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Linkage of Trade Policy and Environmental Policy

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As a voluntary transaction, trade (of goods or services) is expected to be beneficial to both buyer and seller, but it can have harmful consequences to a variety of parties.

Harm from trade can be divided into three categories:

- The traded product causes physical harm, for example, relocation of invasive species, pesticides, or fruit harboring pests.
- Trade engenders economic harm through the market, for example, by causing unemployment or harming industries that compete with imports.
- Trade engenders physical harm through the market, for example, if trade leads to a market reaction that then causes physical harm like causing coal to be mined or trees to be cut.

Because trade can cause such harm, governments may find it appropriate to use trade measures to limit certain cross-border transactions. Trade measures are applications of tax or regulation exclusively to a traded good (typically to imports but also to exports). Trade measures can be discriminatory (*e. g.*, anti-dumping duties) or non-discriminatory (*e. g.*, tariffs). Discrimination means that "like" products from different countries are treated differently. In terms of international trade rules, it is not always simple to determine what is a "like" product. Is ivory from a country with an elephant protection regime a "like" product as ivory from a country without such a regime; is dolphin-safe tuna a "like" product as that caught with dolphins?

For all three categories of harm from trade, trade measures can be used to forestall or reduce the harm. Questions to ask regarding trade measures are, are

they economically appropriate, will they work, and what is the most appropriate policy tool for the purpose? It is conventional wisdom that trade measures are not likely to be effective in dealing with environmental problems. The United Nation's Agenda 21 counsels governments to use more direct measures to address the root causes of environmental problems.

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In considering when trade measures should be used, it is helpful to start by dismissing the simplistic notion that trade measures should address trade problems while environmental instruments should be used to address environmental problems. First, many environmental problems are trade-related so there is not a clear distinction. Second, the definition of trade versus environment instruments is ambiguous. Taxes, regulations and quotas are instruments of both trade and environmental policymakers, not belonging to one group more than the other.

In addition, trade instruments authorize or require the use of trade measures. For example, the Convention on International Trade in Endangered Species (CITES), *requires* a trade measure by imposing import bans contingent on foreign and domestic government certification. A treaty that *authorizes* trade measures is the Wellington Convention which states that the parties may take measures, consistent with international law, to prohibit the importation of any fish caught using a driftnet. Another example is the Global Agreement on Tariffs and Trade (GATT), which states that parties shall be free to use trade measures in cases of serious injury.

Trade measures in treaties can be discriminatory or non-discriminatory. For example, the Phosphorus Match Convention of 1906 is non-discriminatory in that it banned the importation of all phosphorus matches regardless of the source. The Bamako Convention, on the other hand, is discriminatory, prohibiting the importation of waste from non-parties. This convention is not open to countries outside Africa, and is intended to prevent importation of hazardous waste from

outside Africa to inside Africa. The Montreal Protocol also prohibits imports from non-parties but is open to universal membership.

On this subject, there was some discussion about China and GATT. China is not a party to GATT and it appears that it has been blocked by the U. S. and others from joining. There are questions about whether China has done enough to gain entry. For example, has it lowered its tariffs enough, and changed its intellectual property rights laws enough? The opinion was expressed that it is short-sighted to keep China out of the GATT regime and that bringing it in would be more productive.

Trade measures are used in treaties in order to facilitate multilateral cooperation. The aim of trade measures is variously to deflect, halt, reduce or increase international trade. Most trade measures are aimed at affecting the policies of governments. Some motivations for treaty-based trade measures are to:

- encourage joining
- encourage conformance with and harmonization of policies
- encourage compliance with rules
- prevent diversion or leakage of trade outside of the rules of the regime
- prevent competitiveness problems from free riders outside the regime and not bound by it (first success 1906 phosphorous match ban)
- assist countries in enforcing their own laws
- prevent physical harm from/to a product
- prevent economic harm through the market
- prevent physical harm through the market

Charnovitz discussed 30 international treaties over the past 100 years that have made use of trade measures and matched these measures to the various motivations listed above.

In reviewing these cases, we can see that a number of them involve the use of trade discrimination, contrary to arguments by the trade community that this is not appropriate in trade regimes. Charnovitz believes that sometimes discriminatory trade measures are appropriate and may be relevant for the climate regime.

Trade policy can only do a limited amount to promote environmental protection. What it can do is the following:

1. **No-regrets liberalization:** It can help eliminate protectionist policies that keep countries poor. (It is not known whether this will actually help or hurt the environment; for immediate local issues, increased trade is believed to hurt, but for longer-term, larger problems, it is unclear.)
2. **Subsidies:** Trade regimes can help tear down environmentally-destructive subsidies, but traditionally they have not distinguished between good and bad subsidies. Good ones address market failures, while bad ones transfer money from one part of the population to another for political reasons. The Uruguay round of Climate Convention negotiations has made some progress in this area by providing for the right of complaint as a means of objecting to subsidies in other countries. Should there be special penalties for the use of bad subsidies? Should countervailing subsidies or export bans be imposed on good subsidies?
3. **Non-interference:** Some believe that trade regimes should not interfere with environmental issues. Can trade regimes enforce too-rigid disciplines? Are the trade bans in treaties like the Montreal Protocol (CFCs) and CITES (endangered species) inconsistent with World Trade Organization (WTO) principles?
4. **Make the WTO less parochial:** This could be accomplished by providing more input into dispute settlement problems and including a greater variety of participants in review panels.
5. **Standards:** Trade regimes can raise environmental standards through harmonization. It is unclear whether the new agreement on technical barriers to trade will focus on national standards that are too low.
6. **Generalized System of Preferences decarbonization:** As a condition for receiving duty-free benefits, should certain environmental requirements be imposed, as intellectual property issues are now imposed in the U. S. program?

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Environment and Trade Relationship

There is an inverted U pattern of environmental degradation that follows development. At first, as countries increase in wealth, the environment gets dirtier; followed by a period in which it becomes cleaner. There is a correlation between wealth and a cleaner environment, but it is not clear whether increased trade creates wealth in a country if one takes environmental values into account. More important than trade policy are a number of other factors including what industrial processes are used, what technologies are promoted, how good the laws are, what the education level of public is, and the amount and quality of research. The Organization for Economic Cooperation and Development (OECD) has identified technology effects as one of the influences of trade on environment

under the assumption that trade liberalization will help the developing world acquire new technologies and thus benefit the environment.

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Where are we headed? Will trade regimes reach more deeply into domestic scenes? Can we expect growing clashes between trade regimes and environmental regimes? And if so, which will win and what will be the impact? The trade-environment debate has had a chilling effect on the use of trade measures in new environmental treaties and this could make these new regimes weaker than they might otherwise be.