situations. Nations can adopt appropriate policies in isolation; it's just hard for them to do so.³⁸ Trade negotiations are a good example of this.

Environmental issues involve both kinds of cooperation. Domestic producers will accept the new standards more readily if they perceive that foreign competitors are bound by the same rules. When some commentators (for example, the GATT Secretariat) suggest that environmental trade measures are not needed so long as countries agree on environmental priorities, they are probably thinking more about essential cooperation than about mutually reinforcing cooperation.³⁹ It is not enough that a government sees the need for a change in its environmental policy. It must be able to achieve that result politically.

It has long been recognized that the environment is a public good and therefore proper environmental standards do not occur spontaneously. Various market failures suggest the need for government intervention. Governments attempt to devise interventions that will improve outcomes.

Since there is no government for the economy, intervention is difficult at the international level. Whenever the regulations or taxes in one country affect others, the optimal outcome will require negotiations between countries. Although many commentators offer detailed explanations as to why nations might take different positions into negotiations, this diversity of view should

overlooked in the simplistic argument that if specialization and trade increase the per capita availability of commodities, they must be good.⁴⁷ I doubt Daly is arguing that, all things being equal, less is better than more. Rather, I think he is claiming that there is some special benefit in community self-sufficiency and diversity that outweighs a loss in total output.⁴⁸ Perhaps there is. But one should be careful in prescribing such materialistic abstinence for people (or families, firms, or communities) who may prefer more to less.

Moreover, any argument about the self-sufficiency of a community raises the issue of what the appropriate unit of sufficiency is. Is it a continent, a nation, a state, a city, a neighborhood, or a family? Daly does not tell us, even though his argument is empty until he does.⁴⁹

Daly also criticizes free trade by attempting to refute the doctrine of comparative advantage. According to Daly:

The doctrine of comparative advantage is quite correct given the assumptions on which it rests, but unfortunately one of those assumptions is that capital is immobile internationally Once capital is mobile then the entire doctrine of comparative advantage and all its comforting demonstrations become irrelevant.⁵⁰

The doctrine of comparative advantage is mathematically sound. It is true that some demonstrations of the doctrine have "assumed" capital immobility for expositional convenience. But other demonstrations build perigrinating mobility into the model. As Paul Krugman has noted, the neoclassical economic theorists of the 19th century lived in a time of high capital mobility.⁵¹ According to Krugman, "We are living in a world which is about as integrated, give or take a few measures, as the world of the 19th century."⁵²

Daly does not explain how capital mobility invalidates comparative advantage. On first impression, it would seem that capital mobility would stimulate specialization (and therefore the benefits of trade) by providing a greater access to capital. Daly seems to be suggesting either that some unfortunate countries will be left without a comparative advantage in anything, or that even if they have such a comparative advantage, other lower cost countries (with a competitive advantage) will capture the trade. Neither of these possibilities is a good model because each assumes irrational behavior. If Country A has a comparative advantage in wine and Country B has a comparative advantage in cloth, but Country B decides to produce wine anyway, then Country A can produce cloth. Both countries would then be worse off than if they had stuck to their comparative advantage. Yet mutually advantageous trade could still occur.

In any event, economics professors have probably overused the doctrine of comparative advantage to teach trade. One does not need a doctrine of comparative advantage to justify nonintervention by governments in the normal process of human exchange. Since trade is voluntary, it does not occur unless

not be at all surprising. Economic and environmental issues are very controversial within countries too. The same coercion, eco-imperialism, paternalism, and burden shifting that is so regularly deplored at the international level seems more acceptable at the national level.

The Daly thesis

For more than two decades, Herman E. Daly has been writing provocative critiques of economic growth.⁴⁰ He is absolutely correct that our measurements of production, like gross domestic product, are flawed by not taking account of the consumption of natural resources or the portion of spending that is needed to remediate environmental externalities. He is also correct that finite limits on natural resources have implications for the possibility of economic growth.⁴¹ But his recent critiques of trade are not well aimed. They will be discussed here because they are so influential to a new generation of socially conscious analysts.

A central tenet to Daly's thesis is that we must control and limit resource "throughput." That may be true. But the large increase in world growth that has occurred since Daly first propounded this thesis would seem to call into question whether the economy has reached its throughput limit. Of course, it is always easy to overuse particular renewable resources (for example, salmon). But with skillful management, it may be possible to increase the stock of such resources commensurately with a growing economy.

Since it is not proven that we have reached our throughput limit, it is not clear that growth should be capped at current levels. Thus, the very simple argument that free trade is undesirable because trade stimulates growth is not correct. Daly offers a more sophisticated set of arguments.⁴² First, free trade "introduces greater spatial separation between the production benefits and the environmental costs of throughput growth, making it more difficult for the latter to temper the growth of the former."⁴³ Second, a "country trying to internalize external costs cannot accomplish that efficient policy if it enters into free trade with countries that do not internalize their external costs."⁴⁴ These are indeed problems that may suggest the need for international regulation.⁴⁵ Daly sees the need for a more radical solution. In his view, "Measures to further globalize and integrate the world economy should now be treated as a bad idea unless proven otherwise"⁴⁶ While this prescription might address the condition noted previously, it would be quite costly in foregone welfare. Daly does not offer a compelling reason for why society should surrender that growth. He also does not explain how government management of trade will be any more effective than government management of environmental policy.

Daly buttresses his antitrade views with another argument about self-sufficiency. He states that "the community dimension of welfare is completely

if makes participants better off. Thus, governments don't need a reason to permit free trade. It is the denial of free trade that requires a rationale. The mobility of capital is not a logical reason to deny human freedom.

II. GATT and the Environment

Many commentators have noted that rather than embracing free trade, the GATT adopts a mercantilist stance. On the issue of trade and the environment, however, the GATT has not been mercantilist. The GATT has been feudalist. It closes its eyes to the existence of the economy. It believes that the trade regime should be impervious to new ideas from outside the trade community. Natural resource inputs are the vassals of world commerce. In this view, such inputs are important, but their continuing availability can be taken for granted. A feudalist GATT is a threat to the economy.

The Environment Group

When the GATT initiated its work on the environment in 1971, it acted constructively. GATT's first report on trade and pollution control—written by Jan Tumlir and Margaret Porter—was good.⁵³ For example, the report recognized that international agreements might be needed that discriminate against products on the basis of the production process.⁵⁴ The GATT also established a permanent group on environmental measures in trade, but the group failed to meet.

When Austria sought to convene this group in 1990, the GATT Council should have called the group together. Instead, the council delayed action by embarking upon a long, fruitless debate about whether environmental trade measures were disguised protectionism. It took about a year before the group held its first substantive meeting. This delay was totally contrary to the terms of reference of the 1971 group, which provided that any GATT member could convene the group.

Over the next two years, the group met twelve times and commissioned several papers. They held no public meetings or hearings. No papers were released to the public until 1994. The group did not hold any formal consultations with environmental nongovernmental organizations.

The group did not reach any conclusions. No final report was made. Instead, the chairman of the group made a report to the GATT on his own responsibility.⁵⁵ The report demonstrates how little was accomplished during those two years. Consider the following excerpts on the most important issue considered by the group, the trade provisions in environmental treaties:

The group was not requested nor designed to conduct an examination of the GATT consistency of trade provisions contained in existing MEAs [multilateral environmental agreements].⁵⁶

The spirit of mutual confidence and cooperation which has prevailed in the discussions has enabled the group to move forward in line with the dictum of not rejecting any notion out-of-hand, nor taking any concept at face value.⁵⁷

One issue is what defines an MEA. Two factors have been mentioned in this regard. One is the need for a clear understanding of the meaning and coverage of the term "environment" in this context (which is yet to be pursued in depth).⁵⁸

The majority of delegations have yet to elaborate their positions over what, if anything, needs to be done.⁵⁹

This represents two years of work. Given how little of value was obtained from the group during the 20 years in which it did not meet, or during the two years in which it did, I was baffled as to why environmental organizations made the creation of a new World Trade Organization committee on the environment such a high priority.⁶⁰ The nongovernmental organizations, with the help of the U.S. government, succeeded in forcing a new committee.

Thankfully, it is not permanent. The first GATT environmental committee caused no damage. But the new committee might.⁶¹ The tendency of GATT groups to act in an anti-environmental way is already evident from recent dispute settlement, in particular, of the Tuna-Dolphin decisions. The GATT's effort over the years to increase trade of tropical products has never been subjected to environmental analysis.

It is important that the GATT act quickly to make provision for environmentalist input into the new committee. As Jessica Mathews has noted:

The strongest force for progress lies outside governments, among nongovernmental organizations. Only if they can be effectively brought into the process is there much hope for success.⁶²

Unfortunately, many environmentalists are gullible. The trade community found it easy to convince them that the GATT prohibits measures that are unilateral, extrajudicial, or process-related. In fact, many environmentalists seemed to prefer to believe that the GATT was necessarily a problem on such matters so that they could proceed to "green the GATT" in the same way that they had greened the World Bank and the UNDP.

Uruguay Round

The Uruguay Round contains two new agreements that impose limitations on environmental trade measures.⁶³ While the agreements do not seriously undercut national sovereignty, they do impose tough disciplines on govern-

ments.⁶⁴ These new disciplines are considerably tougher than those in the North American Free Trade Agreement.

In the final weeks of the Uruguay Round, the U.S. government succeeded in watering down some of the more stringent disciplines in the earlier Dunkel Text of 1991.⁶⁵ But a watering down of the Dunkel Text does not constitute a greening of the Uruguay Round. It was damage control—that is, the reversal of some objectionable provisions inspired by President Ronald Reagan's administration.⁶⁶ Aside from the provisions on nonactionable environmental subsidies, there are no pro-environment provisions in the Uruguay Round. The provision on subsidies is significant, but it should be noted that it had been part of the Brussels Text of 1990. It did not come about as a response to the new concerns regarding trade and the environment.

This is not to suggest that the Uruguay Round is anti-environment. Trade liberalization should benefit all countries and enable them to afford more environmental protection, if they want it. The decline in agricultural subsidies and increased market access may also benefit the environment by shifting production to more suitable locations.

The approval of the Uruguay Round by the U.S. Congress will require a vote on the entire World Trade Organization agreement, including the GATT. This will be the first vote in either the House or Senate on the GATT, and one can anticipate a flurry of grassroots objections to the "loss" of national sovereignty. This concern will also be expressed in other countries. In India, there have been riots. In Italy, there is a fear that the GATT (in conjunction with the European Union) will endanger traditional food preparation practices.⁶⁷

Because some anti-GATT activists have exaggerated the extent of GATT supervision of environmental standards, it is important that the defenders of the Uruguay Round be scrupulously accurate in their description of the changes being made. Unfortunately, U.S. President Bill Clinton's administration has already mischaracterized the changes, in a similar manner to the way that they misportrayed the North American Free Trade Agreement (NAFTA).⁶⁸ For example, in describing the new World Trade Organization Agreement on Technical Barriers to Trade, U.S. Trade Representative Mickey Kantor declared that

it provides that each country may determine its appropriate level of protection and ensures that the encouragement to use international standards will not result in downward harmonization.⁶⁹

The agreement does not do this, however. Although its preamble alludes to a preexisting recognition of this point, the agreement itself does nothing specific to provide that each country may determine its appropriate level of protection.⁷⁰ Nor does the agreement have any specific provisions aimed at avoiding downward harmonization, as NAFTA does. It is interesting to note

that the U.S. government did succeed in adding a clause to the preamble of the Sanitary and Phytosanitary Agreement suggesting that international harmonization would not require nations "to change their appropriate level of protection." But the word *change* was used, rather than the word *lower* (as proposed by the United States), to buttress the views of developing countries that the agreement would not require upward harmonization.⁷¹ Although the hortatory statements in preambles are generally not worth commenting on, it is being noted here to show how far the GATT majority is from ensuring that international standards will not result in downward harmonization.

Greening the GATT

A quarter century ago, John H. Jackson pointed out that the "GATT as presently constituted can be criticized for its lack of attention to the problems that concern the individual citizen."⁷² Since then, the GATT has not increased its attention to such problems.⁷³ Should it? For example, should the GATT establish an Office of Dolphin Protection? The question is not wholly facetious. The GATT Dolphin panel suggested that international cooperative arrangements on dolphin protection "would seem to be desirable in view of the fact that dolphins roam the waters of many states and high seas."⁷⁴ But the GATT Council has not undertaken any efforts to develop such a desirable regime.⁷⁵

If one thinks that the GATT would have no business doing that, then why does the GATT Secretariat now have a small environmental staff? What should be the purpose of such a staff? Should GATT staff attend international environmental negotiations to deplore the use of environmental trade measures in new treaties? Should GATT staff attend international environmental negotiations to support the use of environmental trade measures in new treaties? Perhaps GATT staff should study the effectiveness (or lack thereof) of such measures, since systematic analysis has been relatively absent from the trade and environment debate so far.

Many environmentalists seek to transform the GATT into a sustainable development organization.⁷⁶ For example, Lang and Hines suggest changing the GATT into a General Agreement on Sustainable Trade (GAST).⁷⁷ Edward DeBellevue and others suggest changing the GATT into a General Agreement of Trade and the Environment (GATE).⁷⁸

This fixation on the GATT results from a misunderstanding. Environmentalists assume that the GATT's mission is to regulate trade and that the GATT is very powerful.⁷⁹ In reality, both assumptions are untrue.⁸⁰ But the advent of the World Trade Organization will transform the GATT into a true organization and so the environmental community was correct to seize the opportunity to ask how the World Trade Organization would relate to environmental objectives.⁸¹ As Konrad von Moltke has noted, the unwillingness of GATT delegates to consider the link to the environment manifests a real lack of imagination.

It is interesting to note that the International Trade Organization of 1948 took a pro-development stance toward resources. For example, Article 8 provided that

The members recognize that the *productive*⁸² use of the *world's* human and material resources is of *concern* to and will benefit all countries, and that the industrial and general economic development of all countries . . . will improve opportunities for employment, enhance the productivity of labor, increase the demand for goods and services, *contribute to economic balance*, expand international trade and raise levels of real income.⁸³

Article 9 provided that

Members *shall within* their respective territories take action designed progressively to develop, and where necessary to *reconstruct*, industrial and other economic resources and to *raise standards of productivity* through measures not inconsistent with the other provisions of this Charter.⁸⁴

Article 11 provided that

The Organization [ITO] may, in such *collaboration* with other inter-governmental organizations as may be appropriate . . . make recommendations and *promote agreements* designed to facilitate an equitable distribution of skills, arts, *technology*, materials and equipment, with due regard to the needs of all Members.⁸⁵

While these do not constitute an environmental mandate, they show that the International Trade Organization's authors saw the connection between trade, development, and noneconomic goals. Had the organization been established, the emphasis on a productive use of resources might have led over time to a role in overseeing resource use that was not productive. The provision in Article 9 is especially noteworthy in committing parties to take internal actions. The provisions in Article 11 are examples of what Jan Tinbergen called *positive integration*.⁸⁶ The current GATT provides for only negative integration, that is, commitments not to undertake certain policies.⁸⁷ As Tinbergen noted, "Positive integration may be even more important."⁸⁸

It is this importance of positive integration that is the best argument for not giving the World Trade Organization a sustainable development role. The GATT/World Trade Organization has a difficult mission: to reduce protectionism. This is a critical mission for the economy and, for the foreseeable future, will be a full-time job. Allowing the World Trade Organization to get distracted to other aims will render it less effective in combating protection.

If the promotion of environmental objectives is to be kept off GATT's plate, then this has to be assigned to some other international organization. Thus, those who want to prevent GATT from losing its focus have an obligation to propose the necessary institutions to deal with the non-GATT parts

of the trade and environment debate.⁸⁹ Unless some other forum for such discussions is provided, then all the issues will by default be left to the new GATT trade and environment committee. This will lead to continued deadlock since the GATT does not have the competence to discuss many of the issues (for example, internalization of environmental costs) that will be brought up.

Of course, the GATT/WTO does need to take some action on the environment. The most important task is to assure that its supervision of trade restrictions does not interfere with legitimate environmental measures.⁹⁰ Unfortunately, the Uruguay Round goes in the opposite direction.⁹¹ One possible reform (first suggested by Steven Shrybman⁹²) is to reverse adjudication of GATT Article XX so that the complaining party has the burden of proof. The Uruguay Round agreements on sanitary standards and other non-tariff barriers might be amended to clarify that the complaining party has the burden of proof. It would also be useful to obtain international agreement on when unilateral ETMs covering foreign and global environments are warranted.⁹³ Yet this will be very difficult so long as many GATT members persist in claiming that all such measures are GATT-illegal. One might envision a set of rules for PLUMs—provisional, legitimate, unilateral measures.⁹⁴ *Provisional* might mean that such measures are put in place as part of an effort to obtain multilateral agreement. *Legitimate* might mean that such measures respond to an environmental rather than a protectionist objective.

The GATT also needs to make clear that existing environmental treaties, such as the Montreal Protocol, will not be considered a violation of GATT rules. As noted above, the GATT Group considered treaties for two years, but did not reach any conclusions. The GATT should also establish a mechanism, perhaps in conjunction with UNEP, for monitoring the environmental effects of trade agreements. At present, the GATT Secretariat's position is that GATT will assess the trade effects of environmental agreements, but leave the other issues to some other institution. Implicit in the GATT is the view that countries need to be more sensitive to the effects of their taxes, regulations, and tariffs on the commerce of foreign countries. But, paradoxically, the GATT wants countries to be insensitive to the effects of foreign environmental restraints (or lack thereof) on the environment. The importing country should use the least trade restrictive approach available, according to the new Agreement on Technical Barriers to Trade. But there is no concomitant requirement that the exporting country use the least environmentally damaging approach available.

The WTO needs reform with respect to the environment for both substantive and political reasons. The substantive reason is that all international institutions should practice balanced economics, not just fixate on one variable (for example, trade). The political reason is that international institutions like the WTO (and the World Bank) may not be politically sustainable unless they reform their attitudes toward the environment.

Dividing the issues

When one looks back at why the trade and environment conflict developed as it did, it is evident that much of the debate has been driven by the meat hormone dispute between the United States and the European Union. For example, the new Agreement on Sanitary and Phytosanitary standards, and its emphasis on a trade restrictiveness test, came about as a way to deal with protectionist restrictions disguised as health measures.

There has been much effort (for example, in the OECD) to develop principles that can underlie the use of environmental trade measures (ETMs). While much of this is useful analysis, the search for one overall set of principles is misguided and procrustean. We must recognize the issue of trade and the environment is really several different issues, and no one set of principles will be appropriate for all of them.

A wiser approach would be to divide the trade and environment issue into several sub-topics and to search for principles (or rules) for each of them. The most important sub-topics would be:

1. **Animals**—Most GATT environmental disputes have involved fisheries. These issues muddy the waters on the larger question of how GATT should deal with environmental trade measures. As Ken Berlin and Jeff Lang have noted, the international trading system has always tolerated ETMs for animals.⁹⁵ Thus, we should recognize the specialness of animals, rather than oppose such ETMs on the grounds that the same type of measure would be inappropriate for pollution control.⁹⁶
2. **Waste movement**—The Daly thesis regarding local self-sufficiency has its greatest validity on the issue of waste disposal.⁹⁷ The Basel Convention already contains provisions that violate GATT's most favored nation (MFN) rule. The European Court of Justice has permitted Wallonia to restrict waste imports in Union trade. (U.S. adjudication has gone in a different direction.) The issues of waste trade (for example, treatment at the source) should be worked out in an environmental context. There is no reason to assume, a priori, that the most favored nation rule is part of the solution.⁹⁸ In other words, GATT's rules on trade in goods should perhaps not be applied to trade in "bads."
3. **Recycled content**—There are already complaints about laws that require a certain percentage of recycled content in newspaper or bottles. These are legitimate environmental measures, but they can disadvantage foreign suppliers even when implemented in a country-blind manner.
4. **Labeling**—There are no mandatory ecolabeling provisions yet that involve processes (either the production process or the disposal process) or a company's overall environmental stance, but it is only a matter of time before they occur.⁹⁹ There is a large potential here for conflicts, so it would be very useful to arrive at international understandings.¹⁰⁰ Exporting coun-

tries could be faced with inconsistent ecolabeling requirements for two potential markets which cannot be met simultaneously. The International Organization for Standardization (ISO) 14000 process is beginning to look at issues such as these.

5. **Border tax adjustments**—The issue of when countries may use border tax adjustments on exports is being clarified by the Uruguay Round.¹⁰¹ But the rules on imports remain uncertain.¹⁰² This entire issue needs to be addressed in an environmental context. For example, should countries be able to rebate environmental or energy taxes on export even though that would negate the cost internalization purpose of the tax? Before imposing an environmental tax on an import, should a country take into account whether a similar tax (or equivalent regulation) is in effect in the country of origin, and if so should there be a GATT obligation to avoid double environmental taxation?
6. **Sanitary measures**—The disciplines established under the Uruguay Round, such as the science test and the disproportionality test, will lead to new case law. One might also want to consider rules for retroactive penalties when countries keep out perishable goods (for example, the case of France and fresh fish). But whatever new principles evolve need not be consistent with the way that the WTO treats hazardous waste trade or animals.
7. **Exportation of resources**—The GATT does not prevent the conservation of resources,¹⁰³ but does attempt to prevent a government from refusing to allow the exportation of resources when such resources are being consumed domestically. (The GATT would not prevent private entities from such exclusionary policies, however.) One problem with this rule is that poor countries, or countries with inadequate property rights, may overutilize their resources because of foreign export demand.¹⁰⁴ The GATT may also conflict with soft international law stating the right of peoples freely to use their natural resources.¹⁰⁵
8. **Zoning**—The MFN principle requires that countries be treated the same regarding "like" products. But there may be reasons to provide differential treatment for various regions that have nothing to do with protectionism. For example, some species are threatened in one region but not in another. The Basel Convention parties recently agreed to ban waste trade between OECD and non-OECD nations. The International Whaling Commission recently established a whale sanctuary in the Antarctic region. Should the GATT cooperate by zoning certain regions for nontrade in particular products? It might be noted that the GATT permits discrimination in favor of developing countries. The goal of development was permitted to trump the goal of non-discrimination.
9. **Environmental derivatives**—The advent of tradable fishery quotas and pollution quotas raises the question of how they will be treated by WTO rules. How should the international economic system deal with market-

based environmental tools such as tradable pollution permits, fishery quotas, and the like? Can countries retain quotas for national use? Without a pollution permit, one may not be able to import or export a good. Without a pollution permit, the right of foreign investment is circumscribed.

10. Subsidies—The advent of government allocation of pollution “rights” and credits raises a question of whether these are subsidies. For example, when such rights are given to existing polluters in an industry rather than auctioned, is that a specific benefit? More generally, the Uruguay Round contains new rules to make clear that certain environmental subsidies are not countervailable via unilateral action. The impact of these rules should be monitored as to whether they engender new environmental subsidies that have high positive spillovers.

11. Packaging—The imposition of requirements regarding packaging raises the question of whether two similar products (that is, one domestic and one foreign) differently packaged will be treated as “like” or “unlike” products by GATT rules.

Procedural reforms

In a speech before the Global Legislators Organization for a Balanced Environment (GLOBE) in February 1994, U.S. Trade Representative Mickey Kantor characterized the GATT panels as

star chamber proceedings that are taking the most important decisions that affect the lives of all of our citizens—especially in the environmental area—and there is no accountability whatsoever, because no one knows what those decisions are, what the basis was, who is making the decision, how they’re being made, [and] what pieces of paper were put in front of them.¹⁰⁶

This seems a bit strong. Still, there are a number of steps that the GATT could take to improve its decisionmaking, and at the same time indicate interest in problems that concern the individual citizen:

1. GATT Council meetings should be held in public session, as is the United Nations General Assembly. If that proves impractical, then summaries of the meetings should be released soon after, rather than be classified as restricted documents for several years.
2. The GATT should set up coordinating mechanisms with other international organizations having related missions. The Uruguay Round provides for this in the case of the World Bank and the International Monetary Fund, but says nothing about UNEP, the ILO, the U.N. Conference on Trade and Development (UNCTAD), the Commission on Sustainable Development, the Food and Agriculture Organization, the World

Health Organization, and UNESCO.¹⁰⁷ An association agreement with the United Nations would also be useful. Unfortunately, the WTO preparatory committee decided against this.¹⁰⁸

3. The new provision in the Uruguay Round authorizing the WTO to “make appropriate arrangements for consultation and cooperation with nongovernmental organizations” should be implemented immediately by the GATT.¹⁰⁹ This should involve an observation role at least and possibly a participation role. When nongovernmental organization (NGO) participation has been discussed recently in the GATT, several governments have suggested that the solution to this problem was for governments with activist NGOs to be more attentive to their interests. GATT Director-General Peter Sutherland declared that if the United States was so concerned about NGO participation, it should have raised this during the negotiations and bargained for it. This view presumes that GATT should only be an organization of governments and NGOs should channel their concerns to “their” own governments. It also presumes that the institutional integrity of the GATT is an interest like any other and can be traded for something else, like market access for bananas.

The GATT approach to the issue of NGOs is parochial. Many NGOs, being international organizations, cannot petition their governments because they don’t have any. The GATT sees itself as an international organization, but is not yet willing to recognize and deal with the internationality of NGOs.

4. The WTO should develop two-way communication with the public.¹¹⁰ One possibility might be advisory groups such as those in the OECD. It is interesting to note that the International Trade Organization of 1948 contemplated the appointment of Commissions on particular topics.¹¹¹ The GATT could have used such a Commission on the environment during the past few years as an ongoing forum for trade and environmental issues to be discussed. In a few cases, problems have arisen simply because of miscommunication. Many of the terms used in the debate may be understood differently by economists and environmentalists (and international lawyers).¹¹²
5. The WTO should move away from relying on ad hoc panelists (for example, former ambassadors to the GATT) for disputes. If the function is to be a judicial one, then perhaps professional judges should be used.
6. Although there may be a good reason to allow the dispute settlement process to be conducted in closed sessions,¹¹³ all briefs submitted by governments should be public. In addition, any advice given to panels by the GATT Secretariat concerning GATT rules should be put in writing and made public. (In other words, no *ex parte* communication from Secretariat staff.) Since many of the GATT members open their domestic judicial proceedings to the public, the less open attitude in Geneva seems to reflect GATT’s predisposition in favor of downward harmonization.

7. Panels should set aside one day for hearing public testimony on any dispute that involves the environment. It is interesting to note that one of the goals set by the Congress for the Tokyo trade round of the 1970s was "the adoption of international fair labor standards and of public petition and confrontation procedures in the GATT."¹¹⁴ The nontransparency of the GATT is not just an American preoccupation. Many Third-World nongovernmental organizations also advocate more openness.¹¹⁵

8. The GATT should appoint an advocate to represent nature and future generations.¹¹⁶ This person would have the responsibility of summarizing for the panel the environmental implications of any case before it. Appointment of such an official would signify GATT's understanding that a dispute about dolphins is different from a dispute about, say, beer. It would also be an acknowledgement that GATT is rapidly becoming one of the more frequently used institutions to settle environmental disputes.¹¹⁷

9. Mechanisms should be developed to arbitrate disputes like the Tuna-Dolphin case so that neither country feels that it has lost sovereignty. At present, GATT panels rely upon adjudication (that is, a trade court), which is appropriate for commercial disputes, but less so for environmental ones. The new WTO Agreement on Technical Barriers to Trade contains notification and consultation requirements for new product regulations (including environmental regulations). It might be useful for the WTO to add a consultation requirement for process-based regulations and import restrictions that can have a trade effect. This is particularly important for measures that have an extrajudicial impact.

10. The WTO should provide for appeal in disputes to the International Court of Justice in the same manner provided in the International Trade Organization Charter.¹¹⁸

In summary, there is much that the GATT/WTO can do constructively to resolve the trade and environment problem. But the larger issues of environmental reform should not be addressed in the GATT. For that, a different forum is needed.

III. Broader Institutional Changes

Twenty years ago, there was considerable consensus that international harmonization of certain environmental standards was a good idea. In 1971, the U.S. Commission on International Trade and Investment Policy (Williams Commission) recommended that the United States join with others in negotiating, whenever possible, uniform international product pollution standards.¹¹⁹

The OECD recommended in 1972 that

Where products are traded internationally and where there could be significant obstacles to trade, Governments should seek common standards for polluting products and agree on the timing and general scope of regulations for particular products.¹²⁰

The U.N. Conference on the Human Environment (Stockholm Conference) stated in 1972

That all countries agree that uniform environmental standards should not be expected to be applied universally by all countries with respect to given industrial processes or products except in those cases where environmental disruption may constitute a concern to other countries. In addition, in order to avoid an impairment of the access of the developing countries to the markets of the industrialized countries because of differential product standards, Governments should aim at worldwide harmonization of such standards.¹²¹

Yet in spite of these statements, little harmonization has occurred in the intervening years. Why? Certainly part of the answer is that the political will was not there and that other issues displaced the environment. Moreover, harmonization was a lot easier said than done, as the European Commission learned in later years. But there is another reason why so little harmonization has occurred. That is, there is no international institution to carry it out.¹²²

There are, of course, many environmental standards that do not need to be harmonized. Here, regulatory competition should rule. But in a global economy, there are many standards that do concern more than one country. There are also many issues, relating to both products and processes, that lead to trade restrictions. For those issues, minimum harmonization would be worthwhile exploring.

In a provocative article, Daniel C. Esty suggested that in addition to "greening the GATT," the world community also needed to begin "GATTing the Greens."¹²³ Specifically, he proposed "a new parallel international regime designed to defend the environment as a necessary element of a prosperous global economy and to coordinate policies with the GATT."¹²⁴ Esty uses the GATT as a model of an organization that can "provide a bulwark against domestic political pressures that undermine long-term thinking."¹²⁵

It is an important insight that the supervisory role provided by GATT rules on trade policy could also be useful to countries on environmental policy. But Esty stretches the analogy too much. The GATT, as noted above, is an institution of negative integration. It proscribes government action; it does not prescribe government action. There are, surely, some environmental issues where prohibitions on government action are needed.¹²⁶ But for most issues, what is needed are agreements on active steps that governments can take in the form of incentives or regulations regarding private behavior. The GATT succeeds when it prevents nations from legislating.¹²⁷ But an environmental

it provides for no involvement by interested groups. Businesses are needed because they are the main polluters. NGOs are needed to represent consumers (who pollute, too) and environmentalists.

The ILO is also a useful model for two other reasons. First, it provides technical assistance to countries to help them meet labor standards. The GEO should do the same for environmental standards. Second, some ILO standards apply rights to individuals.¹³⁵ This emphasis on individuals and rights is a very forward-looking concept that should be replicated in international environmental law.

The GATT provides a good model because it invented the idea of "rounds."¹³⁶ The advantage of a round is that it tackles many problems simultaneously and thus opens the possibility of cross-cutting compromises among disparate issues.¹³⁷ This contrasts with the usual method of environmental negotiations, which is an ad hoc negotiation on one topic (for example, hazardous waste). In addition to facilitating trade-offs between countries, rounds also provide the possibility of balanced packages that can receive domestic political approval.

The GATT is also a good model because it has a functional dispute settlement system. Certainly, this system has had many flaws. Remediation of some of these flaws is one of the signal achievements of the Uruguay Round despite the fact that many problems regarding transparency remain. But flaws aside, the GATT has developed a dispute settlement mechanism that is better than anything in most other international organizations. Environmentalists are understandably envious. They have also taken note that WTO, unlike the GATT, permits countries to invoke trade sanctions to enforce judgments of dispute settlement panels.

The third model for the GEO should be the IMF.¹³⁸ The IMF has cooperative and regulatory functions, but is unique in requiring nations to deposit subscriptions in the form of gold and currency.¹³⁹ A GEO might impose analogous requirements, but with in-kind contributions in addition to cash.¹⁴⁰ Industrial nations could make financial contributions or pledge technical assistance. Tropical nations might pledge "carbon absorptive services," that is, a commitment to preserve tropical forests. Other nations might pledge to protect genetic resources, to control population, or perhaps to serve as a waste disposal site.

The IMF is also a useful model for two other reasons. One, it has been effective in insisting on conditionality for its financial assistance. Two, the IMF is not dependent on government contributions for its operating budget. This gives the IMF considerable independence in day-to-day activities.

In addition to subscriptions, another source of international funding for the GEO might be a small tax on international trade.¹⁴¹ Recently, this was proposed by Tran van Thin, formerly the ambassador of the European Union to the GATT.¹⁴² It is interesting to note that the Congress directed the president to attempt to secure such a trade tax during the Uruguay Round, for the

organization would want to encourage nations to legislate—for example, by proposing cost internalization measures.¹²⁸

Although the GATT analogy is only partly persuasive, Esty deserves credit for pointing out that an environmental organization is key to solving the problem. Since a new organization would seem unlikely, one should consider ways to use existing organizations for this purpose. The most obvious possibilities are UNEP, the Commission on Sustainable Development, the U.N. Conference on Trade and Development (UNCTAD), and the OECD.

UNEP would perhaps be the most logical, but it may not have the institutional capacity or the budget to carry out such a task. Its location in Nairobi is also a disadvantage. On the other hand, its executive director, Elizabeth Dowdeswell, is very thoughtful and has been personally involved in this issue. The commission is the newest environmental organization, but has no secretariat. It was set up as a coordinating body, not an operational one.

UNCTAD does have institutional capacity and has recently shown an interest in environmental issues. As an organization ostensibly devoted to trade and development, it would seem easiest to reassign the task of trade and sustainable development.

The OECD has a mandate to carry out harmonization,¹²⁹ but has done little of that. Still, its recommendations on the environment over the years have been very good. It is interesting to note that one of the aims of the OECD is "to achieve the highest sustainable economic growth" and the members agree in the treaty that they will, individually and jointly "promote the efficient use of their economic resources."¹³⁰ The OECD deserves great credit for recognizing the economy by assigning trade and the environment to a joint committee of these two directorates.

Global Environmental Organization (GEO)

The ideal solution is to create a new Global Environmental Organization (GEO).¹³¹ The GEO should be modeled on features from the ILO, the GATT, and the International Monetary Fund (IMF). Since the GEO would be drafting social standards, it should be modeled on organizations that do the same task.¹³² The only international institution that does this kind of work is the ILO, which happens to be the oldest international economic organization. The ILO is a tripartite institution consisting of government, worker, and employer delegates from each of the member countries. That this mechanism works to achieve consensus standards can be seen by the fact that since 1919, the ILO has drafted 175 labor conventions. In recent years, the ILO has done more work on the environment.¹³³

If an environmental organization is to pursue harmonization, it should be similarly tripartite. In other words, instead of being composed merely of government delegates, it should contain NGOs and business organizations as members.¹³⁴ This would avoid one of the defects of the GATT, which is that

purpose of funding worker dislocation programs.¹⁴³ Unfortunately, the Reagan administration made only desultory efforts to achieve this.¹⁴⁴

Besides a tax on trade, there are other creative funding proposals being made. The UNDP has suggested a tax on global trade in fossil fuels.¹⁴⁵ Several analysts have proposed a tax on foreign exchange transactions that might also be useful to dampen speculation. Peter Kenen, an economics professor at Princeton, has suggested an international corporation tax to be shared among participating countries.

Still another source of funding might be penalties imposed on countries for WTO violations. Under the new WTO rules, countries that lodge complaints and win may impose prospective trade restrictions against the losing country. But any trade restriction hurts the country imposing the measure. It would be more appropriate if the WTO were to abandon its mercantilist view in favor of financial penalties on countries found to violate trade rules. Such retroactive financial penalties could have a deterrent effect against time-sensitive harms—for example, when France imposes a slow inspection of imported fresh fish.¹⁴⁶ These penalties could be put into a large fund to use for environmental purposes. In contrast to the Polluter Pays Principle, this might be called the Protectionist Pays Principle.

Expanding the WTO

Although the GATT mandate has traditionally been only negative integration, the Uruguay Round changes this. The new agreement requires positive action on intellectual property rights.¹⁴⁷ Increasingly, there is interest in some quarters in using the WTO to develop international rules on competition policy. Thus, if the WTO is going to evolve toward an international economic organization, why not also assign it responsibilities regarding the environment?¹⁴⁸ (Is copying software more worthy of GATT attention than poaching elephants?) Moreover, if one believes in the paradigm of the economy, then it would seem reactionary to initiate a new organization focused exclusively on environmental quality.

One response is that unlike other international issues, like employment creation or environmental protection or public health, which can never be definitively solved,¹⁴⁹ the trade problem can be solved by eradicating protectionism. Thus, the GATT is different from other institutions, like the ILO, in that the GATT could work itself out of business. In other words, once trade is emancipated, all trade ministries could wither away. Another way of looking at this is to consider what would happen if economic borders were to completely disappear. With it would go most trade problems and trade policy. But all of the other international economic issues, such as how to preserve the environment, would remain.

In reality, of course, protectionism is unlikely to be eradicated in the near future. Thus, there will be a continuing need for an institution like the WTO.

Given the political impetus behind the WTO at this point, and the long waiting list of countries seeking to join the GATT, it is probably reasonable to anticipate that the WTO will be expanded sooner than a GEO will be created.¹⁵⁰

Bringing environmental issues into the WTO would be consistent with the way that the purview of the trading system has expanded in recent years to cover technical standards, investment measures, intellectual property, and services. It is interesting to note that one rationale for this expansion, at least from the U.S. government perspective, was to increase the political constituency for trade agreements. It was recognized that the gainers from the Tokyo Round GATT negotiations might not be interested enough to drive the Uruguay Round through. New fresh players were thought to be needed.

The WTO must do a better job of coordination with other international organizations than the GATT did. The connection to UNEP is an important one. Such coordination might be facilitated if the WTO moved to Nairobi. Recently, GATT members decided to keep the WTO in Geneva. One factor was the full court press put on by Geneva, including a change in law to permit Moslem diplomats to register two wives.¹⁵¹

Conclusion

Despite the fact that we live in a global economy, our manmade institutions tend to split the issues into trade, development, the environment, labor, health, etc. If separate institutions are to handle these issues, there ought to be considerable coordination among them.¹⁵² But the GATT has not sought such coordination, either with UNEP or the International Labor Organization. The lack of contact with the latter is particularly disappointing given the importance of employment to public support for trade liberalization.¹⁵³

Production and commerce can degrade the environment, but it is not clear that international commerce foment greater problems than domestic commerce. The prescriptions of the neoprotectionists (like Herman Daly) for greater border restrictions do not follow from their analysis. Reducing opportunities for specialization and exchange is unlikely to preserve or improve the economy.

The GATT has done a poor job on the trade and environment issue so far. The new committee offers an opportunity to accomplish something. But progress will be stymied so long as the financing, technology, and standard-setting components of the issue are not being considered simultaneously.

Karl Marx saw capitalism as "undermining the foundations of all wealth—the land and the workers."¹⁵⁴ Capitalism sometimes has that tendency. But the more important tendency is for capitalism to create value and wealth, and to enhance human welfare. In a global economy, just as in a national economy,

the two imperatives are competition and cooperation.¹⁵⁵ Both are essential for efficient and productive use of resources. Both are essential to making capitalism work.

The trade and environment debate has exposed the weaknesses and discontinuities in current international governance. One might imagine merging the existing agencies into two—one to promote competition and one to promote cooperation.¹⁵⁶ The competition agency would handle subsidies, intellectual property, predatory pricing, antitrust, market access, corrupt practices, job poaching, etc. The cooperation agency would deal with joint research, technology transfer, harmonization of standards, tax coordination, labor protections, coordination of macroeconomic policy, etc. The World Trade Organization might become the competition agency. The International Labor Organization might serve as the framework for the cooperation agency.

In a landmark study in the early 1920s, the International Labor Organization discussed the development of the world economy:

In the course of years—in the course of a century—economic lines, drawn ever tighter, have been tied among the peoples. National economies have become more and more interdependent. Beside and above them, or, to put it better, among them, a world economy has been formed. And the common problem in which are united these various problems may be stated in these terms: give to world economy its fundamental law.¹⁵⁷

In retrospect, the International Labor Organization study was too deterministic about the evolution of economic integration. The process is always reversible through protectionism and war. Yet the organization's insight remains correct and timely. Increasing economic integration does necessitate global policy coordination. This task gets harder as economic activity transmutates to avoid national control.

During the past few decades, we have begun to recognize the ecological implications of economic development. Environmental borders between countries are disappearing. While economic integration may be difficult to reverse, some environmental changes are irreversible.

Although there may be little justification for the assertion of national economic borders on commercial grounds, there may be justification to do so on environmental grounds. The neoprotectionists are too quick to abandon the benefits of trade. But there may be specific instances, such as trade in wastes, where national economic borders may be useful pending the establishment of global environmental governance.¹⁵⁸

The International Labor Organization was prescient in 1925 to put forward the paradigm of a world economy. Seven decades later, it is time for a new paradigm. The 5.7 billion citizens of the Earth live in a global economy.

Notes

1. See 97 L.N.T.S. 393.
2. See 126 L.N.T.S. 305.
3. William Smith Culbertson, *International Economic Policies* (1925), p. 555. Culbertson had earlier served as vice chairman of the U.S. Tariff Commission.
4. Culbertson, *International Economic Policies*, p. 556.
5. For some good schematics showing the linkages, see Gilberto Gallopin, *Impoverishment and Sustainable Development—A Systems Approach* (Winnipeg: International Institute for Sustainable Development, 1994), pp. 48–69.
6. Bergen Ministerial Declaration on Sustainable Development in the ECE Region, para. 13, reprinted in *Yearbook of International Environmental Law* 430.
7. Rio Declaration on Environment and Development, Principle 4, 31 *International Legal Materials* 874. See also Principle 25 (peace, development, and environmental protection are interdependent and indivisible).
8. For a contrasting view, see Geza Feketekuty, "The Link Between Trade and Environmental Policy," *Minnesota Journal of Global Trade* (Summer 1993): 171–182 (trade and environment policy goals can be reconciled most effectively when trade and environmental policies are both designed to achieve their respective objectives most efficiently).
9. Agenda 21, ch. 2.10(d). See also 2.9(d). See also Paris Economic Summit Declaration, 1989, p. para. 37 (Environmental protection is integral to issues such as trade, development, energy transport, agriculture and economic planning), in *Public Papers of the Presidents of the United States*, George Bush, 1989, p. 966.
10. 22 U.S.C. §2621(a).
11. See Jim MacNeill et al., *Beyond Interdependence—The Meshing of the World's Economy and the Earth's Ecology* (New York: Oxford University Press, 1991), p. 32. See also Jimmy Carter, "US Needs to Support Global Tropical-Timber Agreement," *The Christian Science Monitor* (September 20, 1993): 19. (We must recognize the strong interdependence between trade and the environment, between international policymaking and people's lives, and between North and South.)
12. In a recent paper, Urs Thomas calls this the "ecology." See Thomas, "Environmental Politics, Trade, and UN Reform," *Institute of Environmental Sciences* (March 1994).
13. It is interesting to note that the words "economic" and "ecology" are both derived from the same root *oikos*, meaning "house."
14. The ecosystem existed before humans. Thus one should view the human-created economy as part of the ecosystem. Economists sometimes view the ecosystem as part of the economy.
15. Many economic issues are also about values. See Mark Sagoff, *The Economy of the Earth* (Cambridge: Cambridge University Press, 1988).
16. The term "international" was first used by Jeremy Bentham in 1780. See *The Oxford English Dictionary*, vol. VII, (1989), p. 1123. Eugene Staley once suggested that the word *mondial* be used to denote worldwide issues in contrast to the literal meaning of *international*—that is, issues among nations.
17. See U.N. General Assembly Resolution 2997 (XXVII) on Institutional and Financial Arrangements for International Environmental Co-operation, 1972, reprinted in *International Protection of the Environment*, vol. I, p. 152 (the

cious lesson in the desirability of economic diversification versus specialization).

32. Tim Lang and Colin Hines, *The New Protectionism* (New York: The New Press, 1993). The authors suggest that "Free trade promises more than it can deliver and like all junkies when faced with failure, its only solution is to repeat the dose." See p. 5.

33. Daniel Esty has suggested that the inconclusiveness of the UNCED has led to some of the same issues being considered under the trade and environment rubric.

34. 16 U.S.C. §1537 note.

35. This was recognized as early as 1979, but the international community did little. See Karen A. Bjorndal, ed., *Biology and Conservation of Sea Turtles, Proceedings of the World Conference on Sea Turtle Conservation* (Washington, D.C.: Smithsonian Institution Press in cooperation with World Wildlife Fund, 1981), p. 582.

36. It might be argued that bargaining between countries would be easier if public property rights—in other words, GATT rules—were perfectly clear.

37. Sometimes common action is pursued to extirpate a resource, as in the case of the 1911 meeting in Copenhagen of the International Association for the Extinction of the Rat.

38. Thus for cases like fur seals, nonregulation in the absence of an agreement may be individually rational.

39. GATT, *International Trade 90-91*, vol. 1, pp. 21, 25.

40. For example, see Herman E. Daly, "Toward A New Economics—Questioning Growth," in Warren A. Johnson and John Hardisty, eds., *Economic Growth vs. the Environment* (Belmont, Calif.: Wadsworth Publishing Co., 1971), p. 73.

41. The planet is not getting any bigger to accommodate a growing population.

42. Although some commentators have argued that trade is bad because it permits environmentally harmful production, Daly recognizes that domestic production can be similarly harmful.

43. Herman E. Daly, "Problems with Free Trade: Neoclassical and Steady-State Perspectives," in Durwood Zaelke et al., eds., *Trade and the Environment* (Washington, D.C.: Island Press, 1993), p. 156. Sandra Postel sees free trade as fostering unsustainable consumption levels by creating the illusion of infinite supplies. See Postel, "Carrying Capacity: Earth's Bottom Line," in Lester Brown et al., *State of the World 1994*, p. 18.

44. Daly, "Problems with Free Trade," p. 156.

45. See Charles Arden-Clarke, *South-North Terms of Trade, Environmental Protection and Sustainable Development*, (Gland: WWF International, February 1992).

46. Herman E. Daly, "Problems with Free Trade" p. 157.

47. Herman E. Daly, "The Perils of Free Trade," *Scientific American* (November 1993): 50, 51.

48. See also Ralph Nader, "Free Trade and the Decline of Democracy," in Ralph Nader et al., *The Case Against Freer Trade*, p. 11 (No one denies the usefulness of international trade and exchange. But societies need to focus their attention on fostering community-oriented production.)

49. Nor do Lang and Hines, who argue that the GATT should "foster not global competition, but self-sustaining local economies in both developed and developing nations." See Tim Lang and Colin Hines, "GATT: The Pitfalls Amid the Promise," *The New York Times* (April 17, 1994): F13.

50. Herman E. Daly, "From Adjustment to Sustainable Development," in Ralph Nader et al., *The Case Against Freer Trade*, p. 125-126.

UNEP Governing Council has a responsibility to provide general policy guidance for the direction and coordination of environmental programs within the U.N. system).

18. See Lester R. Brown et al., *Saving the Planet—How to Shape an Environmentally Sustainable Global Economy* (New York: W.W. Norton, 1991), p. 22-23 (humanity's expanding economic activities cannot be separated from the natural systems and resources from which they ultimately derive).

19. Allan G. B. Fisher, *Economic Progress and Social Security* (London: MacMillan, 1945), p. 356.

20. For a recent example, see David E. Pitt, "Pact Eluding Fishing Nations in Talks on Imperiled Species," *The New York Times* (April 6, 1994): A13 (the issue is a clash between the rights of nations and the ichthyological reality that fish do not respect jurisdictional boundaries).

21. Many commentators get this wrong. For example, see Robert Evans, "Envoys See Compromise in GATT Labor Dispute," *The Journal of Commerce* (April 6, 1994): 3A (GATT is the international body that governs trade throughout much of the world).

22. See generally Gardner Patterson and Eliza Patterson, "The Road from GATT to MTO," *Minnesota Journal of Global Trade* (Spring 1994): 35.

23. See "Restructuring the Global Environment Facility," *Overseas Development Council* (Washington, D.C.: Overseas Development Council, 1993).

24. See Michael Prowse, "Towards a Leaner, Greener Bank," *Financial Times* (July 20, 1994): 3 (quoting the president of the World Bank who says that "the biggest mistake the Bank has paid the highest price for was not recognizing the importance of the environment").

25. For example, see Richard H. Grove, "Origins of Western Environmentalism," *Scientific American* (July 1992): 42.

26. James M. Sheehan, "A New Eco-Trade Bureaucracy," *The Journal of Commerce* (January 19, 1994): 8A (central planning of trade and the environment will make the world neither richer nor cleaner).

27. According to a World Wide Fund for Nature brochure: "The dramatic dismantling of trade barriers accomplished in the Uruguay Round . . . will inevitably worsen already serious environmental problems, because the prices of traded goods do not incorporate these environmental costs." See "The GATT Effect" (Gland: WWF, 1994). In other words, more trade based on improper prices will be worse than less trade.

28. Some from the GATT camp think that the GATT has already been greened. For example, B. K. Zutshi, Indian Ambassador to GATT, states that "GATT and the existing Multilateral Trading System allow for policies of environmental protection. Not only do they allow for them, they facilitate them." See "Key Note Address" (Brussels, November 7, 1993): 18. See also Alan Oxley, "Why the GATT is Green," in Ralf Buckley and Clyde Wild, eds., *International Trade, Investment and Environment* (Queensland, Australia: Griffith University Gold Coast, 1994). Oxley is a former chair of the GATT Contracting Parties.

29. William H. Lash III, "Green Gang's GATT Holdup," *The Journal of Commerce* (December 10, 1993): 6A.

30. In the absence of such spillovers, Benn Steil sees no basis for exceptions from the discipline of the multilateral trading system. See his "The New Rules of Trade," *National Review* (April 18, 1994): 40-41.

31. Ravi Batra, *The Myth of Free Trade* (New York: C. Scribner's Sons, 1993), p. 226 (international trade comes out as the worst villain in the destruction of the environment. It is the most diabolical polluter in the world and offers a pre-

51. Paul Krugman, "Competitiveness: Does it Matter?" *Fortune* (March 7, 1994): 109-110.
52. Alan Farnham, "Global—Or Just Globaloney," *Fortune* (June 27, 1994): 97-98.
53. GATT Secretariat, *Industrial Pollution Control and International Trade* (1971).
54. GATT Secretariat, *Industrial Pollution Control*, p. 18.
55. Report by Ambassador H. Ukawa (Japan), January 25, 1994.
56. Ukawa, p. 5.
57. Ukawa, p. 6.
58. Ukawa, p. 8.
59. Ukawa, p. 11.
60. The WTO committee is hardly a new idea. It was being planned by the GATT even as early as 1992. See "Post-Uruguay Round System Structure," *Inside U.S. Trade* (December 18, 1992): S-7.
61. For the terms of reference of the new committee, see *Inside U.S. Trade* (April 8, 1994): S-4.
62. Jessica Mathews, "The Great Greenless GATT," *The Washington Post* (April 11, 1994): A19.
63. See Steve Charnovitz, "The World Trade Organization and Environmental Supervision," *International Environment Reporter* (January 26, 1994): 89.
64. But according to GATT Director General Peter Sutherland, there were not any legitimate concerns regarding environmental safety or consumer issues. See "GATT Director General Rejects Selective Textile Market Access," *Inside U.S. Trade* (October 8, 1993): S-7. Sutherland stated this before the agreements were modified at the end of the Round.
65. "U.S. Uruguay Round Proposals Fall Short of Environmental Demands," *Inside U.S. Trade, Special Report* (December 3, 1993): 5.
66. It should be noted that the Reagan administration had congressional authority to seek strong provisions. See 19 U.S.C. §2901(b)(7)(C).
67. Nancy Harmon Jenkins, "The Endangered Foods of Italy," *The Washington Post* (April 6, 1994): E1. (bread makers may no longer let the dough ferment overnight, and wood-fired bakers' ovens are gradually being phased out, to be replaced by more sanitary gas burners).
68. For a discussion of the mischaracterizations of the NAFTA by the Clinton administration, see Steve Charnovitz, "The North American Free Trade Agreement: Green Law or Green Spin?" *Journal of Law and Policy in International Business* 26, (1994).
69. Michael Kantor, "The Uruguay Round: Growth for the World, Jobs for the U.S.," *Testimony to the Subcommittee on Commerce, Consumer Protection, and Competitiveness* (March 24, 1994): 11.
70. Far from establishing any new rights, the Preamble notes that product standards must be in accordance with the provisions of the TBT Agreement.
71. See "U.S. Forces Pro-Green Changes in GATT Sanitary & Phytosanitary Text," *Inside U.S. Trade* (December 10, 1993): 1-2.
72. John H. Jackson, *World Trade and the Law of GATT* (1969), p. 517.
73. Of course, trade liberalization is related to economic growth and job creation. But this linkage may not be evident to everyone. Indeed, many people suspect the reverse.
74. GATT, BISD 39S/155, p. para. 5.28.
75. One might view the GATT decision as constructive in clarifying property rights—in this case the right of the exporter to sell tuna without regard to how it is produced. But the U.S. government believes that it has the right under GATT Article XX to refuse such tuna.
76. See Charles Arden-Clarke, *The General Agreement on Tariffs and Trade, Environmental Protection and Sustainable Development* (Gland, Switzerland: WWF International, 1991). Trade unions also support this objective. See International Confederation of Free Trade Unions, *Environment and Development: The Trade Union Agenda*, (Brussels: ICFTU, 1992), p. 42, which recommended that one goal of the U.N. Conference on Environment and Development should be the modification of GATT "to take full account of social and environmental standards."
77. Tim Lang and Colin Hines, *The New Protectionism* (London: Earthscan, 1993), pp. 130, 140.
78. Edward B. De Bellevue et al., "The North American Free Trade Agreement: An Ecological-Economic Synthesis for the United States and Mexico," *Ecological Economics* 9 (1994): 53, 69.
79. For example, see Thomas A. Wathen, *A Guide to Trade and the Environment* (New York: Environmental Grantmakers Association, 1992) and Monika Bauerlein, "GATTzilla?" *Utne Reader* (January/February 1994): 19.
80. The GATT has no real operations, no outputs, no field offices, and no governing body. It is quite different from the International Labor Organization, which has technical assistance functions and an explicit role in reviewing conformity to standards.
81. See "Citizens Groups around the World Declare Opposition to Creation of WTO," *Inside U.S. Trade* (December 18, 1992): S-7.
82. One might imagine amending this word to sustainable and using the same paragraph for the WTO.
83. ITO Charter, Article 8 (emphasis added). GATT Article XII:3(a) provides that "Contracting parties undertake, in carrying out their domestic policies, to pay due regard to . . . avoiding an uneconomic employment of productive resources." See also GATT Article XVIII:11.
84. ITO Charter, Article 9 (emphasis added).
85. ITO Article 11.2 (emphasis added).
86. Jan Tinbergen, *Lessons from the Past* (Amsterdam: Elsevier Publishing Co., 1963), p. 41.
87. The one significant exception is GATT Article XXXVIII:2e, which directs the GATT to "expand trade for the purpose of economic development, through international harmonization and adjustment of national policies and regulations."
88. Jan Tinbergen, *Economic Policy: Principles and Design* (1967), p. 178.
89. Indian Ambassador Zutshi characterizes the list of issues that environmentalists have put forward for the new committee as an "irrelevance." He states that the "work programme is not about greening the GATT." See B. K. Zutshi, "Trade, Environment and Sustainable Development: The Agenda for the World Trade Organization," 1994. Zutshi is half right. But he proposes no institutions to carry forward the corollary parts of the debate.
90. See Raymond F. Mikesell, "Antecedents of the ITO Charter and their Relevance for the Uruguay Round," September 1993, p. 19 (I believe GATT and WTO will be more acceptable if its objective on nontariff barriers were defined in terms of avoiding or reducing commercial discrimination in trade. This should take the issue of the compatibility between trade rules and measures in support of the environment largely out of contention).

91. Hilary F. French, "The GATT Blunder," *World Watch* (March/April 1994): 2. (Unfortunately, the "do no harm" test was not met: As the agreement currently stands, it will now be easier for countries to charge that some individual nations' environmental product standards are unfair restrictions on commerce).
92. Steven Shrybman, "International Trade and the Environment," *Alternatives* 17, no. 2 (1990): 20, 28.
93. See Belinda Anderson, "Unilateral Trade Measure and Environmental Protection Policy," *Temple Law Review* (Fall 1993): 751, 754 (discussing green extra-territorial unilateral trade measures).
94. The term was developed in a conversation with Professor Edith Brown Weiss. Borrowing on the GATT metaphor for subsidies, Professor J. David Richardson suggests that GATT might have red plums, yellow plums, and green plums.
95. Kenneth Berlin and Jeffrey M. Lang, "Trade and the Environment," *The Washington Quarterly* (August 1993): 35, 48.
96. It is interesting to note that the U.S. Council for International Business has recommended that a new GATT interpretation be adopted to permit unilateral trade measures for species protection. See its *Statement on Constraints on the Unilateral Use of Trade Measures to Enforce Environmental Policies*, April 1994.
97. See Herman Daly and Robert Goodland, "An Ecological-Economic Assessment of Deregulation of International Commerce Under GATT," *Ecological Economics* 9, (1994): 73, 80-81, 86.
98. See John H. Jackson, "Managing Economic Interdependence—An Overview," *Law and Policy in International Business* 24, (1993): 1025, 1028 (I do not think MFN is a rule that should be accepted without some reexamination).
99. The new U.S. ban on selling tuna that is not caught in accordance with dolphin-safe fishing practices does not actually require a label. See 16 U.S.C. 1417.
100. See David Runnalls and Aaron Cosbey, *Trade and Sustainable Development* (Winnipeg: International Institute for Sustainable Development, 1992), p. 73.
101. But one of the clarifications for exports regarding energy tax adjustments has already been disavowed by major industrial countries. See "U.S. Secures Agreement Not to Use GATT To Allow Energy Tax Rebate," *Inside U.S. Trade* (January 28, 1994): 19.
102. For further discussion, see Steve Charnovitz, "Free Trade, Fair Trade, Green Trade: Defogging the Debate," *Cornell International Law Journal* (forthcoming 1995).
103. It is interesting to note that a group of GATT experts in the mid-1970s had proposed tightening GATT rules on exports. See *GATT Plus—A Proposal for Trade Reform* (Atlantic Council, 1976), p. 19.
104. For example, see Graciela Chichilnisky, "Social Diversity, Arbitrage, and Gains from Trade: A Unified Perspective on Resource Allocation," *AEA Papers and Proceedings* (May 1994), p. 427.
105. General Assembly Resolution 626 (VII), 1962. See also Rio Declaration on Environment and Development, Principle 2.
106. Remarks at Global Legislators for a Balanced Environment, February 28, 1994, Federal News Service Transcript.
107. See WTO Agreement Article V, General Agreement on Trade in Services, Article XXVI, and GATT Decision on the Contribution of the World Trade Organization to Achieving Greater Coherence in Global Economic Policymaking.
108. See Frances Williams, "New Trade Group Shuns UN Links," *Financial Times*, Nov. 24, 1994:4.
109. WTO Article V:2.
110. Unlike the GATT, the WTO will be an international organization. But it is important to recognize that it will be a very limited one. There is no governing body beyond the member nations collectively. The WTO will have no secretariat initiative. In other words, the GATT Secretariat cannot instigate complaints against governments in the same manner as the European Commission.
111. ITO Charter, Articles 82-83.
112. For example, *efficiency, sustainability, commons, compensation, polluter pays, dumping, protection, injury, comparative advantage, depletion, assimilative capacity, and property rights*.
113. The original purpose of the GATT conciliation process was to reach agreements. Since the Tokyo Round, the process has evolved in a juridical direction. To the extent that the process is juridical, there is little rationale for closed sessions. It might be better if the World Trade Organization returned to the original idea, but the Uruguay Round goes in the opposite direction by judicializing the procedures even more.
114. 19 U.S.C. 2131(a)(4) (repealed 1988).
115. See NGO Statement on Trade, Environment, and Sustainable Development to the CSD [Commission on Sustainable Development] Meeting, May 1994.
116. See Steve Charnovitz, "GATT and the Environment: Examining the Issues," *International Environmental Affairs* (Summer 1992): 203, 220-21. See also *World Commission on Environment and Development, Our Common Future* (1987), p. 332 and Christopher D. Stone, *The Gnat is Older Than Man* (Princeton: Princeton University Press, 1993), p. 83-88 (regarding guardianships).
117. Ernst-Ulrich Petersmann, "International Trade Law and International Environmental Law," *Journal of World Trade* (February 1993): 43, 53.
118. ITO Charter, Article 96.2.
119. *United States International Economic Policy in an Interdependent World, Report to the President* (1971), p. 136.
120. OECD, "Guiding Principles Concerning International Economic Aspects of Environmental Policies," Annex.
121. Stockholm Declaration, Recommendation 103(c), 11 ILM 1416 (emphasis added).
122. Of course, there is the Codex Alimentarius Commission and various groups of the International Organization on Standards. But these technical organizations do not focus on major public policy issues.
123. Daniel C. Esty, "GATTing the Greens," *Foreign Affairs* (November/December 1993): 32.
124. Esty, "GATTing the Greens." For an earlier discussion of the need for an environmental organization, see Geoffrey Palmer, "New Ways to Make International Environmental Law," *American Journal of International Law* (April 1992): 259.
125. Esty, "GATTing the Greens."
126. Esty sees a tendency for governments to engage in "damaging, beggar-thy-neighbor environmental behavior driven by competitive pressures," but he does not give any examples. See p. 34.
127. Many commentators see the GATT as encouraging legislation to lower tariffs and eliminate discriminatory trade provisions. That is true, but misses the bigger point. A nation with no tariffs and no protectionism would not have to take any action at home to conform to GATT disciplines.
128. The GATT can be viewed as a mercantilist institution that seeks deregulation to protect the rights of traders. Environmentalists want an altruistic institution that uses regulation and taxes to solve social problems.
129. OECD Treaty, 12 UST 1728, Article 5.

130. OECD Treaty, Articles 1(a) and 2(a) [emphasis added].
131. I have copied this term from Esty. But my description of the organization differs from that proposed by him. Esty also suggests that the World Intellectual Property Organization can be used as model because of its success in consolidating several treaties. See Daniel C. Esty, *Greening the GATT* (1994), p. 96.
132. See Roger Stone, *Summary Report, Trade and Sustainable Development, René Dubos Center for Human Environments*, May 1993.
133. See Michel Hansenne, "The ILO moves into the 'green' era," *The World of Work* (March 1994): 3-13.
134. For further discussion of this tripartite approach, see Steve Charnovitz, "Environmental Harmonization and Trade Policy," in Durwood Zaelke et al., eds., *Trade and the Environment* (Washington, D.C.: Island Press, 1993), p. 283-285. This idea goes back at least a generation. See Lawrence David Levien, "A Structural Model for a World Environmental Organization: The ILO Experience," *The George Washington Law Review* (March 1972): 464.
135. For example, ILO Convention 87 states that workers shall have the right to join organizations of their own choosing. It should be noted, however, that individual workers cannot bring actions in the ILO to enforce this right. Complaints to the ILO may be lodged by unions, however.
136. There is some possibility that the WTO may not sponsor any rounds in the future but rather conduct intermittent negotiations. In the past, rounds have been driven by the need to lower tariffs. Even after the Uruguay Round agreements go into effect, however, there will still be sufficient tariffs to have at least one more round.
137. Linking issues can also facilitate compliance. See David Mulenex, "Improving Compliance Provisions in International Environmental Agreements," in Lawrence E. Susskind et al., eds., *International Environmental Treaty Making* (Cambridge, Mass.: The Program on Negotiation at Harvard Law School, 1992), p. 173.
138. This idea came from Professor J. David Richardson.
139. IMF, Articles of Agreement (1993), Article III.
140. See Report of the International Symposium, "Sustainable Development and International Law," Vienna (April 1994): para. 32 (wherein Peter Sand comments on the rediscovery of trusts as institutional tools for sustainable development).
141. For a discussion of the concepts, see Eleanor B. Steinberg and Joseph A. Yager, *New Means of Financing International Needs* (1978), ch. 3.
142. John Zarocostas, "Imports Tax Proposed to Protect Environment," *The Journal of Commerce* (January 27, 1994): 1A.
143. 19 U.S.C. §2397 note.
144. See "The Extension of Fast Track Procedures," *House Doc.* 102-51, p. 113.
145. John Zarocostas, "UN Pursues Trade Taxes to Help Poorer Countries," *The Journal of Commerce* (2 June 1994): 2A.
146. It is interesting to note that the Maastricht Treaty on European Union (Article 171) contains a new provision providing for penalty payments.
147. Frances Williams, "GATT Joins Battle for Right to Protect," *Financial Times* (July 7 1994): 7.
148. See Jim MacNeill, "The Shadow Ecology of National Economics: Marrying Trade and Sustainable Development," *Ecotekstion* (March 1993): 14.
149. See Eugene Staley, *World Economy in Transition* (New York: Council on Foreign Relations, 1939), p. 332.

150. Another possibility is the creation of an Intergovernmental Panel on Trade and Environment advocated by WWF.

151. See "David v Goliath Over New Trade HQ," *Financial Times* (July 18, 1994): 3. It is unclear whether this further demonstrates GATT's insidious influence toward downward harmonization of social standards.

152. It is interesting to note that the president of the European Commission recently proposed a new institution. See "U.N. Security Council Needed to Deal With Global Issues, Delors Says," *International Trade Reporter* (20 April 1994): 616. GATT Article XXXVI:7 provides a mandate for such collaboration with organs of the U.N. system.

154. Karl Marx, *Capital: A Critique of Political Economy* (1929 translation), Vol. I, pp. 547-548.

155. See Phedon Nicolaides, "Competition Among Rules," *World Competition* (December 1992): 113.

156. Some issues, such as currency stabilization and innovation policy, may fit into both.

157. ILO, *Enquête sur la Production*, as translated in Wallace McClure, *World Prosperity* (1933), p. 279.

158. See Jacob Viner, "The International Economic Organization of the Future," in Howard Robinson et al., *Toward International Organization* (1942), p. 137 (contemplating a world order where national boundaries would be stripped of most of their capacity for economic evil but would still exist where people wanted them to).

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