This report was established jointly by the Trade and the Environment Policy Committees. It contains four procedural guidelines to improve the mutual compatibility of trade and environmental policies, and a description of the next stage of the work programme.
I. Background

1. Progress has been achieved in defining the structure and nature of OECD guidelines on trade and environment pursuant to the June 1991 and May 1992 Ministerial mandates. The Joint Session of Trade and Environment Experts has met regularly over a two-year period and is in a position to present results of the first stage of its work.

2. In this first stage, the Joint Session has concentrated on the identification, description, analysis and understanding of various factors which stand at the interface between trade and environmental policies. This exercise has revealed the high complexity of these issues. The underlying problems, differences of views and options have not yet been fully explored and discussed. Further in-depth analysis will be required. This first stage has enabled the Joint Session to develop procedural guidelines to help governments improve the mutual compatibility of trade and environmental policies and policy making.

3. In the next stage, a number of important trade and environment issues will be analysed and discussed. The issues identified for additional analysis and discussion by the joint experts are listed in Annex 2. The Joint Session of Trade and Environment Experts will further elaborate this work programme and will identify the key issues to be addressed in each area, the analytical and methodological approaches to be employed in each area, and the timing and stages of the implementation of the work programme. The three primary objectives of this work programme are: i) to aid governments in understanding and addressing trade and environment issues; ii) to provide material for the possible further development and elaboration of OECD guidelines on trade and environment; and iii) to provide a focused examination of issues which may provide input to negotiations in other fora.

4. The Joint Session holds the view that the procedural guidelines in this report will be of significant value to OECD governments. They embody the first elements of a consensus solution to the issues under consideration and provide useful guidance on how to improve the relationship between trade and environmental policies.

5. These procedural guidelines and their introduction address the following: transparency and consultation; trade and environmental examinations, reviews and follow-up; international environmental co-operation; dispute settlement.

6. The Trade Committee and the Environment Policy Committee recommend to the Council at Ministerial level that it endorse the following report with the procedural guidelines it contains and that it take note of the outline of a further work programme on trade and environment which is contained in Annex 2 to the report.
II. Procedural guidelines on integrating trade and environment policies

{Introduction}

7. The general objective of the guidelines on trade and environment is to promote the compatibility of trade and environmental policies and thereby contribute to the achievement of sustainable development. The procedural trade and environment guidelines have been developed pursuant to the mandate which was set by Ministers in 1991 and 1992. They focus on a number of procedural aspects of the relationship between trade and environmental policies. They are intended to guide governments in the development and implementation of trade and environmental policies with potentially significant effects on each other and to enable policy-makers to reach better-informed decisions.

8. The policy orientations which define the approach that the international community is taking to trade and environment issues are those which have been endorsed by governments through their adoption of UNCED Agenda 21 and the Rio Declaration. These approaches are based on international co-operation and respect for internationally agreed rules and principles. The impacts of trade and environmental policies on the other policy area raise complex problems which have not yet been fully analysed. A number of analytical areas will be addressed in the further stages of the work programme. The three primary objectives of this work programme are: i) to aid governments in understanding and addressing trade and environment issues; ii) to provide material for the possible further development and elaboration of OECD guidelines on trade and environment; and iii) to provide a focused examination of issues which may provide input to negotiations in other fora.

9. Sustainable development has been described in the report of the World Commission on Environment and Development as development which "meets the needs of the present without compromising the ability of future generations to meet their own needs". It should be a broad objective of economic and environmental policy-making. Trade and environmental policies should therefore aim at the common goal of promoting sustainable development.

10. In view of this objective, governments should consider the following:

   The mutual supportiveness of trade and environmental policies -- These policies can be mutually supportive in the pursuit of sustainable development, particularly if those policy interventions which have significant negative trade and environmental impacts are avoided and if environmental benefits and costs are internalised into prices. An open multilateral trading system, supported by the adoption of sound environmental policies, has a positive impact on the environment and contributes to sustainable development.

   The need for policy integration -- The commonality of aims calls for greater integration of environmental and trade policies, as well as for efforts to promote international co-operation on the basis of multilateral agreements, both in the trade and the environment fields. Trade and environmental policies should be transparent and sensitive to the principles and concepts important to the other policy area to promote their mutual compatibility. In its Recommendation of 26th May 1972 on Guiding Principles concerning international economic aspects of
environmental policies, the OECD Council identified a number of
principles, including national treatment, non-discrimination and the
polluter-pays. Other principles or concepts are emerging, or have been
agreed upon since then. They may also be relevant to the other policy
area, and should, in that case, be given adequate consideration. Their
implications and their relevance to the interrelationship between trade
and environment will be further analysed as part of the work programme.

The concerns of non-OECD countries -- When developing and implementing
their trade and environmental policies, OECD governments should give
particular attention, consistent with their international obligations,
to the needs and concerns of countries at different levels of economic
development. In order to promote sustainable development at a global
level, OECD governments should consider ways of helping non-Member
countries to accelerate the integration of their trade and environmental
policies and programmes.

(A. Transparency and consultation)

Guideline -- (Governments should provide for transparency and for consultation )
(with interested parties in the development and implementation of trade and )
(environmental policies with potentially significant effects on each other.)

11. In view of the expanding interaction of trade and environmental
policies, it is important that the development and the implementation of such
policies, with potentially significant effects on each other, are pursued in an
open and transparent fashion. Effective and timely transparency facilitates
input from interested parties, thereby supporting the development of the most
appropriate policies and avoiding unintended effects on the other policy area.
Policy-makers should provide for the following:

Transparency at the inter-governmental level -- In circumstances where a
domestic environmental measure may have trade impacts on other countries,
or in circumstances where a trade measure may have environmental impacts on
other countries, governments should, in accordance with their international
obligations on notification, publication and consultation, provide for
timely communication, access to relevant information and consultation to
governments affected and, as relevant, to other concerned governments upon
request.

Government policy-making -- Governments should integrate their own
environmental and trade policy-making, including through consultation
between environmental and trade policy-makers, participation of trade
policy-makers in environmental policy-making processes with potential trade
effects, and participation of environmental policy-makers in trade
policy-making processes with potential environmental effects.

Consultation with non-governmental interested parties -- Governments
should, where appropriate, provide for input from interested
non-governmental parties in the development of their approaches to policies
and agreements at the trade/environment interface. Processes for
consultation with interested parties will differ according to national
political and legal practices and cultures. Such processes might include
representation on any trade and environmental advisory committees, participation in trade examinations or reviews of environmental policies and agreements, and participation in environmental examinations or reviews of trade policies and agreements.

Availability of information -- Governments should, where possible, provide for public availability of information by (inter alia), giving advance notice of proposed trade or environmental policies, or substantial modifications of existing policies, with potentially significant effects on the other. Governments should also exercise their best endeavours to encourage transparency at the subnational level.

(B. Trade and environmental examinations, reviews, and follow-up){{(*)}}

Guideline -- (Governments should examine or) (review trade and environmental policies and agreements) with potentially significant effects on the other (policy area) early in their development to assess the implications for the other policy area and to identify alternative policy options for addressing concerns. (Governments may co-operate in undertaking such examinations and reviews.) (Governments should follow-up as appropriate: to implement policy options; to re-examine the policies, agreements and any measures in place; and to address any concerns identified in the conclusion of such re-examinations.)

12. In cases of trade and environmental policies and agreements with potentially significant effects on the other policy area, examinations or reviews of these policies and agreements would help to identify the potential positive and negative implications for the other policy area. This process could highlight alternatives for enhancing the contribution of trade and environmental policies and agreements to the goal of sustainable development. The nature of examinations or reviews, including the level of analysis and documentation, may differ according to the policy or agreement in question and according to different countries’ legal or administrative structures.

13. Further work should be done in developing methodologies for the conduct of examinations or reviews of trade and environmental policies and agreements. Criteria are needed for identifying which trade and environmental policies and agreements might have potentially significant impacts on the other policy area and which should be the subject of such examinations or reviews. Criteria are also needed as to what types of effects should be examined or reviewed at different stages in the development and implementation of trade and environmental policies and agreements. Methodologies to assist governments to perform examinations or reviews will be developed as quickly as possible in the joint experts’ work plan. In the interim period, governments should be encouraged to perform such examinations or reviews, using their own methodologies. An illustrative checklist of issues for examination when conducting trade and environmental examinations or reviews of trade and environmental policies and agreements is given in Annex 1. Further elaboration of the checklist will be a key component of the work programme.

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(*) For a number of Member countries, "examinations" and "reviews" would mean a similar process.
14. The provisions on transparency and consultation should also be applied, as relevant, in conducting the examinations or reviews of trade and environmental policies and agreements.

15. If the examination or review of a trade or environment policy or agreement identifies concerns, governments should act to address these concerns. To the extent possible, governments should address these concerns at their root causes. Some concerns may best be addressed by provisions within the trade or environmental policy or agreement. Other concerns may most effectively be addressed outside the context of the original policy or agreement, in a complementary mechanism. Other policy responses may also be appropriate. The purpose is to ensure that identified concerns are dealt with efficiently, effectively and appropriately.

16. Follow-up may be needed to re-examine the implications of trade and environmental policies and agreements, with a view to ensuring that concerns are being addressed. For example, circumstances may change, concerns previously identified may evolve, any measures taken to address such concerns may no longer be appropriate or new concerns may arise. These follow-up activities could examine the effectiveness and support the implementation of measures to address concerns. The type of follow-up activities may vary in accordance with the type of policy or agreement in question. Further work should be done on appropriate methodologies and criteria for follow-up activities, based on experience gained by Member countries in the application of such activities.

(C. International environmental co-operation)

Guideline -- (Governments should co-operate to address transboundary, regional or global environmental concerns, in particular through the negotiation and implementation of environmental policies and agreements among the countries concerned, with a view to enhancing the effectiveness of environmental action and avoiding undue effects on trade.)

17. Transboundary, regional or global environmental concerns are most effectively addressed through international co-operation. Therefore, measures addressing such concerns or problems should be based on co-operation between countries concerned, on the basis of the approach endorsed by governments through their adoption of UNCED Agenda 21 and the Rio Declaration. It is important in the development of international environmental agreements with potential trade impacts that they be designed so as not to unduly restrict trade or discriminate. When negotiating such agreements, parties should recognise the potentially beneficial effects of trade on the environment and take advantage of opportunities where increased trade will assist in the achievement of the environmental objective (e.g. environmentally beneficial goods and technologies). Effective provisions for addressing disagreements between parties are an important aspect of environmental agreements containing trade measures. Concerned countries should be afforded full opportunity to participate in the negotiation and become parties in agreements addressing those issues. Actions to deal with environmental challenges outside the jurisdiction of a country should not undermine the multilateral system.
(D. Dispute settlement)

Guideline --{ When, pursuant to an agreement between countries, a country is }{party to a trade dispute which has an environmental dimension, or to an }{environmental dispute which has a trade dimension, the government, in }{developing its national approach, should recognise the importance of taking }{into account, as appropriate, environmental, trade, scientific and other }{relevant expertise and should therefore work further to develop, as necessary, }{appropriate means to achieve transparency.}

18. Environmental and other relevant officials should be fully involved in
developing positions on any trade dispute which has an environmental dimension
and, similarly, trade and other relevant officials should be fully involved in
developing positions on any environmental dispute which has a trade dimension.

19. The government, in developing its position in such disputes, should also
afford an opportunity to non-governmental interests to provide it with their
views with regard to the dispute. Processes for consultation with interested
parties will differ according to national political and legal practices and
cultures.

20. In the future negotiation of trade and environment agreements, it is
essential to develop appropriate provisions for transparency and access to
relevant expertise in the settlement of disputes involving trade and
environment issues. Consequently, this issue will be further examined by the
joint experts group in the course of its work programme.
I. Trade examinations and reviews of environmental policies and agreements

1. The following questions constitute an illustrative checklist of issues pertaining to trade examinations or reviews of environmental policies and agreements; they will be further developed in light of the progress achieved by the work programme:

   -- What are the projected trade effects of the environmental policies or agreements in question? Are there ways of enhancing their positive effects? Are there ways of reducing or minimising their negative trade effects, consistent with the achievement of environmental objectives?

   -- If trade measures are involved, how and to what extent do they support the achievement of the environmental objectives?

   -- How do the trade measures relate to domestic environmental protection measures?

   -- Do the trade measures discriminate among countries, and if so, how and why?

   -- Are alternative measures (including trade measures) available? If so, how and to what extent would they support the achievement of the environmental objectives?

II. Environmental examinations and reviews of trade policies and agreements

2. The following questions constitute an illustrative checklist of issues pertaining to environmental examinations or reviews of trade policies and agreements; they cover regulatory, product, scale and structural effects; they will be further developed in light of the progress achieved by the work programme:

   -- What are the projected positive and negative environmental effects of the trade policies and agreements in question?

   -- Do the trade policies or agreements have an impact on a country’s ability to implement measures required to achieve its environmental objectives?
-- Do the trade policies or agreements affect the level of trade in environmentally beneficial or environmentally damaging products?

-- What are the projected impacts of the trade policies and agreements on the scale and structure of economic activity and what are their resulting potential environmental effects?

-- Are there ways of enhancing their positive environmental effects?

-- With respect to negative environmental effects, are existing environmental policies sufficient to address them? If not, what complementary policies or other options are available?
Further Stages in the Work Programme

1. The following are the areas identified at this stage for additional analysis and discussion in the OECD trade and environment work programme. The three primary objectives of this work programme are: i) to aid governments in understanding and addressing trade and environment issues; ii) to provide material for the possible further development and elaboration of OECD guidelines on trade and environment; and iii) to provide a focused examination of issues which may provide input to negotiations in other fora. The areas for analysis are not listed in order of priority.

2. The Joint Session of Trade and Environment Experts will further elaborate this work programme and will identify the key issues to be addressed in each area, the analytical and methodological approaches to be employed in each area, and the timing and stages of the implementation of the work programme. In developing this work programme, recognition has been given to past and possible future areas of international dispute, including unilateral trade action, to deal with environmental objectives particularly where these are outside the jurisdiction of the country taking the action.

3. In pursuing this work, previous and ongoing studies and analyses will be used as a basis. In this regard, the OECD Secretariat will develop and maintain an up-to-date bibliography of previous, ongoing and proposed studies and analyses relevant to the different items in the work programme. Contributions from Member and observer governments are expected; contributions from non-governmental interested parties are welcomed. This work programme will be carried out in co-operation with other OECD committees and interested international organisations. In all areas of work, the interests of non-OECD countries in constructing appropriate trade and environmental policies will be taken into account and their input is welcomed.

4. In carrying out this work programme, the group will adopt a focused, analytical approach, making use of various tools, including case studies where appropriate and analysing relevant international trade and environmental rules, obligations and disciplines.

5. The exact staging and sequencing, as well as the precise content of the different items of the work programme will be decided following discussion at the 30 June 1993 meeting with non-governmental interested parties. The joint sessions’s objectives in elaborating each of these items will include ensuring that both trade and environmental aspects are addressed sufficiently. Meanwhile, initial work on reviews/examinations and follow-up will begin as provided for in the guideline on trade and environmental examinations, reviews and follow-up.
6. General areas for analysis:

-- Methodologies for conducting examinations, reviews and follow-up of trade and environmental policies and agreements;
-- Effects of trade liberalisation on the environment;
-- Processes and production methods (PPMs);
-- Use of trade measures for environmental purposes;
-- The concept of life-cycle management and trade;
-- Harmonization of environmental standards;
-- Trade and environmental principles and concepts;
-- Economic instruments, environmental subsidies and trade;
-- Environmental policies, investment and trade;
-- Dispute settlement.
Methodologies for conducting examinations, reviews and follow-up of trade and environmental policies and agreements -- This work will focus on the development of criteria and methodologies for conducting trade examinations, reviews and follow-up of environmental policies and agreements and environmental examinations, reviews and follow-up of trade policies and agreements. Such work could address: a) criteria on what types of policies and agreements should be subject to review, b) terms of reference and broad methodologies (including analytical tools and associated data) to be used in the conduct of such reviews, with respect to the various types of policies and agreements subject to review, c) opportunities for harmonizing such methodologies and d) the development of appropriate methodologies and criteria for follow-up activities.

Effects of trade liberalisation on the environment -- This work will review the existing sector studies (i.e. agriculture, forestry, fisheries, endangered species and transport) of the positive and negative effects of trade liberalisation on the environment and will examine the need for additional sector studies (e.g. manufacturing, minerals). This analysis may assist governments in the development of suitable complementary mechanisms and other options to address any environmental concerns.

Processes and production methods (PPMs) -- This work will begin with the development of a conceptual framework for generally identifying the domestic, transboundary and global environmental and trade implications of various processes and production methods. Differing national PPM standards or requirements will be considered with regard to different environmental needs, ecological conditions and level of economic development prevailing in various countries. The subsequent analysis will focus on the relevant alternatives/possibilities for dealing with these needs and implications in an effective and efficient way, particularly as regards their relation with trade rules and disciplines.

Use of trade measures for environmental purposes -- This work will be based on the development of an analytical framework for reviewing the rationale for the use of trade measures for environmental purposes and how this use relates to multilateral trade rules and disciplines. This will include a review of the trade and environmental effects of trade measures used at different levels (e.g. unilateral, regional, multilateral) to address different types of environmental concerns (e.g. domestic, transboundary, global). Case studies may be undertaken to review the effectiveness of the use of trade measures for environmental purposes in different situations.
The concept of life-cycle management and trade -- This work will review the trade implications of the use of life-cycle analysis and management in environmental policies. In the first stage, the potential implications of trends in eco-labelling, packaging, deposit-return and handling systems and waste management (including recycling) will be reviewed in light of the scope of the regulations and their applicability at different phases in the life-cycle of a product. Case studies may be undertaken to determine how features of existing and proposed life-cycle management initiatives may affect trade, and how they could be accommodated under multilateral trade rules and disciplines.

Harmonization of environmental standards -- This work will review the role of international environmental, health and safety standards in facilitating the increased compatibility of national standards. This will include a review of procedures for establishing international standards; the role of science, risk assessment and risk management and precautionary approaches in standard-setting; and the advantages and disadvantages of various approaches (e.g. mutual recognition, cross accreditation) in achieving increased compatibility of environmental standards while responding to local, regional and global environmental needs.

Trade and environmental principles and concepts -- This work will seek a better understanding of certain recognised, or newly emerging, trade and environmental principles and concepts, their relationship to the other policy area and their relevance to the achievement of sustainable development. Trade principles and concepts might include national treatment, non-discrimination, complementarity, necessity and least trade restrictiveness. The environmental principles and concepts might include the polluter-pays and the internalisation of environmental costs and a number of principles and concepts that fall generally under the heading of risk-based prioritisation of environmental concerns (e.g. the precautionary principle, priority of prevention, ecological interdependence, inter-generational equity and critical load).

Economic instruments, environmental subsidies and trade -- This work will review the trade implications of the use of economic instruments (e.g. taxes and charges, tradeable permits, subsidies) in environmental policies. It will include an analysis of the trade and environmental effects of environmental taxes and the use of border tax adjustments. It will also examine trends in the use of environmental subsidies, their implications for the achievement of environmental protection goals, their relationship to the internalisation of environmental costs and to the OECD Polluter Pays Principle, and their effects on international trade.

Environmental policies, investment and trade -- This work will review and build upon previous empirical studies on the relationship between environmental policies and patterns of international investment with a view to examining the linkages between environmental regulations, industry relocation and trade policies.

Dispute settlement -- This work will address those aspects of dispute settlement not addressed by the procedural guidelines. It will review and compare compliance and dispute settlement provisions and procedures in existing environmental and trade agreements. It will examine ways to develop appropriate provisions for transparency and access to relevant expertise in the settlement of disputes involving trade and environment issues in future negotiations of trade and environment agreements.