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Joint Session of Trade and Environment Experts

**IMPLEMENTATION OF THE OECD PROCEDURAL GUIDELINES ON TRADE  
AND ENVIRONMENT: RESULTS OF THE SECOND REVIEW**

84159

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Or. Eng.

OECD Member countries were invited to co-operate with a second review of the Implementation of the OECD Procedural Guidelines on Trade and Environment, by responding to a questionnaire. This document contains a copy of the original questionnaire, and a compilation of the responses of the 25 OECD governments replying, plus that of the European Commission.

This document is derestricted under the responsibility of the Secretary-General and is also available in French. It can also be found on the web at <http://www.oecd.org/ech/docs/envi.htm>

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## INTRODUCTION

Four procedural guidelines were adopted by OECD Ministers in June 1993, covering A) transparency and consultation; B) trade and environment reviews; C) international environmental co-operation; and D) dispute settlement. The guidelines are as follows:

- A. Transparency and consultation:** 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.*
- B. Trade and environmental examinations, reviews, and follow-up:** 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.*
- C. International environmental co-operation:** 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.*
- D. Dispute settlement:** 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.*

In 1994, Ministers agreed to undertake a review of Member governments' actions to implement the four guidelines. A first review was carried out in 1995-96 under the aegis of the Joint Session and answers compiled and de-restricted in document OCDE/GD(96)98.

In May 1998 the Joint Working Party launched a second review of the implementation of the guidelines, based on the questionnaire set out below. This document is a compilation country-by-country of the responses received from 25 Member countries and the European Commission. It is envisaged that a summary of the lessons which can be drawn from these responses, in terms of successes and difficulties in implementing the Procedural Guidelines, will be published separately.

## QUESTIONNAIRE

### General

*Coverage:* Answers should update governments' previous replies [found in OCDE/GD(96)98], that is give information on actions taken since the last review in 1995, (unless a government did not reply to the previous questionnaire.) Emphasis should shift from the impact the procedural guidelines have had on establishing procedures to the actual use of those procedures in particular cases.

Replies to the final question on difficulties encountered in implementing the guidelines were perhaps the weakest in the preceding review; the wish has therefore been expressed that governments be comprehensive and frank in addressing such difficulties.

*Format:* As requested by the Joint Session, a suggested outline is presented below in order to encourage a user-friendly and common format to Members' answers. It is only indicative of the kinds of concrete areas of the interaction of trade and environment that replies could address. There will undoubtedly be more pertinent examples for some Members and others may not find all those listed of particular relevance.

Remember that in principle each of the three questions applies to all four procedural guidelines. Rather than generalise, information provided may well be clearer and more insightful if replies under each question address each of the four procedural guidelines individually, as suggested in the format below. If no particular experience is felt noteworthy on a particular guideline, that part of the answer can of course be left blank.

Overall, it is hoped that Members will strive to provide concrete examples.

**Question 1. What steps, since the last review of their implementation, has your government taken to deepen the implementation of the four procedural guidelines on trade and environment? Please give examples of particular cases where the procedural guidelines were invoked, either by government agencies or non-governmental parties, to promote e.g. consultation, reviews, a multilateral approach to environmental problems, access to relevant expertise in disputes, etc.**

### ***Guideline A. Transparency and consultation***

At the level of:

- regional trade or environment bodies;
- various Ministries/national co-ordination bodies;
- sub-national (state/province or municipal) administrations;
- environmental NGOs, business/industry community representatives;
- other specific consultation bodies.

***Guideline B. Trade and environment reviews***

National environmental laws/regulations or MEAs reviewed for their trade impacts.

Trade discussions, for which environmental reviews might have been undertaken, include:

- WTO discussions, including the 1996 Singapore CTE Report;
- preparations for forthcoming negotiations in WTO;
- various regional trade agreements: NAFTA, APEC, European Union;
- national trade legislation/regulations promulgated in the period under review

***Guideline C. International environmental co-operation***

At the global level, examples of recent MEA meetings/negotiations involving trade issues include: CITES COP X (6/97); Montreal Protocol COP IX (9/97); Climate Change COP-3 (12/97); Basel COP IV (2/98); PIC Convention (3/98).

At the regional level, fisheries management/conservation agreements promoting international co-operation have increasingly been addressing trade-related issues.

Regional/international environmental co-operation for the enforcement of illegal cross-border flows of goods has been strengthened in certain cases.

***Guideline D. Dispute settlement***

Recent trade/environment disputes nascent or otherwise include humane trapping standards, shrimp-turtle, access to certain prohibited wastes/secondary raw materials, etc.

**Question 2. Have the procedural guidelines on trade and environment resulted in any new government policies, procedures or publications (those representing new initiatives since the 1995 review)?**

***Guideline A. Transparency and consultation***

For example, following the preparation of national positions for certain important MEA negotiations (e.g. climate change), or for other multilateral negotiations (such as the MAI or export credit/environment discussions in the OECD), Member countries may have introduced new, or strengthened existing, consultation procedures, or organised public debates on trade and environment. Perhaps the results of trade and environment reviews have been published.

***Guideline B. Trade and environment reviews***

Some governments have furthered developed their internal procedures or those used through regional trade organisations (e.g. NAFTA, EU) on vetting trade agreements for their environmental impacts.

Or perhaps experience with the use of the *OECD Methodologies for environmental and trade reviews* [OCDE/GD(94)103] has led to its adaptation internally or regionally.

***Guideline C. International environmental co-operation***

In view of the numerous MEA meetings and negotiations of new environmental agreements and protocols held during the period under review, governments may have adopted new procedures or even policies to enhance multilateral approaches to environmental co-operation.

*NB. Replies to this question concerning the implementation of Guideline 3 were not intended (see commentary in Annex below) to elicit examples of governments' participation in international environmental meetings. Rather the emphasis is on acceptance of an approach of multilateral co-operation amongst concerned parties in order to enhance the effectiveness of environmental action, to avoid undue effects on trade and, thereby, as preferable approaches, avoid unilateral measures.*

***Guideline D. Dispute settlement***

The perceived need for improvement in dispute settlement procedures of certain MEAs may have led Members to suggest the strengthening of existing procedures or introduce more formal dispute mechanisms in new MEAs during negotiations.

**Question 3. What difficulties, if any, has your government encountered in implementing the procedural guidelines on trade and environment?**

Past difficulties mentioned include: logistics, including timeliness, of obtaining input from partners consulted; lack of inter-ministerial co-ordination and clarification of institutional responsibilities amongst ministries/agencies; lack of national NGO experience with the international trade and environment debate; time/resource intensity of trade and environment reviews in a period of budget cut-backs; resistance to enhancing transparency of dispute settlement processes. Some governments indicated they met greater resistance in implementing certain guidelines and less with others.

For this new review, Governments may wish to deepen their assessment of implementation difficulties, and explain corrective actions taken and progress made.

*Guideline A. Transparency and consultation*

*Guideline B. Trade and environment reviews*

*Guideline C. International environmental co-operation*

*Guideline D. Dispute settlement*

## AUSTRALIA

**Question 1. What steps, since the last review of their implementation, has your Government taken to deepen the implementation of the four procedural guidelines on trade and the environment?**

### *Guideline A. Transparency and consultation*

The Australian Government's consultative procedures relevant to trade and the environment policy making are well developed, and are actively invoked. It is difficult to point to an example where the invocation of the OECD guidelines was the sole impetus for any trade and environment related review or consultation as it is one element amongst many relevant factors affecting policy-making processes.

A number of changes have taken place in the Government's consultative arrangements since 1995. The Government's peak consultative body relevant to trade and environment is now the International Environment Issues Advisory Group (having evolved out of the NGO Consultative Forum on International Environment Issues). It is chaired jointly by the Minister for Foreign Affairs and the Minister for the Environment and Heritage. It has a refocused membership (including a NGO for scientists) that retains a cross-section of representation from business and industry associations, environmental, consumer, professional and development groups. The Group meets twice-yearly, and regularly discusses trade and environment issues, both as they arise under particular multilateral environment agreements, as well as more generally. It also covers some trade and environment issues that arise within international economic organisations such as the OECD and World Trade Organisation.

The Trade and Environment Working Group (which previously was a formal subgroup of the NGO Consultative Forum) remains, but with a broader membership and more wide ranging mandate. It is chaired by a senior official from the Department of Foreign Affairs and Trade (DFAT), who has overall responsibility for trade and environment issues within that department. This Group meets once or twice yearly, and provides a forum for a discussion of specialised trade and environment issues, for the exchange of information, and a means for groups outside of government to have an input into policy formulation.

DFAT has introduced a trade and environment page on its website to enhance public access to information. The page includes brief reports on recent trade and environment meetings such as the OECD Joint Session of Trade and Environment Experts and the WTO Committee on Trade and Environment (CTE).

Development of Australian positions for participation in international forums such as the CTE, the OECD Joint Session and the Commission on Sustainable Development, has involved widespread consultation among Commonwealth departments lead by DFAT and the Department of Environment and Heritage. For example, during the process when the CTE prepared its 1996 report there were regular consultative meetings with a range of departments including those responsible for agriculture and industry policy, international development assistance, and intellectual property issues.

There are extensive consultations held in relation to particular international environment treaty negotiations and on trade issues where trade and environment aspects arise. These take different forms, including standing consultative bodies, one-off meetings and other forms of communication. These involve community NGOs, business, State Governments and others. A number of Commonwealth Government/State and Territory Government coordination bodies are given debriefs and the chance to comment on key international environmental and trade and environment related developments as well. Two examples of co-ordination processes are provided by the Montreal Protocol on Substances that Deplete the Ozone Layer and the negotiation on a Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (PIC Convention).

Opportunities are provided for contributing to the formulation and review of Australia's domestic and international ozone policy and programs through various fora including the Australian and New Zealand Environment and Conservation Council Ozone Protection Consultative Committee (OPCC), the Methyl Bromide Consultative Group, the Halon Consultative Group and the CFC Metered-dose inhalers Stakeholders Group. The OPCC comprises representatives from State and Territory governments, industry, the research community and public interest groups, while the other consultative groups comprise importers and major users from their respective industries.

Commonwealth departmental input is canvassed through the Ozone Interdepartmental Committee (Ozone IDC) chaired by the Department of the Environment and Heritage, membership of which includes the Departments of: Health and Aged Care; Agriculture, Forestry and Fisheries; Foreign Affairs and Trade; Prime Minister and Cabinet; Australian Quarantine and Inspection Service; Finance and Administration; Treasury; Industry, Science and Resources; and Attorney-Generals. The Ozone IDC also approves the briefs of Australian delegations to the meetings of the Parties to the Montreal Protocol.

The development of Australian policy for the negotiations for a PIC Convention was assisted by regular consultations with NGOs through formal debriefing sessions, circulation of papers for comment, and invitations for NGOs to join Australian delegations in international fora (attendance is at the NGOs expense and they are formally bound to the agreed Australian position). Consultation has also been an integral aspect of Australia's implementation of its obligations under the existing voluntary PIC procedure. For example, in order to prepare the required inventory of banned or severely restricted chemicals, extensive consultations were conducted with State and Territory Governments. The resulting advice has been circulated to relevant Commonwealth departments for comment and industry has also been invited to comment. The final results will be publicised widely so that stakeholders will be made aware of any obligations that arise.

#### ***Guideline B. Trade and Environment reviews***

In 1996 the Australian Government instituted a formal Parliamentary treaties consultative process under which treaties proposed to be ratified by the Government would be reviewed by Parliament. This new process has enabled reviews of a number of international agreements with possible implications for both trade and the environment, including for example the Basel Convention Ban Amendment. Members of the public are invited to make submissions and to appear before Parliament's Joint Standing Committee on Treaties. The Committee takes into consideration trade and environment concerns in formulating its recommendations to the Government. The Commonwealth Government also submits National Interest

Analyses (NIA) to this Committee. The NIAs assess overall impacts which could be expected to flow from implementing the particular set of obligations in question. Economic, environmental and trade factors, if relevant, are seen as key factors to be considered. NIAs are publicly available, including on the internet.

In the lead up to the WTO's Singapore Ministerial Conference in 1996, DFAT organised special public consultations with a broad spectrum of NGOs on the work of the WTO CTE to assist in assessing trade, environmental and development aspects of the Committee's work. To assist these consultations, in August 1996 DFAT released a 70 page public information booklet on the CTE's work. The booklet included background information on the WTO and the CTE, and discussion papers on the issues of eco-labelling, the use of trade measures in multilateral environmental agreements (MEAs), and the relationship between trade liberalisation, the environment and sustainable development.

Procedures are in place to ensure that the policy debate in the CTE is taken into account in the development of positions on other work by the WTO which may have an environmental dimension. Co-ordination processes ensure that issues raised in the CTE are fed into other areas of the WTO where related/complementary trade issues with environmental implications are being examined, including the General Council, the Dispute Settlement Body, the Committees on Agriculture, Sanitary and Phytosanitary Measures, and Technical Barriers to Trade, and the TRIPS Council.

When examining MEAs that are under negotiation, as well as looking at the environmental aspects, the impacts of the options being considered on the trade competitiveness of Australian industry and the international trading environment overall are assessed. These assessments are reflected in the NIAs referred to above. Co-ordination within DFAT and with other Commonwealth Government agencies, including the Department of the Environment and Heritage and industry departments, ensures that economic and trade as well as environmental aspects of MEA negotiations are assessed at an early stage and fully taken into account in the development of Australian positions.

For example, the Montreal Protocol's mandatory control measures to phase out the production and consumption of ozone depleting substances (ODS) are assessed at least every four years under Article 6 on the basis of the available scientific, economic, technical and environmental information. Australia implements any consequent amendments domestically, subject to the findings of cost-benefit analysis (i.e. regulation impact statements and national interest analysis) which account for the full range of economic, social and environmental considerations. One of the objectives of Australia's Commonwealth Ozone Protection Program is to minimise the impact of ODS use on the ozone layer by exceeding Protocol targets wherever this can be achieved at reasonable overall economic cost to consumers, industry, the general community and government.

Co-ordination processes also ensure that proposals for changes to national laws and regulations are fully assessed to ensure conformity with international obligations and with the objective of promoting mutually supportive trade and environment policies. Co-ordination processes ensure that trade competitiveness and environmental impact are considered. Examples are proposals on packaging which while aiming at domestic environmental improvements considered both international trade rules and trade competitiveness aspects. Another policy aimed at encouraging improved auto fuel efficiency assessed the policy against international trade rules, the United Nations Framework Convention on Climate Change (FCCC) and trade competitiveness aspects.

***Guideline C. International Environment Co-operation***

In respect of the negotiation and implementation of several MEA negotiations, for example the Biosafety Protocol to the Biodiversity Convention, the PIC Convention, the FCCC, the Convention for the Conservation of Antarctic Living Marine Resources, the Montreal Protocol, the Basel Convention and the Convention on the Conservation of Southern Bluefin Tuna (CCSBT), Australia is actively co-operating with other Governments to ensure trade and economic issues are fully taken into account in formulating solutions to the respective global environmental challenges under consideration. In these processes Australia has worked to ensure that adequate consideration is given to the full range of options available for addressing the environmental concerns, that measures adopted do not impose inappropriate or unnecessary trade restrictive burdens, and that effective and proportionate policy approaches are adopted.

Australia has also worked in the WTO CTE to identify ways in which trade reforms can contribute to the advancement of environmental goals. A good illustration of this is Australia's approach under item six of the CTE work program where we have pointed to the great potential for improvements in both economic/trade and environmental outcomes in natural resource sectors (e.g. agriculture and fisheries) where currently trade distorting policies are prevalent. Australia has joined other WTO Members in pointing to the contribution which reform to agricultural and fisheries subsidies, as well as trade-distorting border measures, could make to reducing the environmental harm associated with certain economic activities.

***Guideline D. Dispute Settlement***

In line with our overall approach to pursuing policy objectives which integrate trade and environment factors this perspective also informs our approach to resolving disputes where trade and environment is at issue or is an aspect of the issues in a dispute.

Australia was a third party to the WTO dispute on the U.S. shrimp embargo. Our submissions to both the Dispute Settlement Panel and Appellate Body emphasised that we shared the concerns of the US in relation to the conservation of marine turtles, but disagreed with the means used to advance these concerns. They outlined the approaches taken by governments, industry, research organisations and fisheries management bodies in Australia to marine turtle conservation including in reducing turtle bycatch. Input into the preparation of the submissions was invited from a range of industry and environmental organisations. Australia's submissions have been made publicly available through the DFAT website.

In a dispute over implementation of the CCSBT Australia has taken an integrated view of the issues involved, focusing heavily on sustainable development, and trade and environment, seeing this as useful in clarifying key issues and forming a good basis for resolution.

**Question 2. Have the procedural guidelines on trade and environment resulted in any new government policies, procedures or publications (those representing new initiatives since the 1995 review)?**

The procedural guidelines have been one of the factors taken into account in the development of the initiatives described in this response under guideline A in question 1. As our response to the first survey pointed out the Guidelines have been distributed broadly, including to non-government groups, and the concepts embedded in those guidelines are now well entrenched in the approaches of various stakeholders and groups involved in policy making and consultation.

**Question 3. What difficulties has your government encountered in implementing the procedural guidelines on trade and environment?**

Although there has been some restructuring of government at state and federal level, and rationalisation of resources, the four aspects of trade and environment policy embodied in the guidelines remain priorities. This has ensured that efforts at consolidating and further developing these areas of policy have continued apace. Perhaps the major difficulty lies with making judgements about the level of effort and co-ordination required at the margin of the trade and environment policy overlap given that links between economy, trade and environment are pervasive, but with wide variation in the prominence of the link. The breadth and complexity of the issues has stretched resources in examining issues and ensuring effective co-ordination. Furthermore, while extensive public consultation opportunities have been provided, the complexity of the issues would appear to have imposed significant challenges for NGOs in following the trade and environment debate and providing input to policy discussions.

## AUSTRIA

Taking into account the recent developments relevant to trade and environment issues, the procedural guidelines on trade and environment represent an excellent opportunity to review and reassess the actions taken at government level.

In the following, we outline a brief description of some relevant measures. Due to the close connection between the four guidelines, we prefer to answer the questions following a comprehensive approach and canvass the four guidelines in each answer.

**Question 1. What steps, since the last review of their implementation, has your Government taken to deepen the implementation of the four procedural guidelines on trade and the environment?**

In general, Austria attaches very high priority to the aspect of transparency and consultation.

The **inter-governmental information process** has been intensified to a great extent during the last couple of years. The use of new information and communication technologies has increased very rapidly, thus fostering the personal contact between people and accelerating the process of decision making and the speed of information exchange.

Due to the relatively **small size of legal entities and institutions** in Austria as well as the geographical proximity of ministries in Vienna, it is very easy to keep in permanent contact with each other. Moreover, on a regular basis, co-ordination meetings with all interested parties take place to discuss recent developments in the trade and environment agenda; not only but also in advance of the respective meetings in the OECD and WTO context.

Furthermore, the long tradition of the **Austrian Social Partnership** is a unique example of a very pragmatic approach in working together at different functional levels and backgrounds. The existence of these institutionalised lobbying groups has proved to be very helpful during various kinds of consultation and negotiation processes.

With regard to **consultations with non-governmental interested parties**, the recent developments at global level (e.g. **climate change**: 2nd Climate Change Review, preparation COP 4 in Buenos Aires, MAI, etc.) contributed to an intensification of consultation processes: In the case of the MAI, deepened co-operation especially took place with NGOs (social and environmental policy) and trade unions; within the issue of climate change, contacts have been intensified between environmental institutions, industry and trade. Upon invitation of the Austrian Federal Ministry for the Environment, regular meetings are taking place to inform interested governmental and non-governmental institutions about the progress at national and international level and to define the strategy for the next steps. With regard to the complexity of the climate change issue, policies and measures in different sectors at national as well as at regional level have to be taken into account.

**Question 2. Have the procedural guidelines on trade and environment resulted in any new government policies, procedures or publications (those representing new initiatives since the 1995 review)?**

Further to the intensification of consultation and information processes which were described in relation to question 1 above, there are many other important policies/procedures /activities which might be directly or indirectly relevant to trade and environment issues. Within the **CSD-process**, a platform at national level has been founded a few years ago, bringing together governmental and non-governmental institutions in order to exchange information on the progress of the implementation of Agenda 21. In January 1998, a **conference on sustainable production and consumption patterns** took place in Vienna. This conference (in the framework of ECE) was organised jointly with the Federal Ministries for Education and for Economic Affairs as well as with experts from the OECD. It contributed to intensifying the dialogue and to strengthening the network between national, regional and local initiatives in the field of environment, regional development and economy. Further follow-up activities to this conference are under deliberation.

Certainly, these are just two examples, and many other measures and policies may be mentioned which contribute to increasing transparency and co-operation. In fact, every large conference in the field of trade and environment (e.g. WTO, climate change, etc.) is preceded by an inter-governmental consultation process and accompanied by consultation and information of NGOs.

**Question 3. What difficulties has your government encountered in implementing the procedural guidelines on trade and environment?**

We regret to come in with our answers at such a late stage. This aspect, which is entirely due to a **lack of time and very limited personal capacities**, certainly represents the main difficulty in implementing the guidelines. Taking into account the responsibilities of our country holding, for the first time, the Presidency of the European Union during the second half of 1998, time constraints have even become more important.

With regard to the traditional Austrian institution of **Social Partnership**, which involves the Austrian Chamber of Commerce, the Federal Chamber of Labour as well as the Austrian Federation of Trade Unions and the Standing Committee of the Presidents of the Austrian Chambers of Agriculture, critics of such a system might argue that this system of institutionalised dialogue sometimes delays the decision making processes and the adoption of new policy measures. Nevertheless, this institution has for social and political reasons proved to be very helpful and efficient in many cases. Furthermore, environmental aspects are more and more taken into account.

Furthermore, it has to be admitted that there is no similar **institutionalised partnership in the environment field**. This is mainly due to the fact that environmental concerns have been attracting public attention for a much shorter time. As a consequence - and this certainly is a positive development - the dialogue between the government on the one hand and research institutes and NGOs in the environment field on the other has been increasing enormously during the last couple of years.

## BELGIUM

**Question 1. What steps, since the last review of their implementation, has your Government taken to deepen the implementation of the four procedural guidelines on trade and the environment?**

### *Guideline A. Transparency and consultation*

The efforts to improve co-ordination between the areas of trade and environment policy, already underlined in the previous reply of Belgium in 1995, have been intensified. This co-ordination and transparency clearly involves not only the federal government level, but also the regions, as well as non governmental actors.

First of all we refer, as in our previous answer in 1995, to the weekly or two-weekly co-ordination of international environment policies by the Co-ordination Committee for International Environmental Policy (or CCIEP), being more aware of the interface between trade and environment.

Secondly, under this CCIEP a *working group on trade and environment* issues was created in 1995, that meets regularly to co-ordinate positions on trade and environment matters, and has followed closely dossiers as:

- the working program of the CTE of the WTO;
- the Belgian position in the negotiation or implementation of different MEAs such as PIC, biosafety, waste transfers. ...

It is chaired by the Director of External economic relations of the Ministry of Foreign Affairs.

Thirdly, in 1997 an *Interdepartmental Commission on Sustainable Development* was created, aimed at stimulating sustainable development approaches in all ministries of the federal government. The Ministry of Foreign Affairs is one of them. Contrary to the CCIEP and its working group on trade and environment, it does not formulate external policy views but focuses on procedures and mechanisms to introduce sustainable development views in the departments concerned.

Lastly, on the governmental field we mention the establishment of systematic *co-ordinations* by the Ministry of Foreign Affairs of the positions taken in the almost permanent run-up and follow-up of the Commission on Sustainable Development of the UN, in which trade issues play also are present.

The co-ordination with non governmental parties in the social and economic area remains as extensive as it was (see answer of Belgium in 1995). Nevertheless we need to mention the recent establishment of a *Platform between the national and the three regional business federations of Belgium*, aimed at following international environment policies and of course its trade implications, more closely, and establishing a timely dialogue with governmental actors.

Finally we need to mention that the National Council for Sustainable Development has been reformed into the *Federal Council for Sustainable Development*. It consists as before of representatives of governments, industry, labour unions, environmental and development NGOs, and the academic world. It has stepped up its interest in the field of environment and trade issues. It is also important to mention that the Federal State has adopted a new law on “Product Standards aiming at the promotion of sustainable production and consumption patterns in the field of health and environment”.

As explained in the preliminaries, the laws have been adopted to conform with the new international commitments, especially Agenda 21, WTO Rules and OECD Policy Guidelines.

Transparency and consultation with civil society and corporate society are considered as a very important step in the implementation of the law.

New forms of co-operation with stakeholders are proposed to engage along a sustainable path referred to as ‘a responsible society’.

An ‘integrated product policy’ will be defined in collaboration with all actors of civil society and submitted for dialogue to the Federal Council for Sustainable Development, the Conseil Superior d’Hygiene’, the Consumption Council, the Economic Central Council and Regional governments.

#### ***Guideline B. Review of positions on trade and environment***

As under the previous reply in 1995, Belgium has *not carried out a comprehensive review across the board, of its trade and environment views*, but at the same time the examination of the interface between trade and environment policies is an integral part of reflections on internal and foreign policy dossiers.

As previously we underline that those reflections are probably to a greater extent undertaken *within the framework of the EU*, given its exclusive competence on trade matters.

One should be aware of the modifications in the rules of the EU Treaty, through the Amsterdam Treaty, enhancing slightly the possibility for EU Member States to adopt *more stringent national product standards than those adopted at EU level*.

#### ***Guideline C. International environment co-operation***

Of course Belgium actively participates in numerous international fora where environmental negotiations or policy dialogue takes place. The importance of international co-operation for a small open economy as Belgium has been examined and evaluated in a detailed way in the recent *Environment Performance Review of Belgium* by the OECD, published in October 1998.

#### ***Guideline D. Dispute settlements***

In the framework of the new federal law on “Product standards’(21 December 1998), dispute settlement mechanisms are not designed in a fixed way, but room has been provided for in the law in order to conform without delays with WTO Rules or any other multilateral commitments and regulations coming up in the field of trade and environment. The Law provides for ‘a flexible attitude’ in the choice of mechanisms in order to prevent any lags in the resolution of future or evolving disputes.

**Question 2. Have the procedural guidelines on trade and environment resulted in any new government policies, procedures or publications (those representing new initiatives since the 1995 review)?**

Since the 1995 review, important new accents have been put on government policies through a general emphasis on social and environmental concerns.

This has been specially the case in the MAI negotiations. Following the difficulties in the negotiations and the critics coming from civil society, particularly on the consequences of foreign investment for environment and social rules and standards, transparency has been increased by informations and consultations with NGO and trade unions. Also, the Government has asked a special report on the subject to the Central Council for Economy and to the Federal Council for Sustainable Development.

In the WTO framework, the implementation of the CTE new mandate required increased internal co-operation (see question 1 about the CCIEP Working Group on Trade and Environment)

Growing concerns from NGOs and the public opinion on the relation between trade and environment have also contributed to this evolution.

In the framework of export credits, the Ducroire endorsed the agreement about the voluntary exchange of information concerning projects with an environmental impact. Moreover, the Belgian authorities examine this aspect in the field of concessional aid.

**Question 3. What difficulties has your government encountered in implementing the procedural guidelines on trade and environment?**

As stated already in 1995, new trend in government policies and consultations procedures on trade and environment, do not directly derive from the Procedural Guidelines, but rather from a more general awareness on trade and environment linkages, and from the necessity for policy co-ordination under the pressure of diverse interests.

The complexity of the matter, together with the evolving nature of the trade and environment topic in a more globalized world, are among the major difficulties in dealing with this matter.

The process of developing internally co-ordinated and consolidated positions is rather new and still difficult to achieve. The promotion of an educational process together with additional human and financial resources could help to reach this goal.

## CANADA

**Question 1. What steps, since the last review of their implementation, has your government taken to deepen the implementation of the four procedural guidelines on trade and environment?**

(Please note that the examples provided in this response should not be considered exhaustive.)

***Guideline A. Transparency and Consultation***

Openness and consultation are fundamental to Canadian trade and environmental policy and will be continued in order to ensure the support of Canadians. The level of transparency in Canada is being continually improved by providing access to more information electronically on various government websites, through published material and outreach programs, and through information exchange at a variety of domestic and international meetings. Consultations with provincial and territorial governments, the private sector, environmental NGOs and other organizations are part of the process followed by Canada to prepare for international negotiations and discussions. The Canadian government also welcomes consultations with all interested groups.

The main consultative mechanism on trade and environment matters in Canada has been the Task Force on Trade and Environment established under the International Trade Advisory Committee (ITAC) that advises the Minister of International Trade on international trade issues. In addition, the Minister of International Trade is also engaged in consultations with Sectoral Advisory Groups on International Trade (SAGITs), which are panels of private-sector individuals drawn from small and medium-sized enterprises, financial institutions, industry associations, NGOs and academia. The Environment SAGIT, Mining, Metals and Minerals SAGIT, Forestry Products SAGIT and Energy, Chemicals and Plastics SAGIT all deal with sectoral trade and environment issues.

Canadian legislation which created the Office of the Commissioner of the Environment and Sustainable Development in the Office of the Auditor General also required all government departments and some agencies to prepare and table sustainable development strategies, in consultation with stakeholders, by the end of 1997. Departments were required to examine and document how to ensure that all of their operations, policy development and decision-making supported all three components of sustainable development (economic prosperity, social development and environmental protection). All departments have tabled such plans and a number have already been reviewed by the Commission.

Canada has consistently called for greater transparency at a variety of international fora, including the WTO. At the WTO's Second Ministerial Conference in May 1998, Canada's Minister for International Trade made clear that greater transparency of WTO activities was central to building and reinforcing public support for the multilateral trading system. Canada subsequently circulated a paper calling for quicker document derestriction (including Panel reports) and more outreach by the WTO Secretariat. In October 1998, Canada, together with the USA, placed before the WTO General Council a draft decision on faster document derestriction. Canada believes that the 1997 and 1998 Trade and Environment NGO symposia convened by the WTO Secretariat made a valuable contribution towards

increased understanding and supports the agreement to hold a high level dialogue on trade and environment in 1999.

Specific examples for each of the headings set out in the questionnaire under this guideline follow:

a) *Regional Trade or Environmental Bodies*

The North American Commission for Environmental Cooperation (CEC), established under the North American Agreement on Environmental Cooperation (NAAEC) as a complementary agreement to the NAFTA, has continued its work to assist member countries in promoting a mutually supportive relationship between environmental and trade policies. This work has included the creation of an on-line comprehensive summary of the environmental law of the three NAFTA partners and the implementation of the citizen submission procedure.

The citizen submission procedure allows citizens to seek an investigation by the CEC when they believe that a Party to the NAAEC is failing in the effective enforcement of its environmental laws. In three years the CEC has reviewed 16 submissions from citizens of the three countries. Currently, four submissions involving Canada under Article 14 of NAAEC are active. These pertain to: 1) the protection of fish habitat from damage caused by hydro-electric dams in B.C., 2) the enforcement of environmental laws with respect to pork producers in Québec, 3) the general application and enforcement of habitat protection sections of the Fisheries Act and the Canadian Environmental Assessment Act (CEAA), and 4) the enforcement of sections of the Fisheries Act to protect fish and fish habitat from the negative environmental impacts of the mining industry in British Columbia. A Factual Record is being prepared in respect of the hydro-electric dams submission; the Canadian government's responses have been filed with the Secretariat with regard to the pork and Fisheries Act/CEAA submissions; and the remaining submission concerning fish habitat and the B.C. mining industry is still under consideration by the CEC Secretariat as to whether a response by Canada is merited.

The CEC also promotes cooperation among the environmental enforcement agencies of the NAFTA countries by exchanging information on current policies and practices, and by conducting several training exercises.

The Canada-Chile Commission for Environmental Cooperation, established under the Agreement on Environmental Cooperation between the Government of Canada and the Government of the Republic of Chile, a complementary agreement to the Canada-Chile Free Trade Agreement, held the first meeting of the Council and the Joint Public Advisory Committee in November 1998 and adopted a program of work to assist in the promotion of a mutually supportive relationship between environment and trade objectives.

In addition, Canada has been instrumental in the establishment of the Free Trade Area of the Americas' (FTAA) Committee of Government Representatives on the Participation of Civil Society. The objective of the Committee is to receive, analyze and present the range of views from a wide cross-section of the hemisphere's citizens, including business, labour, environmental and academic groups, on how the trade-related aspects of the FTAA should evolve. The Committee's work complements Canada's domestic plans to consult its citizens on the FTAA and other major initiatives.

b) *Various Ministries/National Coordination Bodies*

In addition to ongoing consultations on climate change issues, Canada has established a National Secretariat, staffed by officials from the federal and provincial governments, to support the development of a national implementation strategy for the Kyoto Protocol. A federal climate change secretariat supports the work of the National Secretariat. A series of "issue tables" have been established to provide expert

input into the analysis and identification of opportunities to reduce greenhouse gas emissions. Some 450 experts from all levels of government, business and industry, environmental groups and other interest groups are participating in the issue tables. One of these tables is advising on issues related to the international flexibility mechanisms agreed to in the Kyoto Protocol. In addition to the tables, a Stakeholder Advisory Group, comprised principally of industry and NGO representatives, provides recommendations for the development of Canadian positions for major international climate change negotiating sessions.

The Biosafety Advisory Group, which includes federal, provincial and non-governmental representatives, is consulted regularly in association with the ongoing negotiations of a Protocol on Biosafety to the Convention on Biological Diversity.

*c) Sub-national Administrations*

Federal government officials met with representatives of provincial and territorial governments at each stage in the negotiations for the UN-ECE LRTAP Protocols on Persistent Organic Pollutants (POPs) and Heavy Metals to ensure that the obligations could be implemented within Canada. In preparation for ratification of the two Protocols, discussions were again held with provincial and territorial officials to confirm that there were no problems fulfilling all Protocol obligations. Similar consultations will continue during negotiation of a binding global agreement to address POPs under the auspices of the United Nations Environment Program (UNEP).

Trade meetings involve the participation of federal, provincial and territorial trade and industrial policy experts and are convened four times each year. Consultations focus on key international trade policy issues with trade and environment issues being regularly raised.

*d) Environmental NGOs, Business/Industry Community Representatives*

Canada has been an active supporter of regular WTO trade and environment symposia in which where it has actively participated. The Canadian government provided financial support for the symposia held in 1997 and 1998.

Briefings on the Biosafety Protocol discussions are a recurring agenda item at meetings of the Agriculture Sector Advisory Group on International Trade. This panel of private-sector individuals drawn from small and medium-sized enterprises, financial institutions, business associations and academia provides comprehensive advice to the Minister for International Trade.

Canada has consulted industry, as well as environmental and Aboriginal organizations, with respect to the negotiations for the UN-ECE LRTAP Protocols on Persistent Organic Pollutants (POPs) and Heavy Metals. These consultations ensured broad based support for the Canadian position and will continue during negotiations on a binding global agreement to address POPs under the auspices of UNEP.

Consultations also took place in the context of OECD negotiations for a Multilateral Agreement on Investment (MAI) which have now ceased with the termination of these negotiations. In particular, consultations on the relationship of the proposed MAI to environmental policies and measures were conducted during the summer of 1998 with other levels of government, industry and environmental groups.

***Guideline B. Trade and environment Reviews***

During the recent revision of federal government's principal environmental law, the Canadian Environmental Protection Act (CEPA), possible trade implications were identified and assessed in consultation with other stakeholders. This legislation is currently under consideration by Parliament.

In order to prepare for the ratification of the Kyoto Protocol, a comprehensive national process involving 450 experts from all levels of government, business and industry, environmental groups and other interest groups has been launched. This process will help develop Canada's National Implementation Strategy to achieve its Kyoto obligation of reducing Canada's greenhouse gas emissions by 6% below 1990 levels for the period 2008 to 2012. These experts have been directed to incorporate into their recommendations advice on anticipated environmental impacts of proposed implementation measures, following an agreed template. The process also includes the examination of the trade implications of Canada's implementation of the Protocol.

The North American Commission for Environmental Cooperation (CEC), established under the North American Agreement on Environmental Cooperations as a complementary agreement to the NAFTA, measures and compares North American pollution release and transfer registers yearly to assist governments, industry and nongovernmental organizations in setting and measuring the attainment of environmental goals. The CEC is also in the process of developing a method that will help people assess the environmental impact of the North American Free Trade Agreement.

Although an environmental impact analysis was not completed, extensive consultations with provincial governments, the private sector, environmental NGOs and other organizations informed Canada's understanding and analysis of the broader impacts of the OECD Multilateral Agreement on Investment during the negotiations that have now been terminated.

***Guideline C. International Environmental Co-operation***

Canada strongly supports the work being done at the WTO Committee on Trade and Environment (CTE) and has made joint submissions to both the CTE and the WTO Committee on Technical Barriers to Trade (TBT) on eco-labelling and our national experience paper on forestry. In addition, Canada has actively participated in multilateral environmental agreement meetings and negotiations involving trade issues including: CITES COP 10; Montreal Protocol MOP 9 and 10; Basel COP 4; and the recently concluded PIC Convention. Canada is also actively involved in the negotiations of a Biosafety Protocol under the auspices of the UN Convention on Biological Diversity and ongoing work with respect to the Kyoto Protocol to the Convention on Climate Change. Canada ratified the UN ECE Convention on Environmental Impact Assessment in a Transboundary context in May 1998 and has been actively engaged in negotiations on a regional transboundary environmental impact assessment agreement with its NAFTA partners.

The North American Commission for Environmental Cooperation (CEC) has partnered with a trinational team of experts to create a regional database of environmental technologies to help small and medium size enterprises find the clean technologies they need. The Services and Information on Ecotechnologies (SIE) project is now in the pilot phase. In addition, the CEC Sound Management of Chemicals project, now in its third year, directly addresses long range pollution problems by fostering actions to reduce, and then phase out, the use of targeted chemicals (mercury, PCBs, chlordane, DDT, dioxins, furans, hexa-chlorobenzene, lead and lindane) in North America. The CEC will also work with the three countries and the private sector to develop North American opportunities for the Clean Development Mechanism under the Kyoto Protocol.

Canada continues to take a leading role in the promotion of sustainable forest management worldwide, including through participating at the Intergovernmental Forum on Forests (IFF) under the UN Commission on Sustainable Development (CSD). Costa Rica and Canada jointly announced in mid-1998 a series of inter-sessional meetings to build consensus on the merits and potential elements of legally binding instruments for all types of forests. This was in direct response to requests made by many countries during the previous international discussion on forests, the CSD's Intergovernmental Panel on Forests, for more information on the objectives, benefits and substance of international instruments. The Costa Rica/Canada initiative aims to provide a balanced, unbiased examination of the potential elements for a range of legally binding instruments on forests.

Canada actively participated in the successful UN-ECE LRTAP negotiations that developed the Protocols on Persistent Organic Pollutants (POPs) and Heavy Metals. Canada signed both Protocols in June 1998 and will ratify them in the near future. Canada is also participating at the negotiations for a legally binding global treaty to address 12 POPs under the auspices of the United Nations Environment Programme (UNEP).

Under the Montreal Protocol, Canada has also supported the adoption of a decision of the Parties establishing a type of "prior informed consent procedure" that would assist Parties, that do not consent to the importation of certain products and equipment containing ozone depleting substances, to ensure that such products and equipment are not exported to them. Canada argued for a decision that was both environmentally sound and compatible with existing international trade obligations.

#### ***Guideline D. Dispute settlement***

NAFTA countries have committed to complete an agreement on transboundary environmental impact assessment to ensure that the public and government of a potentially effected country can participate in the assessment of projects with transboundary effects.

The NAFTA investment chapter (Chapter 11) provides for investor-State dispute settlement when a foreign investor believes that a NAFTA Party has breached its Chapter 11 obligations and the foreign investor believes it has suffered damages.

Canada has been faced with two NAFTA Chapter 11 challenges involving environmental issues. The first challenge related to Bill C-29 (a measure one regulating the interprovincial trade in and importation for commercial purposes of the gasoline additive MMT in order to control the product to deal with its health and environmental effects). The Chapter 11 proceeding did not address the merits of the complaint. It was settled on 20 July 1998, after Canada accepted a recommendation from a domestic panel (constituted under Canada's Agreement on Internal Trade) that the measure was contrary to that domestic trade agreement. The second challenge is to an interim order (effective from 20 November 1995, to 7 February 1997) that prohibited the export of PCB wastes. Arbitration proceedings are underway.

The Agreements on International Humane Trapping Standards, negotiated by Canada, the United States, the European Union and Russia, are a useful model for the increasing number of international issues where economic interests are in conflict with environmental concerns. The Canadian position, that a wide ranging agreement on the definition of humane traps would be of greater value from a trade and animal welfare perspective than a simple domestic ban on jaw-type leghold traps, was successfully adopted and effectively avoided a trade dispute. In addition to setting species specific trap standards, the agreement allows for a phase out period for traps that do not meet the standard, establishes training requirements and provides guidelines for trap usage.

In addition, Canada has been actively engaged in negotiations to revise the dispute settlement procedure that exists under the Basel Convention to make it more effective. Canada also supports the creation of a compliance regime under the Basel Convention to deal with a variety of problems or issues, thus avoiding disputes, in addition to a compulsory and binding dispute resolution mechanism.

**Question 2. Have the procedural guidelines on trade and environment resulted in any new government policies, procedures or publications (those representing new initiatives since the 1995 review)?**

As previously noted, the procedural guidelines emphasize an existing trend in Canada towards integration of environmental, trade and other economic policies, including labour and cultural policies. They have not, in themselves, led to the introduction of any new policies, but have reinforced existing procedures.

The Canadian approach to the OECD negotiations for a Multilateral Agreement on Investment (MAI), which have recently terminated, is just one example, among many, of developments in Canada that are particularly consistent with the procedural guidelines.

Canada's participation in the negotiations was constructive, both in stimulating policy discussion on key investment issues, and in ensuring that Canada's clearly defined and long-established bottom lines - to fully safeguard our freedom of action in key areas, including health care, social programs, culture, labour and the environment - were upheld throughout the negotiation process.

The Government of Canada is committed to an open and constructive dialogue with Canadians on all international trade and investment negotiations. With respect to the MAI, hearings held by the Parliamentary Standing Committee on Foreign Affairs and International Trade provided an important opportunity for a formal examination of the issues and broad participation by Canadians. Information on the MAI negotiations and Canada's bottom lines were placed on a government website and new versions of the MAI consolidated draft working text were posted as they became available. Overall, the MAI consultation process allowed the Government to hear from thousands of Canadians, correspond with over 70 municipalities, and meet on a continuing basis with provincial/territorial representatives and with more than 60 regional, professional, sectoral and focussed interest groups. In particular, consultations on the relationship of a potential MAI to environmental policies and measures were conducted during the summer of 1998 with other levels of government, industry and environmental groups.

Although an environmental impact analysis of the MAI was not completed, extensive consultations with provincial government environment officials, the private sector, environmental NGOs and other organizations informed Canada's understanding and analysis of the issues necessary to the development of an agreed Canadian position on environmental matters.

**Question 3. What difficulties has your government encountered in implementing the procedural guidelines on trade and environment?**

The integration of trade and environmental considerations is an ongoing process. In addition to the difficulties listed in our 1995 response, the time and resource intensity of trade and environment reviews in a period of budget cut-backs, given the number of key players, has been a challenge.

## CZECH REPUBLIC

**Question 1. What steps, since the last review of their implementation, has your government taken to deepen the implementation of the four procedural guidelines on trade and environment?**

The Czech Republic is a member of OECD since December 1995 and therefore did not participated on the review of implementation of the OECD procedural guidelines on trade and environment in 1995. So only after Joint session of experts on trade and environment in May this year we realised their importance and took first steps for their adoption by government and their dissemination to different relevant bodies.

Unfortunately this year we had three changes of government so even when our Ministry of the Environment immediately translated guidelines with relevant comments into Czech and after internal comments made a proposal for the adoption of the OECD procedural guidelines on trade and environment by Czech government there were naturally always more important things to be solved by government so that only now we have send these guidelines to all ministries for external comments and hope that they will be adopted by government at the beginning of December 1998. After adoption of the OECD procedural guidelines on trade and environment our ministry plans to disseminate this information to lower levels of state administration and to other non-governmental parties, including business, industry, environmental and academic circles.

But even now before official adoption of the OECD procedural guidelines on trade and environment we have already in place policies and procedures relevant to many aspects of the guidelines. But we hope that after the adoption of the guidelines by government these policies and procedures will be reviewed, and where necessary improved. At our ministry we are now preparing new actualised version of the State Environmental Policy, where some principles from the OECD procedural guidelines on trade and environment will be included.

***Guideline A. Transparency and consultation***

The Czech government already follows the principles of transparency and consultation in respect of development, introduction and implementation of trade and environmental policies. At the Ministry of the Environment there is a consultative forum on environmental issues with industry, business and NGOs. Environmental awareness has significantly increased over the last decade, especially after velvet revolution. The Czech Republic supports transparency issue during discussion and debate of different items of working agenda of the Committee on Trade and Environment of the WTO. In May this year was also approved an Act on the Right on Access to Information on Environmental Matters No. 123/1998 Coll.

***Guideline B. Trade and environmental reviews***

Statistical Environmental Yearbook of the Czech Republic is published every year. Recently in April 1998 a Survey of the Czech Economy and MIT Sectors in 1997 was published by the Ministry of Industry and Trade (MIT) as well as other Reviews on Trade but so far no systematic trade and environment reviews have been carried out to assess the impacts of policies or agreements on the other policy area. Czechoslovakia also actively participated during negotiations in GATT since the beginning and in other multilateral environmental agreements. Special attention is also given to the debate or deliberation on the Multilateral Agreement on Investments (MAI) in OECD.

***Guideline C. International environmental co-operation***

The Czech Republic has been actively involved in the negotiation of many international agreements, for example in the Montreal Protocol, the Basel Convention, the Convention on Biodiversity, the Framework Convention on Climate Change. Next week our ambassador at the United Nations will sign the Kyoto Protocol. The Czech Republic hosted the first pan-European Conference of Environment Ministers in 1991 in Dobris and actively participated on following conferences "Environment for Europe". Since the Sofia Conference in October 1995 the Czech Republic chairs so called Sofia Initiative on Economic Instruments (SIEI) where closely co-operates with the Regional Environmental Centre for Central and Eastern Europe in Szentendre, Hungary. On the 4<sup>th</sup> „Environment for Europe“ Ministerial Conference in Aarhus especially supported energy efficiency policy and the Energy Conservation Initiative. In 1995 the Workshop on Economic Instruments for Sustainable Development and in 1997 the Workshop of ECE UN and OECD on the Role of Economic Instruments in Integrating Environmental Policy with Sectoral Policies were organised in the Czech Republic. This year at the end of September the Regional Seminar WTO on Trade and Environment was organised in Prague for government officials from central and Eastern Europe and from New Independent States (NIS).

The Czech Republic has own scheme of eco-labelling and supports international co-operation in eco-labelling.

There is whole series of bilateral programmes and agreements in an area of environmental protection e.g. with Germany, Denmark, Netherlands, Slovak Republic and Poland.

There exists a large co-operation with the European Union due to a desire of the CR to enter the EU at the beginning of next century. In some components of environment there is also an co-operation with World Bank and the Global Environmental Facility (e.g. in water and energy sectors).

***Guideline D. Dispute settlement***

The Czech government has not so far been involved in any trade and environmental dispute. The Czech Republic supports the embodiments of dispute settlement mechanisms in all forum such as WTO, MEAs and MAI with multilateral and transparency approaches and with the insurance of sufficient expertise.

**Question 2. Have the procedural guidelines on trade and environment resulted in any new government policies, procedures or publications?**

There is no answer on this question as our government so far did not adopted the OECD procedural guidelines on trade and environment. But again our government observes transparency and consultation during the preparation of national positions for certain important MEA negotiations (e.g. in climate change and we have made the same commitments namely 8% on abatement of CO<sub>2</sub> as the EU).

**Question 3. What difficulties, if any, has your government encountered in implementing the procedural guidelines on trade and environment?**

We have experienced so far a lot of difficulties e.g. lack of inter ministerial co-ordination. But we can say that the co-operation between the ministry of the environment (MoE) and the ministry of industry and trade (MIT) slowly improves especially in energy sector. We also expect a lack of NGO experience with the international trade and environment debate.

## DENMARK

The four procedural guidelines reflect principles which are important to trade and environment work. Denmark has, as mentioned in the first review of their implementation, followed the principles before they were put into words for the purpose of the OECD trade and environment work.

Against this background there has been limited scope for a deepening of the implementation. With regard to transparency and consultation interministerial work and the dialogue with civil society, including NGOs continue. Trade negotiations in which Denmark is involved are closely monitored from an environmental perspective as part of national trade and environment work. Environmental negotiations are similarly monitored from a trade policy view-point. A mechanism involving stakeholders has been set up with a view to securing a full role for trade and the environment in connection with the Millennium Round. Recent environmental consultations at the international level, including the EU-level, encompass, among others, CITES, the Montreal Protocol, the Kyoto Protocol, the Basel Convention and the PIC Convention. Transparency and consultation also take place regarding environment policy related trade disputes.

In accordance with the procedural guidelines the government participates actively in seminars and debates with civil society on trade and environment issues. It is the view of the Danish Government that international problems are best solved through internationally agreed solutions. As a small country with a comparatively very big foreign trade Denmark is among the staunchest supporters of solving problems multilaterally. Denmark shares the view that disputes between members of an MEA should preferably be solved in the framework of the MEA in cases where the dispute relates to that agreement.

In work to implement the guidelines no particular difficulties have been encountered.

## EUROPEAN COMMISSION

### **Questions 1 & 2. Implementation and impact of OECD procedural guidelines**

#### *Guideline A. Transparency and consultation*

Taking questions 1 & 2 (implementation and impact of procedural guidelines) together, it would seem appropriate to consider OECD Guideline A from two separate perspectives: (1) internally within the Commission and with other Community institutions; and (2) externally.

#### *Internal Community Transparency and Consultation*

##### *A. Process within the Commission*

(a) The various sectoral Directorates General (DGs) within the Commission co-operate on all aspects of Community policy through **inter-services consultations** convened as appropriate. For example, as regards trade and environment, the three main interested DGs, namely DG I (External Relations), DG XI (Environmental Protection) and DG III (Industrial Policy), have been intensively working together through an inter-service process in order to finalise the Commission's Communication on Trade and the Environment which sets out the Commission's policy approach on trade and environment matters (COM (96) 54final, adopted on 28.02.96)). Since then, such a co-operative process has been gradually intensified in view of the fact that this matter touches upon an increasingly large number of inter-connected issues and it also getting increasingly sensitive.

It should also be noted that the Commission's Communication makes an explicit reference to the 1993 OECD Guidelines.

(b) This inter-service co-operation is reinforced at a more practical and detailed level by further more general informative dialogue between interested services. Such dialogue takes place, in particular, for the preparation of the Commission's positions on issues discussed in the WTO (CTE and connected WTO Committees) in particular and other more specific matters such as ongoing MEA negotiations and trade-related aspects of the Community Environmental Policy.

##### *B. Transparency and Consultation with other Community institutions*

(a) The Commission co-operates closely with other Community institutions. To start with, the above mentioned Commission's Communication on the relationship between trade and environment served as a basis for a general debate with the **Council** and the **European Parliament** on this matter and allowed for intense discussions among the three institutions that resulted in a more coherent Community position in this respect.

(b) The Commission conducts regular meetings of an informal nature with Community national experts on trade and environment. At such meetings **Member States** are generally represented by officials from both the Environment and the Trade Ministries, as well as other Ministries. These meetings serve to enable the European Union to prepare common positions on trade and environment issues to be presented and discussed in various international fora, notably in the CTE. As far as the **European Parliament** is concerned, the Commission provides it with information on request on developments on trade and environment related issues and Commissioners also brief, on their own initiative, the relevant Committees.

*C. External transparency and consultation*

(a) Following the adoption of its 1996 communication on trade and environment, and in order to allow for a broad external consultation, the Commission asked the European Partners for the Environment (EPE) to convene a conference involving key interested stakeholders (independent experts, private sector enterprises, trade unions, consumer organisations and NGOs) to address the relationship between trade and environment. The conference was held in June 1996 and its proceedings have been published.

(b) On the basis of the Commission's Fifth Environmental Action Programme (1993-2000), a so-called "**Consultative Forum**" was established as a network consisting of external and independent experts that should aim at providing the Commission with recommendations on its environmental policy. The Consultative Forum is currently working on trade and environment.

(c) In the course of ongoing MEA negotiations the Commission makes a point of regularly consulting interested **NGOs** in both the industry and environmental sectors. This ensures that all interested stakeholders are informed as of the Community position and have an opportunity to make their position known to the Community. The Commission believes that, for the sake of transparency, such consultations are increasingly essential and should therefore be given appropriate consideration, both in the Community decision-making but also when negotiating at the international level.

**Guideline B. Trade and environment reviews**

(for questions 1 and 2 merged)

(a) As far as **trade reviews** are concerned, the situation within the Community is as follows : when preparing new environment or environment-related proposals, a trade review is being done where appropriate by Directorate General XI (environmental protection) where a specific unit is responsible for trade and environment matters and consequently for providing assistance to technical units with respect to trade implications under the WTO framework (a so-called internal "Link" group was created in DG XI for addressing international issues and notably trade and environment and allowing for exchanges of views and a better understanding of the issue and its implications). A traditional inter-service process is then carried out whereby in particular DG I (external relations), DG III (industrial policy and responsible for TBT matters) and the Legal Service are given due opportunity to comment on potential trade impacts.

(b) With regard to **environmental reviews**, it should be noted that new developments in Community law have recently reinforced the importance to be given to environmental considerations into Community policies in general. The integration of environmental considerations into other Community policies has actually become an overriding principle in the Amsterdam Treaty whereby environmental considerations are to be integrated into the definition and implementation of Community policies and activities.

The Commission Communication “Partnership for Integration” of 27 May 1998 [COM(1998)333] addressed to the Cardiff Council takes this point up and under “Guidelines for a Partnership for Integration of Environment into other policies” states “the Commission should ensure that all key policy initiatives integrate concern for the environment. A detailed environmental assessment and a description of how the results of such assessment have been incorporated should accompany all key proposals where an important environmental effect is expected. The Commission should refine its methodology for such assessments.”

The Communication calls upon the Council to “identify priority actions for the incorporation of environmental requirements [in key policy areas] and foresee effective mechanisms for monitoring their implementation.” It identifies two “urgent policy packages” as priority: Agenda 2000 and the Implementation of the Kyoto Protocol.

Against this background and recognising the need for such a specific instrument for assessing environmental impacts of trade agreements, the Commission has commissioned a study aiming at developing a methodology for conducting such reviews that should in principle be available by the end of 1998.

#### ***Guideline C. International environmental co-operation***

The Community has consistently reaffirmed its belief that the most effective way of dealing with global environmental problems is through international and multilateral co-operation and agreements (see COM (96)54 final discussed *supra*) and is therefore attaching a great importance to international environmental co-operation. To follow on this, the Commission considers that Community positions in environmental negotiations (MEAs but also discussions of general nature with UNEP and UNCTAD) need to be well-prepared, involving trade experts as appropriate. This is systematically being done in MEAs negotiations where trade-related measures are at stake (recent PIC and ongoing biosafety negotiations for instance). In parallel, this commitment in favour of a strong international environmental co-operation needs to be properly reflected in trade-oriented fora so as to ensure that these two areas are mutually supportive. For this purpose, a continuous consultative process between trade and environment experts (within the Commission and with Member States’ experts) is needed to allow for consolidated, truly co-ordinated positions ensuring thereby the necessary coherence and mutual supportiveness. Ensuring a proper co-ordination is actually essential in order to avoid situations where diverging positions would be taken in different fora, depending on whether they would be trade or environment-oriented.

#### ***Guideline D. Dispute settlement***

##### **Question 1. What steps, since the last review of their implementation, has your government taken to deepen the implementation of the four procedural guidelines on trade and environment?**

The EC Submission to the WTO on the review of the Dispute Settlement Understanding (see copy attached) indicates that the Community is keen to see progress in this area. Issue 11 of the EC’s submission is particularly relevant, as it concerns transparency of the Dispute Settlement mechanism and possible opening to public attendance. In its submission, the EC proposes to make available to the public all arguments that are put to panels and the Appellate Body, as well as suggesting that hearings before panels and the Appellate Body be opened to the public or that interested parties be allowed to express their views to the panel for instance by written contribution. The EC is clearly taking very “progressive” positions.

**Question 2. Have the procedural guidelines on trade and environment resulted in any new government policies, procedures or publications?**

In trade and environment related cases, the Commission has taken on board the spirit of the Guidelines. The *Shrimps–Turtle* dispute constitutes a good example.

The EC positions have emerged through a process of co-ordination among various Commission services where the trade, environment and fishery/agricultural concerns have all been evaluated and assessed on an equal footing.

Input from non-governmental organisation has been carefully evaluated and has, to a certain extent, had an impact on our thinking. The EC submission to the Appellate Body speaks for itself.

**Question 3. What difficulties, if any, has your government encountered in implementing the procedural guidelines on trade and environment?**

(a) One of the major difficulties in dealing with trade and environment is the intrinsic complexity of the issue which clearly requires a high level of expertise. This also implies that the process for developing internally co-ordinated and consolidated positions can be long and can necessitate an educational process beforehand.

(b) The issue is still, to some extent, relatively new and rapidly evolving. This means in particular that new methodological instruments are still in the process of being put in place to help clarifying and assessing more concretely the trade and environment inter-linkages, such as in particular the environmental reviews of trade agreements. It is also quite clear that using such instrument might entail additional human and financial resources.

(c) Beyond the complexity of the subject, it should also be mentioned that the relationship between trade and environment is rapidly evolving as globalisation is growing and is touching upon an increasing number of topics. As a result, this is increasingly being addressed from different angles and in different fora, which might result in difficulties for ensuring a timely co-ordination and consistency in the overall approach, both at national and international level.

**ATTACHMENT TO THE EC RESPONSE TO THE QUESTIONNAIRE ON THE  
IMPLEMENTATION OF THE 1993 PROCEDURAL GUIDELINES****Discussion paper from the European Communities*****Subject: Review of the Dispute Settlement Understanding (DSU)***

The EC attaches great importance to the new dispute settlement system, which was one of the key results of the Uruguay Round. As Article 3.2 of the DSU rightly states, the new system, with the Appellate Body at its core, is “a central element in providing security and predictability to the multilateral system”. Members’ collective interest in preserving and reinforcing this system surpasses by far their particular interests in the outcome of specific disputes. Overall, the system has functioned well in the first three years of its existence. As is clear from the substance of the EC proposals for reform in this communication, the EC wishes for this system to become even stronger and more effective, while simultaneously increasing the transparency of the procedures.

The DSU aims to settle trade disputes between WTO Members. It does so in two ways: through an amicable solution whenever possible and through a clarification of the legal situation whenever necessary. The DSU review should serve to maintain and, if possible, improve both of these strands, while respecting the overall balance between law and diplomacy. Given the importance Members have given to the legal part of the new dispute settlement system, its quality and professionalism should be optimised. Further improvements can be made in particular with respect to the panel procedure. In addition, this legal procedure operates within a political and diplomatic framework that should be preserved, and strengthened if possible. Certain of the ideas for possible reform indicated below therefore focus on the “amicable solution” strand of dispute settlement, while others relate to the legal strand.

The dispute settlement process can be divided into different phases: consultations, the proceedings before the panel, the proceedings before the Appellate Body, the adoption by the DSB of panel and Appellate Body reports, and implementation. Following this general order, below follows a list of the issues that are suggested by the European Communities for discussion with a view to possible reform of the DSU. The EC has tried to cover what it considers to be key issues only. Furthermore, the list focuses on amendments to the DSU itself. Possible initiatives that do not require amendment of the DSU are not covered in this list. The EC reserves the right to submit additional suggestions for reform at a later stage. It will be important, for instance, to contemplate ways and means of facilitating use of the dispute settlement system by developing countries, in particular the least developed among them, with a view to actively ensuring their rights under WTO rules.

It should be noted that some of the reforms suggested may not be ripe for agreement to be reached within the scope of the DSU review. This does not mean, however, that they should be excluded *a priori*, or that discussion of them would not be useful.

## **Suggestions of the European Communities for possible reform of the DSU**

### **Consultations**

**Issue 1:** The essential function of consultations is to settle disputes amicably. For this purpose, they should be as informal as possible with regard to legal questions and the exploration of possibilities of amicable settlement. In addition, consultations also serve to clearly establish the facts of the case. This is not in contradiction with the first function, since an amicable settlement tends to become more likely when both parties to the dispute have a clear view of the facts. However, in practice, consultations have sometimes been a pure formality, with the defending party refusing to answer any questions or to enter into any kind of discussion.

**Possible reform:** The defending party should accept to answer in writing factual questions that seek to confirm the existence of certain alleged facts or that request precise factual information pertinent to the request for consultations. Those answers should be part of the case file before the panel. This will permit the panel to determine the need for additional fact-finding on its own motion. If the defending party refuses to answer factual questions in writing, the complaining party may proceed forthwith to the panel stage. In addition, also in order to deal with evasive or incomplete answers, the panel should, at the request of the complainant and as a preliminary matter, examine whether relevant factual questions have been adequately answered and, should this not be the case in its view, request the defendant to supply the necessary factual information before any submissions are made. The panel could, of course, also add questions on its own motion. A further rule could specify that if the defendant fails to provide the panel with the information that is in its possession and that the panel requested, the panel will rule on the basis of best information available, which may include the information contained in the complaint. Finally, to stimulate real discussion during consultations, not only on facts, but also on legal aspects and possibilities for an amicable settlement, a rule could clarify that oral discussions (as opposed to information supplied in writing) in the consultation stage cannot be used before the panel.

**Issue 2:** Article 4.4 of the DSU provides that requests for consultation shall give the reasons for the request, including identification of the measures at issue and an indication of the legal basis for the complaint. This establishes the framework within which the consultations take place. However, in practice, the importance of consultations has been undermined by the absence of a clear link in the DSU between the request for consultations and the request for a panel. The risk is that certain measures or claims appear in requests for panels that have not been the object of consultations, contrary to the spirit of the DSU, which attaches primary importance to an amicable settlement.

**Possible reform:** The DSU should state clearly that the measures and legal claims raised in the request for a panel must have been the object of consultations. This could be evidenced before the panel by written documents. The main document would be the request for consultations. Any subsequent new legal claims raised in the course of consultations would have to be confirmed in writing and be followed by a new round of consultations, before a panel was convened, unless the defending party agreed to forego that right. The defending party would have to reply to a request for an additional round of consultations within 10 days and the consultations would have to take place within 30 days. These documents would be part of the case file before the panel. The legal claims in these documents should refer to specific WTO provisions. Requests for panels (but not requests for consultations) should also identify how the measure complained of is alleged to violate the legal provisions mentioned in the request.

**Issue 3:** The DSU provides for co-complainant status, but not for co-defendant status. While co-complainants have full procedural rights, the procedural rights of third parties are much more limited. This is especially important in the phase before the panel and the Appellate Body. The absence of a co-defendant status can cause problems where a measure complained of had been agreed between several WTO Members. This could be any kind of international agreement. One sub-category would be measures agreed in the context of the creation of a customs union or a free-trade area. In such situations, the other parties to the agreement could have a major interest in becoming co-defendant.

Possible reform: One could allow WTO Members who can demonstrate that the measure complained of is part of an international agreement to which they are a party to become co-defendant provided that the defending party agrees. Co-defendants would be bound by the ruling.

**Issue 4:** At present, third parties in consultations that decide that they want to lodge a request for a panel have to undertake new consultations of their own. As a result, considerable time is lost and several panels may come about on the same subject.

Possible reform: A third party at the consultation stage could be given the right to associate itself as co-complainant to the request for a panel lodged by the complainant, at the time when that request is made, without having to first ask its own consultations. It could not, however, add legal claims or measures not raised by the complainant.

**Issue 5:** Where consultations have been conducted under Article XXII, the defending party has sometimes objected to the participation of certain other Members as third parties, either because the Member concerned was considered not to have a substantial trade interest or because that Member had also asked to have its own consultations with the defending party.

Possible reform: At the stage of consultations, any interested Member, subject only to the requirement of notification foreseen in Article 4.11, could be allowed to become a third party to consultations conducted under Article XXII. This avoids discrimination. If the complaining party wants to conduct purely bilateral consultations, it can do so under Article XXIII. This would simplify the current system and remove the curious circumstance that the threshold to become a third party is higher than that for having one's own consultations and for participating as a third party in a panel procedure. Alternatively, the criterion for third party interest could be clarified.

**Issue 6:** There is uncertainty about the contents and timing of a notification of an amicable settlement and about the status of disputes at the consultation stage that have been dormant for a long time.

Possible reform: Article 3.6 could specify that the notification of an amicable settlement should provide full information regarding any changes that will be made to the measure complained about and the timing thereof. The notification should take place within two months after the amicable settlement has been concluded. In addition, a sunset clause could be introduced stating that a request for consultations lapses after one year. If the complaining party wants to pursue a dispute more than one year after it first launched a request for consultations, it would have to request new consultations.

### **Panel procedure**

**Issue 7:** Very real negative trade effects may be created by legislation that allows, but does not oblige, the public authorities to take specifically identified measures. It should be possible to establish the WTO-incompatibility of such measures through dispute settlement.

**Possible reform:** The DSU could provide that rulings may hold such measures to be incompatible with WTO rules. This would remove the current distinction between discretionary and mandatory measures. The normal rules on implementation would apply. Implementation would entail, for instance, amendment of the legislation to eliminate discretionary measures found to be incompatible with WTO obligations.

Further thought needs to be given to how best to deal with a slightly different type of situation, where an official announcement has been made that a specifically identified measure will be taken at a certain point in the future, unless certain conditions are complied with.

**Issue 8:** The usefulness of two DSB meetings to establish a panel can be questioned.

**Possible reform:** In practice, the main advantage of two DSB meetings to establish a panel has been that during this period attention focused on efforts to settle amicably. However, if more time is needed for the Appellate Body (see further below,) without extending the overall time limits too much, thought could be given to establishing panels at the first DSB meeting. This would save 2 to 4 weeks.

**Issue 9:** The current functioning of panels could be improved: The selection of qualified panellists is, in practice, difficult; the role of the WTO Secretariat, important in the current system, lacks transparency; and detailed rules of procedure are missing, for instance with regard to matters of evidence.

**Possible reform:** Because the improvement of the functioning of panels is one of the main topics for reform of the DSU, an extensive discussion should be launched with WTO partners, at all levels of development, on this issue. One way of addressing this would be to introduce, as the logical counterpart to a standing Appellate Body, a standing Panel Body. This body could consist of between 15 and 24 members. The membership would be of high quality and be representative in terms of geography, but members would be independent. They would serve for a fixed period. A clear majority of them should have a background in international trade law; some could be selected based on their broad experience in WTO matters, others (also) for their particular sectoral experience. On the basis of a rotation mechanism, this Panel Body would itself form a chamber of three to deal with each new case as it arises, thus avoiding the current problems with selection of panellists. It would also itself establish detailed rules of procedure for panel procedures, including on preliminary rulings, evidence, fact-finding and technical or scientific advice. Those rules could be made subject to consultation with the Appellate Body and the DSB. By being permanent, this body would show more consistency between rulings than the current panels. It would acquire more WTO knowledge and experience and it would be more “attuned” to the legal guidelines set out by the Appellate Body.

Thought should be given, as an alternative to the standing Panel Body, to whether and, if so, how to permit participation of non-governmental ad hoc members with the nationality of the parties to the dispute and a good knowledge of the legal systems involved in the dispute. They could be appointed by the Director-General of the WTO. The precise modalities would have to be explored. This reform would better guarantee that panellists are familiar with the legal systems of the parties to the dispute and would ensure a greater involvement in the panel system for all Members.

It should be noted that if it were not feasible in the short term to create a permanent body of panellists, there would still be a need for detailed rules of procedure for panels, covering at least the topics mentioned above. In that case, those rules could be established by the Appellate Body, in consultation with the DSB.

**Issue 10:** Sometimes one WTO Member may be attacked on an issue of great legal interest to one or more other WTO Members. At present, other Members can intervene as third parties, but that gives them only limited rights.

Possible reform: One could grant third parties more procedural rights in the proceedings before the panel and the Appellate Body than they have at present. Third parties could be allowed to receive all submissions and other information at the same time as the parties, to make as many third party submissions as the parties to the dispute, and to participate in all hearings. However, they would continue to receive the ruling at the same time as non-participating Members. This greater participation would not change the fact that a ruling by the panel or Appellate Body only applies to the measure complained about and not to similar measures in force in third parties.

**Issue 11:** In order to enhance Members' and the public's confidence in the WTO dispute settlement process, there is a need for greater transparency, especially with respect to the legal process in the panel and Appellate Body stages. At the same time, the essential government-to-government character of WTO dispute settlement should be maintained. Nor should procedures become unduly time-consuming.

Possible reform: Transparency is first and foremost a task for Members' governments towards their own population. However, at WTO level the need for greater transparency is recognised as well, to ensure the general acceptance of the dispute settlement system. This need exists at three different levels, those of Members participating in the dispute (whether as parties or third parties), non-participating Members and the general public.

Firstly, with regard to participating Members' interest in transparency, before each hearing, the parties to the dispute should have access to the file before the panel and the Appellate Body. This file should include not only the submissions but also any analysis and background information provided by the WTO Secretariat and the legal secretariat of the Appellate Body. This will permit the parties to better identify the key issues at stake and, if necessary, to comment during the hearing on the analysis and information provided.

Secondly, with regard to the interest of non-participating Members and the general public in receiving information about dispute settlement proceedings, several improvements might be worth considering.

As of today, when the panel and Appellate Body reports are issued to the WTO Membership, they are also made available to the general public. One possibility might be to make public at that stage not only the reports, but also the documents in the file before the panel or the Appellate Body (e.g. analysis and background notes prepared by the WTO Secretariat, submissions of participating parties which the parties had cleared for publication or non-confidential summaries thereof, etc.). This suggestion might permit a significant shortening of the reports, by eliminating or substantially shortening the arguments section. In developing the precise modalities, the availability in all three official WTO languages of the documents necessary to fully understand individual cases should be ensured.

Thirdly, given the wide societal interest in WTO rulings, there could be merit as well in some involvement of non-participating Members and representatives of the civil society in the the legal proceedings.

One alternative might be to allow interested parties to express their views to the panel, for instance by means of a written contribution. Obviously, some limitations on contributions would have to exist to avoid overwhelming the panel. If they deem it appropriate, panels could then use the right they have under

Article 13 DSU to seek information and technical advice to solicit further information on such contributions. However, neither the panel nor the parties would be obliged to respond to them.

To the extent that a further professionalisation of the panel procedure through the creation of a Panel Body were achieved, consideration could also be given to opening hearings before the panel and the Appellate Body to the public for attendance. The precise modalities thereof would have to be developed (for instance, closed sessions should be possible when confidential information is discussed).

Any new measure to enhance the transparency of panel proceedings should however respect two principles. Firstly, private parties should not be granted rights in the proceedings which go beyond those of non-participating WTO Member States. And, secondly, any involvement of non-participating Member States or private parties in proceedings should neither hinder nor delay the expeditious conduct of business by panels and the Appellate Body.

**Issue 12:** The interim review of Article 15 currently consists of two stages: the factual and argument sections of the draft panel report are reviewed first, followed by the panel's draft findings and conclusions. If, in line with the EC's suggestions on transparency, the argument sections of panel reports are eliminated, a two-step review exercise seems unnecessarily time-consuming.

**Possible reform:** The main advantages of the interim report in practice has been two-fold: it offers a last and sometimes persuasive chance to parties to settle the matter amicably (and thus avoid the substance of the panel report), and it provides a possibility to ensure that the facts are stated correctly. These two objectives could be satisfied if there were a single and relatively short interim review exercise, to examine the entire draft report of the panel at once. This interim review period could last four weeks for example (instead of 9 to 13 at present). It should include a possibility to comment in writing and to reply in writing to the comments of the other party.

**Issue 13:** Article 24.2 provides that at the request of a least-developed country, the Director-General or the Chairman of the DSB shall offer their good offices, conciliation and mediation with a view to assisting the parties to settle a dispute, before a request for a panel is made. It does not, however, oblige the other party to the dispute to accept such an offer.

**Possible reform:** A sentence could be added saying that the parties to the dispute shall enter into such a process, in good faith, in accordance with the provisions of Article 5.

**Issue 14:** The time frame for panels in appendix 3 provides that the complaining party has 3 to 6 weeks to make its first submission and the defending party only 2 to 3 weeks. However, the opposite would be more logical. The defendant should have more time than the complainant, as the latter has had the possibility to prepare its arguments in advance. The same time frame also foresees that the written rebuttals are exchanged simultaneously, where it would be more normal for the complaining party to file its rebuttal first and the defending party after. Thirdly, at the second substantive meeting panels sometimes request the defendant to make its oral rebuttal first, thus giving the last word to the complainant, whereas in fairness the defendant should have the last word.

**Possible reform:** Appendix 3 could be amended to provide that the complainant has 3 to 4 weeks to make its first submission and the defendant 5 to 6 weeks to reply. Each party should also have 2 to 3 weeks for the rebuttal. Written submissions should be made sequentially, complaining party first, defending party after. The same applies for oral statements at hearings.

**Issue 15:** Repetitive panel procedures can come about when Members want to preserve their right to compensation or retaliation by starting a new procedure against a measure that has already been condemned in a procedure launched by another Member. Such procedures can result in uncertainties and unnecessary delays in the dispute settlement process.

Possible reform:

To a certain extent, the risk of repetitive panel procedures could be reduced by limiting hurdles for becoming a co-complainant. However, any time limitation on the right of WTO Members to request the establishment of a panel would have to address at the same time the limitations under Article 22 on compensation/retaliation by WTO Members that have not launched their own panel procedures. The issues raised are therefore complex in nature and require further consideration by WTO Members. The Community may come forward with suggestions at a later stage of the discussions in the DSU review.

**Issue 16:** According to a Ministerial Decision, the standard of review for panels in Article 17.6 of the Anti-Dumping Agreement must be reviewed in 1998 to see “whether it is capable of general application”.

Possible reform: We are not in favour of extending the anti-dumping standard of review, either as a special rule for any other specific WTO area or as a general rule for the DSU. Article 17.6 AD leaves a large margin of appreciation to national authorities in this special field of complex economic assessments. The DSU already contains a normal standard of review for panels, embedded notably in Articles 11 and 19.2 DSU.

**Issue 17:** Article 16.4 provides that panel reports shall be adopted at a DSB meeting within 60 days after their date of circulation, unless an appeal is made. In practice, parties do not always have the full 60 days at their disposal, because the WTO Secretariat tends to place adoption of the report on the agenda of a DSB meeting taking place before the end of the 60-day period. Insufficient time for reflection may lead to unnecessary appeals.

Possible reform: Article 16.4 should be amended to make clear that parties are entitled to use the full 60-day period. The panel report could be adopted either at a specially convened meeting at the end of that period or at the first DSB meeting thereafter. Naturally, if parties agree, adoption could take place before.

### Appellate Body

**Issue 18:** A clear role should be given to the plenary.

Possible reform: The Appellate Body could be given the right to decide whether a case is sufficiently important to rule upon in plenary. This decision could be made either by the President of the Appellate Body or by the Division to which the case was referred. This preliminary decision would have to be taken within a relatively short time frame. Parties should have the right to request the Appellate Body to decide the dispute in plenary.

**Issue 19:** The time limits before the Appellate Body are too short.

Possible reform: The time frame of the proceeding before the Appellate Body in Article 17.5 should be increased from the current 2 to 3 months to 3 to 6 months.

**Issue 20:** The Appellate Body does not have the possibility to send a case back to the panel for re-trial based upon a different interpretation of the law or in order to correct a procedural mistake (remand).

Instead, it must decide the case itself. If there is a lack of necessary factual information, this can lead either to a complete dismissal of the complaint (this has not happened yet) or to the Appellate Body *de facto* establishing new facts itself (which is not within its mandate, but which appears to have occurred in certain cases).

Possible reform: A possibility of remand could be considered if it does not unduly delay the procedure as a whole. The time created by reform of issues 9 and 12 above would be helpful in allowing the Appellate Body more time for its work and to create a possibility of remand. The procedure as a whole may, nevertheless, become somewhat longer in cases requiring a remand.

**Issue 21:** The text of Article 17.6 does not give the Appellate Body sufficient room to reverse factual findings of the panel that are manifestly erroneous or unreasonable. The Appellate Body has stated that under the current wording of Article 17.6, it can only overturn such findings if they amount to a deliberate disregard or a wilful distortion of evidence or an egregious error in the appreciation of evidence that calls into question the good faith of a panel. This is unlikely ever to be the case. Nevertheless, without any bad will, panels may make manifestly erroneous or unreasonable factual findings that require appellate review.

Possible reform: Article 17.6 could be amended to provide that an appeal shall be limited to issues of law covered in the report, legal interpretations developed by the panel and manifestly erroneous or unreasonable characterisation or appreciation of the facts before the panel. If the latter occurred, it would give rise to appellate review of the findings and recommendations of the panel. The consequence of a panel ruling being overturned on this ground could be a new ruling by the Appellate Body if the facts are sufficiently clear in its view, a remand or, in the absence of a remand possibility, a dismissal of the case. Article 11, stating the functions of the panel, could also be improved by providing that a panel should make an accurate and objective assessment of all the facts of the case.

### **Adoption of reports**

**Issue 22:** In one instance, the DSB was unable to adopt an Appellate Body report because the losing party invoked the quorum requirement, which was not met. This can easily happen especially in special DSB meetings that have been convened for just one or two agenda items.

Possible reform: The DSB could create its own rule of procedure on this point, stipulating that there shall be no quorum requirement for the adoption of panel and Appellate Body reports. Alternatively, the DSU - Articles 16.4 and 17.14 - could provide that such reports “shall be considered adopted” (instead of “shall be adopted”).

### **Implementation**

**Issue 23:** Uncertainty or disagreement can exist as to the precise meaning or scope of a ruling by a panel or the Appellate Body. This uncertainty can influence what measures a party takes to comply with the ruling and might lead to a new dispute.

Possible reform: A rule could be created stating that at the request of either party to the dispute, the panel or, if an appeal had been made, the Appellate Body will construe its meaning or scope. Similar provisions exist at the European Court of Justice, the International Court of Justice and other international courts and tribunals.

**Issue 24:** Article 21.3(c) provides for an arbitrator to determine the reasonable period of time for implementation. This period may be longer or shorter depending on the particular circumstances. Those circumstances may include the measures needed to implement the ruling, which may depend on an interpretation of the ruling of the panel or Appellate Body.. The arbitrator is ill suited to make such an interpretation.

Possible reform: Article 21.3(c) could state that when the arbitrator considers that a clarification of the ruling is needed to determine the reasonable period of time for implementation, he or she should ask such clarification from the body that issued the ruling. Such clarification would have to be given within a short period of time, for instance 14 days.

## FINLAND

**Question 1. What steps, since the last review of the implementation, has your government taken to deepen the implementation of the four procedural guidelines on trade and environment?**

### **The policy framework**

The Finnish Government's Programme for Sustainable Development (Council of State Decision-in-Principle, June 4 1998) is designed to set a framework policy for the promotion of ecological sustainability and the economic and social and cultural preconditions for achieving this end. The Decision-in-Principle also defines the strategic objectives and lines of action for key sectors of sustainable development. The Programme sets out guidelines for planning, decision-making and other activities at central government level. In addition, it provides a basis for dialogue with other actors and a framework for their planning activities and actions. In the preparation of the programme all ministries were involved and the programme was discussed by the Finnish National Commission for Sustainable Development and by its subcommittees.

Among other things, the Decision-in-Principle states that "the integration of trade, investment and environmental policy in a manner that is mutually supportive and favourable to sustainable development will be promoted." Furthermore, trade and environment issues are discussed in the preamble to the Decision-in-Principle. According to it, for example, an effort will be made to pursue the objectives stated in the Procedural Guidelines on Trade and Environment adopted by the OECD Ministerial Council in 1993.

In addition to the governmental programme, the central associations of local authorities, trade and industry, the Sámi Parliament and numerous NGOs have drafted their own programmes for sustainable development, in some of which also trade and environment concerns are addressed.

### ***Guideline A. Transparency and Consultation***

In Finland, consultations on trade and environment issues take place on a regular institutional basis. The interlinkages of trade and environment are discussed and addressed, for example, by various governmental committees, subcommittees and working groups established to deal with different issues. In a number of these bodies also the interested non-governmental parties are represented.

For instance, Finland has under the UNCED-process established a National Commission on Sustainable Development with representatives from all major groups identified in the Rio Agenda 21. The Commission follows up, among other things, the work of the working group on trade and environment established by the Ministry of Foreign Affairs. This working group brings together representatives of different ministries, as well as representatives of non-governmental consumer and environmental organisations, business and industry. The working group has formulated Finnish positions on both general

and individual trade and environment issues arising especially in international fora such as the WTO/CTE, CSD, UNCTAD, UNEP, OECD and other international environmental negotiations. The working group also serves as a channel for distributing information and documentation.

There are also working groups for co-ordinating and preparing Finnish positions on issues concerning EU external trade policy and EU environmental policy. All ministries concerned are represented in both of these groups, which also meet with representatives of non-governmental interest groups. Likewise, for the preparation of national positions to the international conventions, there are cross-sectoral consultation procedures for all environmental agreements some of which touch upon trade and environment issues. For the major conventions, like the FCCC, a large steering group, Climate Committee, has been established.

Transparency and consultation are enhanced also by the circulation of draft proposals and draft decisions to various authorities and non-governmental interest groups for their written comments or statement. This type of institutional Co-operation is considered important, because it makes it possible to address economic, trade, environmental and other relevant aspects of decisions simultaneously. It serves the objective of integrating trade and environment policy-making, of improving national policy-co-ordination and policy coherence.

At regional level Finland has participated in the Nordic trade and environment co-operation. For instance, trade and environment officials of the Nordic countries have held meetings to exchange views and experiences on different trade and environment questions, such as environmental assessment of trade agreements.

#### ***Guideline B. Trade and environment reviews***

At national level some analysis of trade impacts of environmental decisions or the environmental impacts of trade decisions has been made as a part of preparation and follow-up of decisions, and in the consultation and co-ordination processes described above. The new Government guidelines (see answer 2 B) set a framework within which also this type of analysis and review activities would become more systematic and included as an integral part of decision-making.

Finland has made a national environmental review of the Multilateral Agreement on Investment (MAI). A summary of this basically judicial review, which identified existing and potential discrepancies between the Finnish environmental legislation and the draft text of the MAI, was presented to the MAI Negotiation Group in February 1998 (DAFFE/MAI/RD(98)13). The review was made as a response to the recommendation agreed by the Parties in October 1997, but also as a response to the growing concerns raised by the NGOs and the Finnish Parliament. The review was prepared by independent consultants and it was issued by the Ministry of the Environment. During the national discussions on the need of such a review, reference was made also to the OECD 1993 Procedural Guidelines on Trade and Environment. The principles set out in the Guidelines e.g. for trade and environment reviews were considered to be applicable also to such international economic issues as multilateral investment policies.

***Guideline C. International environmental co-operation***

As Finland is a member of The European Union many decisions concerning environmental aspects of international trade policies and trade aspects of international environmental policies are established at the EU level. In the EU Finland has supported the objective of integrating the principles of sustainable development and environmental concerns into all relevant fields of policy-making, including trade policy. These objectives are addressed also in the Treaty of Amsterdam and in the conclusions of the Cardiff European Council.

Finland has been actively participating in the work of several international organisations and in the negotiations of major environmental agreements, including the CITES, the Montreal Protocol, the FCCC, the Basel Convention and the PIC Convention.

**Question 2. Have the procedural guidelines on trade and environment resulted in any new government policies, procedures or publications?**

***Guideline A. Transparency and Consultation***

In view of the forthcoming WTO negotiations for further trade liberalisation, and in response to the concerns raised by the civil society that the global trade liberalisation process might endanger sustainable development, the Ministry for Foreign Affairs has drawn up an information strategy which is directed towards the civil society. Albeit that this strategy does not directly emanate from the OECD 1993 Guidelines, it can be perceived as giving effect to its recommendations. The purpose of the information strategy is to strengthen the dialogue with the civil society, NGOs and interest groups, as well as to keep them informed of the state-of-play of the trade negotiations as they advance. As the 1999 WTO Ministerial Conference draws closer, special sectoral subcommittees will be established to complement the work of the present national consultation mechanism. These subcommittees will consist of representatives of the public administration, but when a need arises NGOs, interest organisations and other representatives of the civil society will be consulted.

The information strategy also envisages the organisation of public seminars on recent developments in trade policy. One seminar where NGO's and interest organisations were represented has already been organised during the visit of WTO Director General Ruggiero to Finland in September 1998. A similar seminar was held in the framework of the MAI negotiations in June 1998, and another one will be organised in the second half of November 1998. Other elements of the information strategy include more frequent contacts with the media and the national parliament, as well as a wider use of the internet to distribute information.

***Guideline B. Trade and environment reviews***

In June 1998, the Council of State issued guidelines for the assessment of economic and environmental impacts of Government Bills. According to these guidelines each Ministry is responsible for the economic and environmental impact assessment of Government Bills under its competence. The assessment and conclusions shall be documented, and the main conclusions shall be attached to the Government's proposal for new legislation. The check-list annexed to the guidelines on environmental assessment contains a list of questions aimed at helping the identification of bills which are subject to more detailed impact assessment. The check-list includes some trade-related environmental impacts, as well as examples of both micro- and macro-economic impacts.

In October 1998 the Ministry of the Environment issued guidelines based on the Finnish Act on Environmental Impact Assessment (EIA). The guidelines are being applied in assessment of environmental impacts when a public authority is preparing policies, plans and programmes which may have significant environmental impacts once implemented. They are based on experiences from pilot assessments carried out by various authorities and they are intended for all administrative sectors. The Ministry will also provide training and assistance for the application of these guidelines.

### **Studies and publications**

The Department for International Development Co-operation of the Ministry for Foreign Affairs has commissioned a report, which overviews the debate on international trade and the environment and indicates ways by which development co-operation could enhance the mutual supportiveness of trade and environment.

The Ministry of the Environment has just recently commissioned a desk study on the challenges and possibilities, which economic globalisation may pose to the environment and to environmental policies. The aim is also to identify ways how to enhance mutual understanding in the somewhat polarised trade and environment debate. Trade and environment issues have also been taken up in some recent publications of the Ministry of the Environment, including a study on greening the government procurement and a study on sustainable product and consumption policy.

The Finnish environmental administration is also involved in a project financed by the Nordic Council of Ministers. One aim of the project is to analyse legal possibilities and obstacles posed by the international trade rules to product-oriented environmental protection measures. There is a plan to publish the final report in English in the publication series of the Nordic Council of Ministers.

### **Question 3. What difficulties, if any, has your government encountered in implementing the procedural guidelines on trade and environment?**

The main difficulties in implementing the guidelines have been encountered in the context of trade and environment reviews. Due to the very complex relationship between trade and environment, conducting reviews can be complicated. They also require time, resources and expertise not always available. For example, the Finnish environmental review on the MAI was made in a situation where rapid progress in the negotiations was still expected. Due to time pressure, the coverage of the review was limited to MAI's potential effects on national environmental legislation. The review was carried out in a short time as an internal exercise by the Ministry of the Environment and therefore it could not be carried out in a participatory way. The review was, however, made public.

Even though the OECD *Methodologies for environmental and trade reviews* provide a basic approach, it is felt that the methodologies and their application in practise may also require further development. There is a need to share internationally the experiences gained in conducting trade and environment reviews. At their initial phase, review processes and methods should be kept quite simple so that their use can be encouraged.

## FRANCE

### **Questions 1 and 2.**

#### ***Guideline A. Transparency and consultation***

Review of the interactions between trade and environment involves extensive consultation between trade and environment experts:

- Within the administration: France's positions are discussed at internal meetings attended by representatives of the ministries concerned (Environment, Trade, Industry, Agriculture, etc.) when environmental legislation having an impact on trade is being drafted.
- With industry specialists: Consultations with operators and NGOs are carried out with regard to all environment-related issues. Preparations for the negotiation of certain MEAs (e.g. climate change) entail regular contacts with the business community.

For instance, France has set up a working group on trade and environment issues that brings together government experts, NGOs and scientists and is headed by the Solagral Association, with support from the Ministry of Country Planning and the Environment (MATE). Several discussion days have been held, most recently on 26 November 1998 on the topic "Management of natural resources: property rights, institutions and markets". Such initiatives prompt productive dialogue which is summarised in documents that reflect the speakers' concerns about each of the subjects raised.

The Prime Minister has also commissioned an outside consultant for a cross-cutting project on the environment and sustainable development—a project that will explore the issues in greater depth and underpin France's positions, *inter alia* in order to chart new avenues of co-operation with multilateral institutions (such as WTO and UNDP). The consultant is to submit his report by this summer.

Following the suspension of MAI negotiations in April 1998, the Prime Minister asked Catherine Lalumière, a member of the European Parliament, to assess the negotiations and consultations with civil society. Madame Lalumière submitted her report to the Prime Minister in October 1998 (the report is available on the Internet site of the Ministry of the Economy, Finance and Industry, at [http://www.finances.gouv.fr/pole\\_ecofin/international/ami0998/ami0998.htm](http://www.finances.gouv.fr/pole_ecofin/international/ami0998/ami0998.htm)).

#### ***Guideline B. Trade and environment reviews***

National environmental measures are subject to increasing scrutiny with regard to their impact on trade. Closer attention is being paid to how such measures (taxes, subsidies, standards and certification, etc.) fit in with WTO rules, in order to preclude adoption of any national measures that might be incompatible with the rules of international trade.

Greater consideration is also being given to trade aspects of multilateral environmental agreements (MEAs):

- Upstream, when the rules for these MEAs are being drafted: Trade experts are increasingly involved in the planning and review of mechanisms for the implementation of MEAs that have special repercussions on trade. The MEAs in question are those which, apart from traditional regulatory measures, introduce economic instruments (taxes, fees, subsidies, emissions contracts, etc.) and/or trade instruments (prohibition of trade in a given product, quotas, export or import permits). Because the growing use of such instruments is likely to cause increased interference with the rules of multilateral trade, thereby triggering trade tensions, the risks of such friction must be dealt with “upstream”.
- During actual negotiations: France advocates the presence of trade experts at MEA negotiations affecting trade (Climate Change, Montreal Protocol, Biodiversity, etc.). International trade experts took part, for example, in negotiations at the Fourth Session of the Conference of the Parties to the United Nations Framework Convention on Climate Change, in Buenos Aires.

Even so, it is perfectly clear that the primary responsibility for the MEA negotiating process lies with the departments in charge of environmental policies.

With regard to trade discussions that affect the environment:

- WTO work: France advocates further work on “trade and environment” at the WTO. It is an active participant in the Committee on Trade and Environment (CTE). French experts take part in joint preparations for CTE meetings. The High-Level Trade and Environment Symposium will provide an opportunity to reopen discussions with the developing countries, a majority of which are still opposed to the subject.
- Regional trade agreements: In its dealings with third countries, the European Union has taken a pro-active stance with regard to developing countries that implement environmental objectives. Accordingly, the Generalized System of Preferences (GSP) calls for a mechanism (consisting of special incentive schemes) granting additional tariff preferences to developing countries that comply with the environmental standards set by the International Tropical Timber Organization.
- MATE has supported development of a methodology for analysing the environmental impact of free trade agreements between countries at different levels of development (Manssouri, Colombier, Salles, MATE, April 1996).
- France had undertaken its own environmental review of the Multilateral Agreement on Investment (MAI), assessing from a legal standpoint the risks of conflict between French environmental legislation and the draft MAI. This succinct study, which MATE carried out on particularly short notice, given the pace of negotiations at the time, was nonetheless discussed at interministerial level and submitted as a French contribution to the MAI negotiating group in February 1998. The reference to the OECD Guidelines on Trade and Environment was brought up during the negotiations.

***Guideline C. International environmental co-operation***

France advocates multilateral solutions to global and cross-border problems, in preference to unilateral action.

MEAs that include trade provisions are monitored closely by trade agencies. At present, priority is being given to preparations for negotiations of the Kyoto Protocol. Implementation, under the Protocol, of an effective system for tracking the commitments of Contracting States will be essential in order to avert flight to the WTO or, even worse, unilateral measures. France also took active part in negotiating the latest conventions (PIC, POP) and most recent protocols (Biosafety, etc.).

France, at the joint initiative of the Ministries for Co-operation and for the Environment, is organising a Franco-African awareness-building seminar on trade, environment and development. In this connection, a number of case studies have been prepared, dealing more specifically with West African countries.

***Guideline D. Dispute settlement***

*Settling MEA disputes*

France favours a strengthening of MEA compliance monitoring mechanisms. At present, most MEAs propose systems that are based primarily on peer pressure and conciliation. Since the inadequacies of these mechanisms may be conducive to unilateral action, multilateral solutions should be sought in order to create systems that are truly effective.

*Settling environmental disputes at WTO*

Recent disputes (e.g. the tuna/dolphin, shrimp/turtles and modified petrol panels) show that restrictive unilateral measures should not be treated in the same way as measures taken in application of an MEA. While MEAs must be recognised by WTO (a variety of different options are possible), unilateral measures must be examined closely to ascertain whether they are not in fact disguised restrictions on international trade.

**Question 3. What difficulties has your government encountered in implementing the procedural guidelines on trade and environment?**

The growing complexity and multifaceted nature of questions at the interface between trade and environment require ever-keener expertise and greater co-ordination, between ministries and with the scientific community, than was previously required. As a result, the agencies involved require time to adjust. The sense of urgency that frequently accompanies analysis and discussion can sometimes make it more difficult to adopt positions that take all aspects of each new problem fully into account.

## GERMANY

### **Questions 1 and 2. Implementation and impact of OECD procedural guidelines**

The Federal Government attaches great importance to the transparency of political procedures and political decisions in general. As stated in Germany's response to the 1995 OECD review, the guidelines on trade and environment largely coincide with the practice of the federal Government. Outstanding events like the ministerial conference in Singapore naturally necessitate even more intensive consultations and co-ordination. This process is largely formalised within the federal Government, but also in its relations with the Länder. The latter are informed by the Federal Government about the status of international discussions regarding trade and environment and have an opportunity to comment.

Talks on relevant issues (MAI, WTO, etc.) are held with NGOs (some at ministerial level). Representatives of business, employees, environmental groups and development groups are invited to attend such talks. In addition, Federal Government representatives participate in numerous events held by NGOs, in both the national and international context, in order to present and debate the Federal Government's policies.

#### ***Guideline B. Transparency and consultation***

When national legislation, EU rules and multilateral agreements on environmental protection are drafted or amended, their impact on trade is normally one of the issues examined. At the same time, relevant draft trade legislation is also reviewed with regard to environmental protection. The Federal Government therefore believes that its procedure of close and early co-ordination between the relevant governmental agencies is confirmed by the OECD guidelines. An even more detailed examination was particularly undertaken in the case of the WTO activities prior to the Singapore ministerial conference, and is currently taking place in the context of ongoing trade-policy projects and of the preparations for the Third WTO Ministerial Conference. The methodology developed by the OECD for environmental and trade reviews is being applied in a current study on the environmental impact of regional free-trade agreements.

#### ***Guideline C. International environmental co-operation***

As in the past, Germany has continued to call for an extension and intensification of international co-operation on the environment, advocating this in international organisations, in the context of international environmental conventions, and in the form of bilateral co-operation. Examples include CITES, the Montreal Protocol, the Framework Climate Convention and the Kyoto Protocol, the Basle Convention and the PIC Convention. As a partner in the European Union, Germany will also continue to actively shape the future development of Community policy in the field of international co-operation on the environment. At the same time, the discussion is also supported at trade-oriented fora, with a view to achieving balanced solutions of benefit to both fields.

*Guideline D. Dispute settlement*

Germany has supported the contribution of the EU towards the review of the dispute settlement understanding in the WTO and particularly welcomes the proposals on improving transparency. (In this regard, reference is made to the response from the EU).

**Question 3. What difficulties has your government encountered in implementing the procedural guidelines on trade and environment?**

Trade and environmental issues are already covered by a large number of national, EU wide and international regulations. The complex nature of the issues means that the need for regulatory activity will continue to grow in the future. This will make co-operation all the more important, so that problems of definition can be identified and resolved in good time. The efforts, including those of the OECD, to achieve greater transparency are therefore welcome. In this context, it would be helpful if the OECD could go beyond the very abstract OECD methodology and offer specific proposals for action on specific issues.

## GREECE

**Question 1. What steps, since the last review of their implementation, has your government taken to deepen the implementation of the four procedural guidelines on trade and environment?**

### *Guideline A. Transparency and consultation*

An interministerial Working Group is functioning in the frames of the WTO/GATT Committee the National Exports Council. The Working Group is chaired by a director of the National Economy Ministry and the members are experts from the Ministries of a) Foreign affairs, b) Environment, c) Agriculture; d) Development (energy sector) and from other ad hoc (regarding the issues of the agenda of the Working Group) involved ministries and/or organisations (i.e. National Tourism Organisation, Ministry of Finance, etc...)

The Working Group is following the discussions taking place in the WTO Committee on Trade and Environment (CTE). This Working Party is analysing the impacts between trade and environment at national level and is aiming at the drafting of Greek positions to be pursued and supported in the EC/WTO forum.

### *Guideline B. Trade and environment reviews*

As a member of the European Union, Greece is actively participating in the drafting of the EC positions to be supported in the WTO/CTE. As the fifteen EU Member states are represented in the WTO by the EC, Greece, like the other respective EU members is participating in the trade and environment formal or informal meetings that take place in the framework of the DG I/EC.

Due to the need of applying national environmental protection policy and complying with EU environmental law, the environmental impact assessment procedures have been truly strengthened in recent years. The development of a more preventive environmental policy, combined with certain restrictions imposed by national laws on industrial activities located in already polluted areas, like the Attica Region, has led (as far as these particular areas are concerned) to a gradual shift from investments regarding the industrial sector to investments concerning the services sector and related trade activities. The new law 2601/98 on development provides that certain activities have to be accompanied by an environmental impact assessment if the investors wish to apply for a public financial support. As to the industrial activities the provided incentives concern in principle those of them which are located within the already established industrial zones.

### *Guideline C. International environmental co-operation*

Regarding the forthcoming negotiations in the WTO, Greece has already incorporated the environmental dimension in its strategy to be followed for a global and comprehensive new round.

*Guideline D. Dispute settlement*

Greece is not involved in any dispute settlement procedure regarding the trade and environment.

**Question 3. What difficulties has your government encountered in implementing the procedural guidelines on trade and environment?**

The lack of familiarisation with the environmental aspects of the trade policy as well as with the trade aspects of the environmental policy could be mentioned as the main difficulty in the implementation of the guidelines. But as the ongoing process is strengthening in both national and international level, due to the global nature of the subject, this lack tends to be diminished.

Some difficulties have been noticed in the co-ordination between the competent authorities. The increase of the exchange of information almost at the maximum level has significantly helped to the dealing with the Trade and Environment issues in its global dimension and to be seen as an entity, no matter which is the forum -- national or international -- where it is discussed.

## IRELAND

**Question 1. What steps, since the last review of their implementation, has your government taken to deepen the implementation of the four procedural guidelines on trade and environment?**

### *Guideline A. Transparency and consultation*

Policy formulation using a partnership approach is a central tenet of Government policy in Ireland. In the case of environmental policy formulation, this has resulted in the establishment of Comhar - The National Sustainable Development Partnership. The terms of reference of Comhar are sufficiently broad to permit it to play an increasingly significant role in the policy formulation process, including matters relevant to trade and the environment. The membership of Comhar, which spans all major sectoral interests including industry and environmental NGOs, equips it to provide a forum for widespread consultation.

Under current national legislation, including the Freedom of Information Act, 1997, and the Access to Information on the Environment Regulations (which have been in operation since 1991), there is widespread access to Governmental and Departmental information and records, including those concerned with trade and the environment.

### *Guideline B. Trade and environment reviews*

At EU level, Ireland participates fully in the process of examination and review of multilateral environmental and trade agreements and takes any necessary follow-up action where this is a matter for the Member State. At national level, the progressively greater integration of environmental concerns into all policy areas will help to better inform the necessary ongoing examination and review of the interaction between trade and environmental policies.

### *Guideline C. International trade and environment co-operation*

Within the EU inter-governmental agreements on trade and the environment are developed by Member States and the EU co-ordinating together on the basis of their respective competencies as set out in the Treaties.

### *Guideline D. Disputes Settlement*

This question has not yet arisen.

**Question 2. Have the procedural guidelines on trade and environment resulted in any new government policies, procedures or publications?**

While no specific policies, procedures or publications relating specifically to the guidelines have resulted, Government Departments are expected to adhere to the procedures in the guidelines.

**Question 3. What difficulties, if any, has your government encountered in implementing the procedural guidelines on trade and the environment?**

In seeking to implement the procedural guidelines on trade and environment Ireland has not to date encountered any identifiable problems or difficulties.

## ITALY

**Question 1. What steps, since the last review of their implementation, has your government taken to deepen the implementation of the four procedural guidelines on trade and environment?**

Since the last review in 1995 there has been no relevant change in the procedures that the Italian government has adopted to deepen the implementation of the four procedural guidelines on trade and environment. The main goal that has to be achieved is a stricter co-ordination among various governmental bodies involved in this field, while non governmental bodies do not seem to consider this area as the most relevant for deep consultation with the governmental authorities at the different levels.

The only area where during this period there has been a real co-ordination at the level of different Ministries has been the preparation of the negotiations for the Kyoto Protocol and the Buenos Aires Conference of the Contracting Parties, where especially the Ministry of Industry and the Ministry of External Trade had a particular interest in defining in collaboration with the Ministry of the Environment and the Ministry of Foreign Affairs a common position for the evolution of the negotiations and the final results.

**Question 2. Have the procedural guidelines on trade and environment resulted in any new government policies, procedures or publications (those representing new initiatives since the 1995 review)?**

One point that has been particularly high on the agenda of the Italian government has been an improvement in the transparency of the ministerial activity, through a specific attention to consultation procedures, with regard mainly to the NGOs, but also to the general public. Every year the Ministry of the Environment is now publishing a report of the main activities in the domain of environmental protection, specifying the initiatives taken and the results that have been achieved.

The Ministry of the Environment has put a special emphasis in making it accepted by all the concerned parties the idea that an approach of multilateral co-operation is the best one in order to enhance the effectiveness of environmental action, avoiding undue effects on trade.

**Question 3. What difficulties has your government encountered in implementing the procedural guidelines on trade and environment?**

A clear-cut distinction of roles between different ministries involved in activities in the area of trade and environment is not easy to be drawn.

Co-ordination between the Ministry of the Environment, the Ministry of Foreign Affairs and the Ministry of Foreign Trade has been promoted in the past and has been reactivated recently aiming at defining a co-ordinated position when trade and environment issues are at stake.

The last point to be underlined is that generally NGOs are more oriented towards domestic problems and lack an in depth experience with the international trade and environment debate. This is another policy goal explaining the Ministry of the Environment stance oriented to improve transparency and to implement consultation procedures with all interested parties in this area.

## JAPAN

**Question 1. What steps, since the last review of their implementation, has your government taken to deepen the implementation of the four procedural guidelines on trade and environment?**

### *Guideline A. Transparency and consultation*

#### *Transparency of information between state governments*

In Japan, information on environmental measures that may have trade effects on other nations and trade measures that may have environmental effects on other nations are both made available to other countries through media such as the Official Gazette.

According to the notification of GATT/WTO, information on GATT/WTO-related trade measures taken by Japan is made known to other countries and arrangements to ensure other countries have access to such information are in place.

#### *Policy-making by the government*

In Japan, it is customary for the ministers to unanimously decide on important national policies including laws and budgets at Cabinet meetings. A thorough adjustment on significant issues relevant to trade and environment is made in advance at a working level among ministries concerned.

In regard to planning and implementation of domestic environmental policies, the Environment Agency co-ordinates other ministries' efforts in order to promote overall administration of environmental preservation measures, taking account of the vigorous promotion of global environmental protection through international co-operation. On the other hand, the Ministry of International Trade and Industry (MITI) plans and implements trade-related policies, plans and procedures, and co-ordinates the implementation of these policies, taking the environmental point of view into consideration.

In relation with the discussion of Trade and Environment at GATT/WTO, the Ministry of Foreign Affairs co-ordinates policies with ministries concerned (including the above-mentioned two ministries) from the perspective of trade and environment. Since 1989, the Minister in charge of the Environment Agency has served as a minister in charge of global environmental problems. A standing ministerial conference on global environmental conservation decides on important domestic policies concerning the global environment.

Thus, the decision-making process is institutionalised so as to give both trade and environment policy makers opportunities to make thorough adjustment with each other. This steps up the transparency of decision-making and it is in line with the procedural guidelines.

*Consultation with non-governmental interested parties*

In Japan, during the process of policy-making, the government often seeks advice from a variety of advisory councils composed of representatives from related industries, academic societies, NGOs, and journalism.

- a) Customarily, the government consults the Central Environment Council, which is an advisory body for the Prime Minister on important matters regarding environmental policy. On important issues concerning trade policy, the government consults advisory councils such as the Industrial Structure Council.
- b) The Environmental Agency established in May 1994 the "Sub-group on Environment and Trade" where Trade and Environment issues are analysed and discussed by representatives from industries, academic society and NGOs. This committee is a sub-committee of the "Ad hoc Group on Global Environmental Problems" which is the advisory body for the Minister of Environment Agency.
- c) In addition, the Environment Agency has been doing "the Research on Trade and Environment" since 1994 with representatives of various fields. This year, the research is studying mainly on the relationship between MEAs and WTO, and the Agency's position on this issue will be formulated soon according to the outcome of the research.
- d) Moreover, the government takes opinions of representatives from various fields into consideration when co-ordinating opinions within the government to plan environmental policies such as Action Plan for Agenda 21, National Communications under the UN Framework Convention on Climate Change and Basic Environment Plan following the Basic Law on the Environment.

Also, the Government of Japan exchanges necessary information with industries and main NGOs both in Japan and abroad as appropriate.

*Availability of Information*

In Japan, information on trade and environment measures adopted by the government is disclosed pursuant to the official disclosure procedures established by law.

The basic Law on the Environment enacted in November 1993 stipulates that the government should make efforts to provide necessary information on environmental conditions and conservation to the public, while giving due consideration to the rights and interests of individuals and corporations, so as to promote voluntary activities by the private organisations to sustain the environment.

***Guideline C. Trade and Environmental Reviews***

*Trade examinations and reviews of environmental policies and agreements*

During the course of deciding environmental measures that seem to have effect on trade, ministries in charge of environmental policy take sufficient time to discuss the measures with ministries responsible for trade policy, and the Ministry of Foreign Affairs and other ministries which are in charge of conclusion, interpretation and implementation of treaties examine the overall potential effects of the

proposed measures on domestic and international trade by closely examining them to see if they have any trade distortion effects. It also checks whether the proposed measures conform to GATT rules.

As for trade measures for environmental protection, Japan has been taking measures based on multilateral environmental agreements such as the Convention on International Trade in Endangered Species of Wild Fauna and Flora and the Basel Convention.

#### *Environmental examinations and reviews of trade policies and agreements*

In determining important trade measures that may have effects on environmental protection, ministries in charge of trade policy take sufficient time to discuss them with ministries in charge of environmental policy. Measures are decided with the consent of these ministries.

#### *International Environmental Co-operation*

Japan has been principally dealing with transboundary, regional, and global environmental problems through policy consultation and negotiations on agreement without taking any unilateral trade measures due to low environment standards, and has been positively coping with multilateral environmental agreement negotiations and its implementation as well as making efforts to maintain and strengthen a free, non-discriminatory and open multilateral trading system.

The following three environmental agreements which Japan has concluded include trade measures. In formulating and concluding them, Japan has paid special attention to avoid any unfair trade restrictions and discrimination.

- a) Convention on International Trade in Endangered Species of Wild Fauna and Flora
- b) Montreal Protocol on Substances That Deplete the Ozone Layer
- c) Basel Convention on the Control of the Transboundary Movement of Hazardous Wastes and their Disposal

Also in the field of timber trade, Japan has been contributing positively to the establishment and management of international frameworks such as the International Tropical Timber Organisation (ITTO) and the International Tropical Timber Agreement (ITTA) where countries concerned co-operate in order to achieve sustainable use and conservation of tropical timber.

#### **Question 2. Have the procedural guidelines on trade and environment resulted in any new government policies, procedures or publications (those representing new initiatives since the 1995 review) ?**

No new government policies or procedures are being formulated because the OECD guidelines are being implemented to further promote the consolidation of policies in the existing process of decision-making.

Translation of "The Environmental Effects of Trade" which carries the OECD procedural guidelines was published in July 1995.

**Question 3. What difficulties, if any, has your government encountered in implementing the procedural guidelines on trade and environment ?**

In Japan, no special problems have arisen concerning the implementation of the guidelines.

## KOREA

### General

The Republic of Korea became a member country of the OECD on December 1996, and therefore did not participate in the first review of the OECD Procedural Guidelines on Trade and Environment. Korea has recognised the usefulness of the said Guidelines and made reference to it on the adoption of the policies and measures on trade and environment.

**Question 1. What steps, since the last review of their implementation, has your government taken to deepen the implementation of the four procedural guidelines on trade and environment?**

Korea has made every effort to have the various views and opinions from the consultation process among the relevant ministries reflected in Korea's policies on trade and environment. Among relevant ministries, the Ministry of Foreign Affairs and Trade, Ministry of Environment and Ministry of Commerce, Industry and Energy are primary organs directly dealing with the issue of trade and environment, and other ministries are requested to join the consultation process depending on the nature of the issue.

Korea has run consultative meetings with business and industrial circles and NGOs for a long time in both official and informal forms. However, it may be appropriate to say that there is not yet an established communication channel with business and industrial circles and NGOs, which deals exclusively with the issue of trade and environment. Information on trade and environment is disseminated through printed materials and internet websites by the relevant ministries.

With regard to climate change, Korea established an Inter-ministerial Committee headed by the Prime Minister on April 1998. This Committee sets up comprehensive policies and measures to combat climate change and provides guidance to business and industrial circles and NGOs, and also considers the Climate Change Convention and Kyoto Protocol from the aspects of trade and environment.

### ***Guideline B. Trade and environmental reviews***

With regard to multilateral environmental agreements (MEAs), Korea considers their trade and environmental implications before their adoption at international fora, and faithfully implements the MEAs as prescribed. Korea also reviews trade and environmental correlations when it enacts and revises domestic environmental laws and regulations. During the legislation process relevant ministries are consulted, and any planned enactment or revisions are announced in the official gazette for more than 20 days.

The Ministry of Environment seeks to repeal and lift environmental restrictions through the year 2002, which place burden on economic activities without improving the quality of environment. In 1998, the Ministry selected 58.8% of 643 restrictions covered by 22 environmental laws, and repealed or alleviated them.

Relevant ministries are required to participate in the preparations for the discussions at the WTO and APEC. They share the outcomes of the discussions with business and industrial circles and NGOs.

***Guideline C. International environmental co-operation***

Korea attends most of the MEAs conferences and follows up on the implications of the MEAs for trade. The MEAs conferences of 1998 in which Korea participated were as follows : Basel Convention COP IV(2/98), Biological Diversity Convention COP IV(5/98), Biosafety Protocol, CITES, Climate Change Convention COP IV(11/98), Montreal Protocol COP X(11/98), PIC Convention, and POPs Convention.

At the APEC fora, Korea has taken into account the environmental implications of trade discussions, and actively participated in the APEC meetings, in particular those of Committee on Trade and Investment and Economic Committee, the discussions of which are closely related to environment.

***Guideline D. Dispute settlement***

There has been no international dispute related to trade and environment where Korea has been directly involved. However, Korea was indirectly involved in putting a stop to Taiwan's plan to transfer its low-level nuclear waste to North Korea in 1997.

The decisions of the Shrimp-Turtle Case by the WTO Dispute Settlement Body are now under study, the result of which will be made known to business and industrial circles and NGOs in due time.

**Question 2. Have the procedural guidelines on trade and environment resulted in any new government policies, procedures or publications ?**

In the review of trade and environment issues, Korea has utilised the consultation process among relevant ministries, and, when necessary, established a special consultation framework like the Inter-ministerial Committee on Climate Change Convention headed by the Prime Minister. At present, there is no special consultation framework which focuses exclusively on the issue of trade and environment.

**Question 3. What difficulties, if any, has your government encountered in implementing the procedural guidelines on trade and environment ?**

Because the issue of trade and environment is complex and discussions on it at the WTO Committee on Trade and Environment are still under way, there are intrinsic constraints for the government to enlist business and industrial circles and NGOs in the discussions on the issue of trade and environment. The scarcity of dispute cases also aggravates the situation.

## MEXICO

**Question 1. What steps, since the last review of their implementation, has your government taken to deepen the implementation of the four procedural guidelines on trade and environment? Please give examples of particular cases where the procedural guidelines were invoked, either by government agencies or non-governmental parties, to promote e.g. consultation, reviews, a multilateral approach to environmental problems, access to relevant expertise in disputes, etc.**

### *Guideline A. Transparency and consultation*

#### *Regional trade and environmental bodies*

Within the regional level, Mexico, in conjunction with the United States and Canada, signed the North American Agreement on Environmental Co-operation (NAAEC), side accord of the North American Free Trade Agreement (NAFTA). Thus, as a product of a commercial agreement, the NAAEC works in projects with environment and trade related issues where public participation has been a key component. An example of the foregoing is the Sound Management of Chemicals initiative, where, in a two days meeting for each of the Working Group sessions, the first is used for public consultations on the full range of agenda items where industry and other stakeholders provide their inputs to developing projects under this initiative. The same mechanism for public consultations is used in other in the Pollutant Release and Transfer Inventory project that includes trade and environment related issues.

With the NAAEC the Commission for Environmental Co-operation (CEC) came into force and it consists of a Council, a Secretariat and a Joint Public Advisory Committee (JPAC). The JPAC is formed of independent persons from each country (five per country), but is designed to provide collective advice to the Council as a whole and that includes, among other topics, advice on matters concerning trade and environment. They hold annually a public meeting on a trinational level. The 1999 meeting will be hosted by Mexico in March.

#### *Various Ministries/national co-ordination bodies*

As a response of the need for integrate environmental and trade policy-making, since 1995 the Ministry of Trade and Industrial promotion through its Viceministry for International Trade Negotiations and the Ministry of Environment, Natural Resources an Fishery's Viceministry of Planning have established a study group on trade and environment

#### *Environmental NGOs business/industry community representatives*

We have not a consolidated national mechanism for public participation for handling strictly with environment and trade related issues. However, the Ministry of Environment, Natural Resources and Fishery has a National Council for Sustainable Development, composed by NGOs of diverse nature,

academic institutions, industrial and trade associations. By its side, the Ministry of Trade and Industrial Promotion has periodical consultations with the Mexican Business Co-ordinating Council for Foreign Commerce in order to receive their input and recommendations for Mexican trade negotiations.

A good example of sector specific legislation requiring public consultation procedures is the General Ecological Equilibrium and Environmental Protection Law (LEEGEPA). The LEEGEPA states that the Environment Ministry must convene consultative commissions to receive observations from government agencies, academic institutions, and social and business organisations on the design and evaluation of environmental policy. Upon creating new regulation the Environment Ministry must expressly state the reasons for which it accepts or rejects the opinions presented by the commissions. The Environment Ministry must also undertake public consultation during the evaluation of applications for environmental permits, which includes making all environmental impact statements (EIAs) public and guaranteeing the public's right to make observations and propose changes to the EIAs.

The National Consultative Council for Sustainable Development is composed of NGO's of diverse nature, including environmental, community, indigenous and agricultural nature. It also has the participation of academic institutions, industrial and trade associations. There are also four regional Councils to complement the National Council in the consultative process.

#### ***Guideline B. Trade and Environment Reviews***

Since 1995 the Ministry of Trade and Industry's Economic Deregulation Unit (UDE) has promoted and co-ordinated Mexico's regulatory reform program in conjunction with the members of the Economic Deregulation Council and with the deputy ministers in charge of regulatory improvement in each ministry. One of the major reforms undertaken was on the entire Environmental Law which was substantially changed, rationalising the use of environmental impact statements, allowing for the introduction of tradable permits, and clearly delimiting federal, state and local jurisdiction.

During 1997, the OECD conducted an Environmental Performance Review of Mexico, in which one of the main issues to be reviewed was the Integration of Environmental and Economic Policies.

As a NAAEC mandate, during 1998 a four year review of the agreement was performed by an independent review committee. This committee, as ordered by the CEC's Council, analysed and made recommendations of the operation and effectiveness of the CEC including trade and environmental issues. In their document, they recommended that a major part of the CEC's role lies in helping to develop a constructive relationship between different governmental and non governmental actors. To reach this, they propose to have a shared sense that neither the convenor nor the participants have predetermined the outcome.

#### ***Guideline C. International environmental co-operation***

The Mexican Government has worked toward ensuring a proper co-ordination with all the stakeholders involved in trade and environmental issues.

In respect of the negotiation of several MEAs negotiations, such as the Convention on the Prior Informed Consent, the United Nations Framework Convention on Climate Change, the Biosafety Protocol, the Inter American Convention for Protection and Conservation of Sea Turtles, Mexico has been actively working and participating to ensure that the full range of options to address environmental concerns are taken into consideration and to avoid that measures adopted impose inappropriate or unnecessary trade restrictive burdens.

Mexico has also participated in the follow up of other MEAs as is the case of the Basel Convention, the Montreal Protocol, the Biodiversity Convention and CITES, working in their national implementation.

The Ministry of Trade and Industry has been working and participating in co-ordination with the Ministry of Environment, Natural Resources and Fishery in the Committee of Trade and Environment of the World Trade Organization as well as in the Joint Session of Trade and Environment Experts of the Organisation for Economic Co-operation and Development, among other fora.

**Question 2. Have the procedural guidelines on trade and environment resulted in any new government policies, procedures or publications (those representing new initiatives since the 1995 review)?**

***Guideline A. Transparency and consultation***

With respect to the national position on diverse Multilateral Environmental Agreements, the processes are taken within intergovernmental groups comprising all relevant sectors within the federal government. The groups are led by the Ministry of Environment, Natural Resources and Fisheries, and operate on the basis of consensus. Each Ministry or Government body within the Intergovernmental Group organises the consultation process with own constituency. In parallel, ad-hoc working groups are created in order to contact specific sectors within civil society and gather their views and interests in order to incorporate them to the national position.

In addition, as part of the Ministry of Environment, Natural Resources and Fisheries is invited to participate in the Mexican delegation to the Committee of Trade and Environment of the World Trade Organization.

***Guideline B. Trade and environmental reviews***

The NAAEC, as a product of a commercial agreement, points out the co-operation between the NAFTA Free Trade Commission and the NAAEC Council in considering on an ongoing basis the environmental effects of the NAFTA (Article 10.6 d). To such endeavour, a first approach document was published by the CEC. During the Council meeting in June 1998, the Council recognised the need for further analysis in this area and approved a peer review by recognised experts on the field from the three countries. The 12 peer reviewers (four per country) acknowledged the importance of this endeavour and agreed to recommend further work in order to have a more methodologically solid and scientific-founded study.

***Guideline C. International environmental co-operation***

Mexico has significantly increased its involvement in international environmental co-operation. This reflects the approach adopted by Mexico in stressing the need for all countries to increase their role in environmental protection at both domestic and multilateral levels by means of increased co-operation as opposed to unilateral and coercive action.

***Guideline D. Dispute settlement***

In those controversies in which environmental aspects have arisen, Mexican trade and environmental authorities have worked jointly and will continue to do so. Also, in the matters in which experts, scientific information and other relevant information is required, it will be taken into account.

In relation to the participation of non-governmental organisations, Mexico considers that the Parties in the controversy are responsible of elaborating their own response take into account the different national interests in doing so. Nevertheless, only the interested Parties can participate in the controversy.

**Question 3. What difficulties, if any, has your government encountered in implementing the procedural guidelines on trade and environment?**

Mexico has improved the communication among all parties concerned in trade and environmental issues. However the rapid multiplication of fora has lead us to require more resources to examine and reach an effective co-ordination.

## NETHERLANDS

**Question 1. What steps, since the last review of their implementation, has your Government taken to deepen the implementation of the four procedural guidelines on trade and the environment? Please give examples of particular cases where the procedural guidelines were invoked, either by government agencies or non-governmental parties, to promote e.g. consultation, reviews, a multilateral approach to environmental problems, access to relevant expertise in disputes, etc.**

Since the last review no particular steps have been taken to deepen the implementation of the four procedural guidelines on trade and environment. The implementation of the guidelines is incorporated in the standard procedures for policy development. Trade policies and environmental policies are developed through co-ordination within and between the respective and interested governmental departments. In a number of sectors (e.g. environmental policy, some trade policy issues, nature conservation policies, transport policies) consultation takes place with civil society. To some extent intensification of contacts with non-governmental organisations has taken place in order to keep them informed of developments and discussions (especially on certain trade policy issues) and to get to know their opinions on issues at stake.

**Question 2. Have the procedural guidelines on trade and environment resulted in any new government policies, procedures or publications (those representing new initiatives since the 1995 review)?**

The development in technology has given more possibilities in sharing of information on trade and environment issues (special websites, newsletters, e-mail connections etc.)

**Question 3. What difficulties has your government encountered in implementing the procedural guidelines on trade and environment?**

The procedural guidelines are incorporated in the standard procedures for development of policies. Within government they have disappeared as a separate entity, which makes identification and visibility of difficulties with respect to their implementation problematic. However it has occurred that the guidelines are ignored and only one side of a policy is taken into account.

The procedural guidelines on trade and environment are a first step towards integration into the policy sector dealing traditionally with one sector of the points of view coming from other sectors of policy.

## NEW ZEALAND

**Question 1. What steps, since the last review of their implementation, has your government taken to deepen the implementation of the four procedural guidelines on trade and environment? Please give examples of particular cases where the procedural guidelines were invoked, either by government agencies or non-governmental parties to promote e.g. consultation, reviews, a multilateral approach to environmental problems, access to relevant expertise in disputes, etc.**

There are long-established and well-developed procedures and channels of communication in New Zealand between Government officials and interest groups. Consultation takes place regularly on an informal one-to-one basis. The public have access to government documents under the Official Information Act and this process is regularly used in the trade and environment area. Since the 1995 review a new treaty-making process has also been adopted which allows greater input into the consideration of ratification of treaties, including multilateral environmental agreements (MEAs). There is also a new requirement for Regulatory and National Impact Statements in regard to proposals for new or amended regulations and legislation including trade and environment measures.

Trade and environment implications are included in New Zealand's procedures for the development of public policy. Examples of specific reviews in this area include a legal opinion on the environmental implications of the Multilateral Agreement on Investment (MAI). New Zealand has also been involved in follow-up to the WTO Singapore Report in the Committee on Trade and Environment, in particular focusing on the environmental impact of subsidies in the fishing and agriculture sectors. At a regional level, together with Chinese Taipei, New Zealand prepared a report for the APEC Food Task Force on the linkages between food production and the environment. We have also been involved in negotiations on the liberalisation of APEC trade in the environmental goods and services.

New Zealand is strongly of the view that international co-operation is the best approach to global and transboundary environmental problems. New Zealand is party to most of the major MEAs and both trade and environment officials are involved in their implementation and the development of protocols.

**Question 2. Have the procedural guidelines on trade and environment resulted in any new government policies, procedures or publications (those representing new initiatives since the 1995 review)?**

No new initiatives have resulted directly from the procedural guidelines but there are a number of examples of how the principles incorporated in the guidelines have been implemented in New Zealand. Since the 1995 review the New Zealand Government has published a State of the Environment Report (October 1997) and commissioned a number of relevant studies, including a report on the role of science in the world trading system, a study on compliance mechanisms in MEAs and a joint project between the Ministry for the Environment and the Ministry for Agriculture and Forestry on trade and agriculture issues.

The importance of transparency and consultation is recognised in the preparation of New Zealand's position for important MEA negotiations. Public hui or meetings were held on the MAI and, among other issues, environmental concerns were addressed. The Ministry for the Environment has recently published a working paper on Technical Design Issues for a Domestic Emissions Trading Regime for Greenhouse Gases. Submissions have been invited from interested parties and these will inform the approach New Zealand takes to expected commitments under the Kyoto Protocol to the UN Framework Convention on Climate Change.

**Question 3. What difficulties, if any, has your government encountered in implementing the procedural guidelines on trade and environment?**

The procedural guidelines are to a large extent incorporated in New Zealand Government policies and procedures. There are no specific difficulties in furthering their implementation. However, given New Zealand's geographical isolation occasionally there are problems in receiving and disseminating timely information about trade and environment issues.

## NORWAY

The OECD procedural guidelines have been translated into Norwegian and distributed within the national administration to trade and industry organisations, trade unions and environmental and developmental organisations. The implementation of the guidelines is facilitated by an organisational structure established to deal with issues in the interface of trade and environment. This structure comprises:

- A national reference group for trade and environment matters established early 1992. Participation includes representatives from various sectors of the national administration; trade and industry (manufacturing, agriculture, fisheries, services, etc.), trade unions and NGO's. This group acts as an advisory body on trade and environment questions.
- A "core" group composed of representatives from the Ministry of Environment; the Ministry of Foreign Affairs, the Ministry of Finance, the Ministry of Fisheries, the Ministry of Agriculture and the Ministry of Industry and Trade.

Increased international co-operation on trade and environment in general and the follow-up of OECD Procedural guidelines have brought about a broader co-operation between Norwegian environment and trade authorities. This includes *inter alia* increased transparency and closer contacts between two policy sides.

Environmental officials always form a part of the Norwegian delegation to meetings in the WTO Committee on Trade and Environment (CTE). The two sides keep in close contact in conjunction with negotiations of various Multilateral Environmental Agreements (MEAs).

Norwegian authorities consider the issue of trade and environment reviews as an important tool to prepare policy options. The Ministry of Environment organised in February 1998 a Nordic conference on environmental assessments of trade agreements and policy. The aim of the conference was to exchange experiences from assessing trade agreements and trade policy, moreover procedures for how to utilise this tool.

Norway has undertaken an environmental assessment of the Multilateral Agreement on Investments (MAI) in relation to national environmental policy. The assessment was circulated for comments to a wide range of interested and concerned parties. The MAI assessment provided useful for how to conduct environmental reviews.

In the preparations for the forthcoming negotiations in WTO Norway has established ten working groups with representatives from a range of ministries. Environmental concerns are being addressed in all groups and environmental reviews will be carried out in areas where it is deemed necessary.

With respect to problems of implementing the procedural guidelines on trade and environment, the workload can at times be substantial. Trade and environment questions are dealt with in various for a resulting in a great number of meetings. Comprehensive documentation dealing with complicated questions have to be thoroughly analysed before possible conclusions can be identified. Furthermore, bases for establishing directions for national positions must be co-ordinated within and between relevant authorities. Altogether, this work have proved to be highly time-consuming.

## POLAND

Poland has joined the OECD as a member since the fall of 1996, so the period 1997 - 1998 should be treated as the beginning for process of implementation of the 1993 Procedural Guidelines on Trade and Environment and as the first covered by a review.

**Question 1. What steps, since last review of their implementation, has your government taken into deepen the implementation of the four procedural guidelines on trade and environment?. Please give examples of particular cases where the procedural guidelines were invoked, either by government agencies or non-governmental parties, to promote e.g. consultation, reviews, a multilateral approach to environmental problems, access to relevant expertise in disputes, etc.**

The following examples of co-ordination between environment and trade policies and involvement of procedural guidelines may be mentioned among others:

### *Guideline A. Transparency and consultation*

- Establishment of the new permanent Board of Minister's Committee on Regional Policy and Sustainable Development upon the decision of Prime Minister. This highest level forum plays among others the role of co-ordination point for intersectoral activities as well as for environmental policy integration into economic strategies for Poland (1998);
- Establishment of the multiministerial working group for carrying out works on economic instruments usage in the field of environmental protection. Such solution is to ensure multidisciplinary approach to the issue (1998);
- Process of preparation and implementation of the Act of Wastes, which among others regulates international shipment of waste according to provisions of Basel Convention. The Administration of all levels, scientific institutions as well as NGO's representatives were deeply involved in consultative process. The Act of Wastes contains obligation, for both ministers responsible for environment and trade policies for undertaking together further legislative steps in respect of determination list of wastes, not subjected to import premises (1997).
- Process of preparation of complex legal regulations on implementation of Montreal Protocol as well as CITES provisions (1997-1998);
- During the MAI negotiations, the new way of environmental NGOs involvement into the process of public consultation has been practised. This experience allows for coming to conclusion that environmental NGOs, which in Poland have a great intellectual capacity, may be very helpful and efficient partners for the authorities in turning public opinion on issues concerning relation between trade, investments and environment, and motivating society to give input into discussion (1998).

***Guideline B. Trade and environment reviews***

No trade & environment review of the type foreseen in the procedural guidelines has yet been conducted in Poland. However, Poland as 'the accession country', being on course for membership of the EC, has been undertaking the review of whole law system and conducting process of 'the *acquis communautaire*' adaptation. During this process the problem of linkages between trade and environment has been also detected.

***Guideline C. International environmental co-operation***

Representatives of Poland have been participated in all recent international meeting referring to MEAs involving trade issues as well as negotiations of their new protocols (Kyoto Protocol) and also have attended the sessions of CTE/WTO. Participation of Polish representatives in training seminar on Trade and Environment, organised under CTE/WTO has been resulted in arising awareness of necessity of looking for international dimension solution.

***Guideline D. Dispute settlement***

Poland has not so far been involved in environmental disputes with trade dimension.

**Question 2. Have the procedural guidelines on trade and environment resulted in any government policies, procedures or publications?**

Government policies on trade & environment have not been directly a consequence of the procedural guidelines, they are rather effect of general awareness on relations between trade & environment and emphasis put on policies co-ordination.

**Question 3. What difficulties has your government encountered in implementing the procedural guidelines on trade and environment?**

Difficulties for co-ordinating trade & environment policies mainly resulted from few important factors -- ongoing processes of administration system restructuring, priority and intensity of works referring to the adaptation of 'the *acquis communautaire*' into Polish law, as well as financial constrains limiting reviews, recommended in the procedural guidelines.

## SPAIN

**Question 1. What steps, since the last review of their implementation, has your government taken to deepen the implementation of the four procedural guidelines on trade and environment?**

### *Guideline A. Transparency and consultation*

As we stated in our 1995 response, the Advisory Council on the Environment was created in 1994 (Royal Decree 224/94 modified RD. 1720/96 and 225/97) with the objective of facilitating the participation of groups of interest and all departments implied in looking forward the development of a regulatory framework on environment. Then, to provide a compulsory advice on projects of legislation, plan or programmes is its main task. The Presidency of the Council is now the Minister for the Environment (the Ministry was created in 1996).

Another advisory body is the Sectoral Conference where the State co-ordinates environmental policies with the Regional Governments (Autonomous Communities).

Important initiatives in environmental law have been develop since the last review in the context of trade and environment relating to waste management and packaging. (Ley 10/98 de Residuos y Ley 11/97 de Envases y Residuos de Envases).

Another step concerning right to information has been the Law on Access to Information (Ley 38/95 sobre el Derecho de Acceso a la Información en Materia de Medio Ambiente). Efforts at international level in this field have been fulfilled with the Convention on Public Participation signed in the Pan-European Conference of Environment Ministers. (Aarhus 1998).

By Royal Decree 295/95 the Inter-ministerial Commission for negotiations under the WTO was created with the aim of keeping an active and proper debate on aspects on which several Departments were involved. Pre and post Singapore issues have been addressed in this forum including potential or real conflicts as leghold traps, import ban of shrimps or genetically modified organisms.

The Environmental National Congress with a broad participation of both governmental and non-governmental organisations, addresses items such as ecolabelling, waste management and environmental assessment under its program and working parties.

### *Guideline B. Trade and environment reviews*

Discussions on aspects in this field (trade and environmental policies and agreements with implications on the other policy area) are taken in fora mentioned above and in a regular exchange of views between officials whose concerns are taken into account to identify solutions and mutually agreed approaches. This was recently the case in the framework of negotiations of the Multilateral Agreement on Investment.

In the framework of the Barcelona Convention for the Protection of the Mediterranean Sea, the Sustainable Development Commission distributed in March 1998 a trade and environment questionnaire, prepared by the Government of Lebanon.

European Commission-Directorate General XI has sponsored a study on environmental reviews of trade agreements that is being carried out.

***Guideline C. International environmental co-operation***

Spain participates actively in the development of the European stance of international negotiations of environmental agreements: CITES COP X (6/97), Montreal Protocol COP (9/97), Climate Change COP 4 (11/98), Basel COP IV (2/98); CBD COP IV (5/98); PIC Convention (signed, 9/98). Concerning Protocol on Biosafety under negotiation, our aim is to ensure that a balance is achieved between environmental and trade concerns and to maintain the coherence between our national policies and international objectives.

In February 1997, Spain ratified the 1982 United Nations Convention on the Law of the Sea. It also maintained its observership status within the Inter-American Tropical Tuna Commission (IATTC). Within the framework of the UN resolution on driftnets, Spain continued to encourage the eradication of these types of gear. Spain participates in the working groups of the FAO which follow the impact of fishing activities on the environment. Our vessels operate in accordance with conservation and management measures granted by competent regional fisheries organisations such as ICCAT (International Commission for the Conservation of Atlantic Tunas) or in some cases with more restrictive measures imposed by the EU or the Spanish government and in the framework of the General Fisheries Commission for the Mediterranean.

***Guideline D. Dispute settlement***

The European Community participates as a third party in the WTO US shrimp- turtle panel case. Our Government strongly pushed forward a negotiated solution in the leghold traps conflict and supports the conclusion of the humane trapping agreements between the EU and Canada, the Russian Federation and the United States.

**Question 2. Have the procedural guidelines on trade and environment resulted in any new government policies, procedures or publications?**

***Guideline A. Transparency and consultation***

The Ministry of the Environment publishes the Information of the Environment Bulletin (8 per year) and an annual report “ Medio Ambiente en España” with specific sections dealing with evolution in the international and CE contexts of environmental matters.

The Ministry of Economics and Finance publishes the “Información Comercial Española” (Spanish Trade Information), Bulletin in which the results of the Singapore Ministerial Meeting, including those on trade and environment, have been analysed. A comprehensive article has also been included in relation with the Multilateral Investment Agreement in which a section on environment appears.

In the International Conference on the Industry and the Environment (CIMAT, 1997) a public debate addressed trade and environment perspectives.

Our government participated in the 1998 dialogue meeting with NGOs and UNICE sponsored by OCDE in the framework of MAI negotiations and in the WTO (1997,1998) symposia on trade, environment and sustainable development.

Finally, both Ministries have their own web site in the Internet where their specific activities are exposed to the general public. (<http://www.mma.es> ; <http://www.mcx.es> ).

***Guideline B. Trade and environment reviews***

No action has been taken to adapt the OCDE Methodologies for environmental and trade reviews internally.

***Guideline C. International environmental co-operation***

We are firmly engaged with international co-operation in this field to solve common problems as the most effective way of achieving objectives. Our policy looks forward the enforcement of multilateral approaches and the necessary balance between environmental and trade principles.

Spain supports BIOTRADE initiative launched by UNCTAD in 1996 with the aim of promoting international markets for biological resources, while stimulating biodiversity conservation. The venue of the Biotrade Centre will be the city of Sevilla and we will contribute financing operational programmes and management.

The International University of Andalucía organised in co-operation with the Directorate of Foreign Trade a Master's Degree in CITES guided to developing countries officials (May, 1998).

In January 1998 a Workshop on Access to genetic resources took place in the city of Cordoba pursuant to Decision III/15 of the COP to the Convention on Biological Diversity. 34 experts from parties to the Convention, the Secretariat of the Convention, non governmental organisations and the private sector contributed to the discussions.

***Guideline D. Dispute settlement***

Consensus-based decisions is the rule both in multilateral environmental agreements and in the multilateral trading system. In our view the emphasis on co-operative solutions does not preclude the possibility of establishing formal dispute settlement mechanisms in MEAs as the last resort.

If a conflict on trade and environment arises the country must take into account environmental, trade, scientific and other relevant expertise in developing its position. Transparency and access to relevant expertise in the settlement of disputes is contemplated in multilateral trading system.

**Question 3. What difficulties, if any, has your government encountered in implementing the procedural guidelines on trade and environment?**

No specific problems have been encountered.

## SWEDEN

As a general comment, we would first like to stress that by the time the guidelines were formulated by the OECD, they had already been implemented in Sweden to a large extent (as stated in our previous reply dated 1995). This implies, that the "essence" of the guidelines has already long been a part of our policy-making system, and for this reason they have not provided any particular *new* working procedures or experiences. Furthermore, we would like to emphasise that, where nothing else is stated, the answers in our previous reply remain valid. Only where we have additional relevant information, has it been provided in this paper.

**Question 1. What steps, since the last review of their implementation, has your government taken to deepen the implementation of the four procedural guidelines on trade and environment?**

First, it should be noted that in no instance have the guidelines been *invoked*, neither by government bodies nor NGOs. This could be explained by the fact that Swedish government policy-making is based on a long tradition of transparency and consultation, where government bodies, authorities and NGOs take part.

However, below follow, under Guideline B, some examples of developments related to trade and environment policy-making that could be of relevance to a guideline-update of this kind.

### ***Guideline B. Trade and environment reviews***

One important example where transparency in trade/investment policy-making has been in focus lately, is the MAI-negotiations. In connection to these negotiations, the Swedish government has undertaken frequent consultations with NGOs, the civil-society and the parliament. A seminar on MAI was held during the autumn of 1998, when government officials, representatives of NGOs and industry gathered to discuss a wide range of MAI-related topics, for example trade and environment.

Three major studies pertaining to MAI in the context of trade and environment have been carried out in 1998.

These were as follows:

- i) MAI reviewed in the light of Swedish environmental law,
- ii) MAI in relation to Multilateral Environmental Agreements,
- iii) MAI and United Nations' Conferences during the 1990's.

**Question 2. Have the procedural guidelines on trade and environment resulted in any new government policies, procedures or publications (those representing new initiatives since the 1995 review) ?**

We do not see that the guidelines per se have resulted in any new policies, procedures or publications. Again, the reason being that our system already provides for policies and procedures of that kind. However, as part of a general strive from the Swedish government to provide more and better information to the public in all policy areas, a few examples related to "guideline A", could be provided:

***Guideline A. Transparency and consultation***

Transparency has increased thanks to use of the new information technologies (internet, e-mail) which has facilitated a more timely exchange of relevant information to a wider range of stakeholders. Examples:

- a new government web site on "Sustainable Sweden"
- a new government web site on the MAI negotiations.

**Question 3. What difficulties, if any, has your government encountered in implementing the procedural guidelines on trade and environment ?**

See the general answers under Questions 1 and 2.

## SWITZERLAND

### **Question 1. What steps has your government taken to implement the four guidelines?**

#### ***Guideline A. Transparency and consultation***

There is in the Federal administration a consultation mechanism which is used in respect of all Confederation policies. Any agency responsible for formulating policy proposals or draft legislation has first to consult with the other agencies involved, as well as with interested parties in the private sector (especially representatives from industry, environmental NGOs, academia, consumer protection associations, etc.). In addition, reciprocal briefing and consultation are institutionalised at the Ministerial level. The system has been functioning for a long time and does ensure a degree of public policy consistency.

Since 1993, there has also been an Interdepartmental Committee for the follow-up to Rio (CIRio), whose task it is to promote the implementation of Agenda 21 at national and cantonal levels. The Committee is made up of the directors of the 22 Federal agencies. In April 1997, the Federal Council approved a sustainable development strategy on the basis of the work of CIRio. The strategy concerns the economic, environmental and social dimensions of development, but it also deals with the need to improve consistency between the rules of international trade and those relating to environmental protection. In 1997, as a follow-up to this strategy, the Federal Council appointed a Sustainable Development Council which has thirteen members who come from private and university circles.

In the context of CIRio, a "Trade and Environment Forum" was also set up in 1993. Chaired by the Federal Office for Foreign Economic Affairs, the Forum provides a framework in which experts on the environment, development and trade can exchange information and hold discussions. It is made up of federal government officials, as well as representatives of civil society (economists, scientists, NGOs).

Lastly, it should also be said that the offices are making increasing use of the Internet to disseminate information. This at the same time improves interaction with civil society.

#### ***Guideline B. Trade and environment reviews***

No new review has been carried out. That said, the report by the WTO and the WTO's Committee on Trade and Environment (Singapore, 1996) has been discussed and commented on by all the government and non-government actors concerned in the framework of the Trade and Environment Forum.

#### ***Guideline C. International environmental co-operation***

The object of Swiss foreign policy with respect to the protection of the environment is to:

- reduce damage to its environment caused by external activities or harm done to the environment of other countries;

- promote a system ensuring a high level of environmental protection;
- ensure that its environmental policy instruments are consistent with those of its main economic partners.

For a century, therefore, Switzerland has been co-operating closely with its neighbours in various areas of environmental protection (in particular cross-border water and lake management, cross-border air pollution, land use planning, Alpine transport, etc.).

Switzerland also attaches prime importance to world co-operation (especially with regard to protection of the ozone layer, climate change, protection of biodiversity, etc.). In 1994 the Federal Council adopted North-South guidelines incorporating the principles of sustainable development into relations between Switzerland and its partners. Environmental protection is one of the four objectives of Swiss co-operation. The Federal Department of Foreign Affairs adopted an environmental strategy in 1994 so as to ensure that environmental questions were better incorporated into Switzerland's operational development assistance programmes.

In response to Parliamentary questions, the Federal Council confirmed in 1997 that it was prepared to provide support (in terms of information, advice and co-ordination) for cantons and communes which had embarked on work aimed at implementing and giving material form to Agenda 21. As regards multilateral policy, Parliament has recommended the Federal Council to pursue its efforts, in all the relevant international organisations and especially environmental bodies and the WTO, to promote and build on international environmental protection agreements applying to the whole world (globalisation of environmental protection).

***Guideline D. Dispute settlement***

Switzerland has not been involved in any disputes relating to trade and environment.

**Question 2. Have the procedural guidelines resulted in any new government policies, procedures or publications (since 1995)?**

Not directly. However, as part of its concern to see that its policies are consistent and integrated, the Federal Council has drawn up a sustainable development strategy for Switzerland, and this does contain recommendations concerning trade and the environment (see Question 1).

***Guideline D. Dispute settlement***

Switzerland plays an active role in seeking to strengthen dispute settlement procedures in a number of environmental conventions (in particular, PIC Convention, Basel Convention).

In the framework of the WTO, Switzerland also made a proposal in 1995 aimed at improving the consistency of environmental and trade policies. It also proposed that co-operation between the WTO and MEA secretariats be stepped up.

**Question 3. What difficulties has your government encountered in implementing the procedural guidelines?**

***Guideline A. Transparency and consultation***

National environmental NGOs are often short of technical knowledge with regard to trade and environment, and it is therefore difficult to obtain detailed input from them. That said, the documents published as part of the work of the WTO's Committee on Trade and Environment, and also those published by the OECD, are seen as a good basis for informing these NGOs and making them more aware of the issues.

## TURKEY

**Question 1. What steps, since last review of their implementation, has your government taken into deepen the implementation of the four procedural guidelines on trade and environment? Please give examples of particular cases where the procedural guidelines were invoked, either by government agencies or non-governmental parties, to promote e.g. consultation, reviews, a multilateral approach to environmental problems, access to relevant expertise in disputes, etc.**

### *Guideline A. Transparency and consultation*

With respect to the implementation of the OECD procedural guidelines on Trade and Environment, the procedure followed for the preparation of a draft Decree on the Substances Depleting Ozone Layer can be given as an example. The text drafted by the Ministry of Environment taking into consideration of the EU Legislation, was initially discussed with the industrialists active in sectors using these substances and then discussed in all related platforms. The final draft was reviewed in a panel with the participation of all related parties. Now, the draft Decree is in the process of approval.

A consultation and co-ordination body, called the “Executive Committee on Trade and Environment”, was established in 1996 within the Under-secretariat of Foreign Trade to promote consultation, co-ordinate and review inter-ministerial work, and suggest policy approaches with regard to ongoing international environmental negotiations, especially in the WTO and OECD. The Committee is composed of representatives of relevant governmental agencies; private sector and universities.

### *Guideline B. Trade and environment reviews*

#### *National environmental laws/regulations or MEAs reviewed for their trade impacts*

Article 5 of the current Import Regime Decree has been maintained. The said article states that: “imports of goods which fall outside the scope of the measures taken on the ground of the provisions of the legislation concerning public morality, public order or public security, *the protection of health of human beings, animals and plants* or the protection of industrial and commercial property, is free”.

Based on Article 5 of the Import Regime Decree, a communiqué regulating the importation of ozone depleting substances (ODSs) has been issued. The communiqué has been upgraded over the years to reflect restrictions and prohibitions on international trade of ODSs as required by the Montreal Protocol, the Amendments thereof and the Decisions of the Parties. Lastly reviewed in 1998, the Communiqué (currently Import: 98/20) sets quantitative quotas for non-prohibited CFSs and provides a timetable for the phase-out of their imports.

As part of the Customs Union, Turkey is to approximate its technical legislation to that of the EU within a period of five years. This has a certain impact on environmental legislation as well to the extent that technical legislation has environmental implications.

Exports of goods covered by the Vienna Agreement regarding the Protection of Ozone layer as well as the protocols and Amendments pertaining to that charter, to the countries that are signatories of the arrangements are subject to registration, published in the Official Gazette, dated 14.6.1996 and numbered 22666.

Exports of goods covered by the Vienna Agreement regarding the Protection of Ozone layer as well as the protocols and Amendments pertaining to that charter are prohibited, published in the Official Gazette, dated 19.9.1996 and numbered 22762.

Exports of goods covered by the Basel Convention on the control of transboundary movements of hazardous wastes and their disposal, are subject to permission from the Ministry of Environment, published in the Official Gazette, dated 19.9.1996 and numbered 22762.

***Guideline C. International environmental co-operation***

*International environmental agreements are reviewed at national level for their trade impacts*

On the other hand, the Ministry of Environment, the Ministry of Agriculture and Rural Affairs, the Ministry of Forestry, Undersecretariat for Customs and Turkish Scientific and Technic Research Organization are working in close collaboration to prevent the illegal trade and endangered species, especially the bulbs, within the context of CITES.

**Question 2. Have the procedural guidelines on trade and environment resulted in any government policies, procedures or publications?**

One of the objectives contained in the Five-year Development Plans is to ensure sustainable development. The five-year Development Plans also contain provisions fully consistent with the guidelines. The direct link between economic development and the protection of the environment is taken into consideration while elaborating development strategies.

***Guideline C. International environmental co-operation***

Turkey has strengthened the co-ordination and consultation process in order to contribute more effectively to multilateral environmental negotiations, particularly those in the WTO and OECD (see the answer to Q1. above).

**Question 3. What difficulties has your government encountered in implementing the procedural guidelines on trade and environment?**

In general, the lack of readily available financial resources, technical equipment and expertise renders difficult the timely and effective implementation of the procedural guidelines on trade and environment. Likewise, the same reasons often prevent prompt action against environmental problems and cause delays in the implementation of environmental measures especially in the areas where Turkey has recently adopted international rules and deregulations, such as the CITES.

Furthermore, the inadequacy of co-ordination between related institutions on environmental issues, and lack of experience with respect to trade and environment.

## UNITED KINGDOM

### *Guideline A. Transparency and consultation*

A commitment to a transparent and consultative approach is an underlying principle of UK policy development on the trade and environment interface. This is reflected within Government by the major stress laid on the importance of achieving policy coherence on trade and environment issues. In a practical context this extends to the detail of domestic policy implementation and the elaboration of positions for international negotiations, including MEAs. This integrated approach has been reinforced in recent years and there now exists a constant and ever-deepening policy liaison between the Department for Trade and Industry and the Department of the Environment, Transport and the Regions (DETR). In recognition of its importance greater staff resources are now devoted to this work, there is more regular consultation of Ministers and senior officials, and there is generally an increased awareness within Government of the need to address the interaction between trade and the environment. To maintain and broaden this level of understanding we have set up a regular sequence of meetings within Government between officials responsible for the trade and environment portfolio and officials responsible for individual MEAs.

Dialogue with environmental and development NGOs is seen as a vital strand of our engagement with civil society, in addition to taking account of the views of business and industry. An example of the sort of event we would seek to promote was the recent seminar on trade and environment organised by the Royal Institute of International Affairs. The Minister for Trade, Brian Wilson, made a keynote address to the seminar, as did the Director-General of the WTO. It was a truly international event attended by a large number of interested UK NGOs, as well as business representatives. DETR, in co-operation with the Department for International Development, the Foreign and Commonwealth Office and the Department of Trade and Industry, held a Seminar on "Opportunities for Change: International Aspects of Sustainable Development" in July this year, with Trade, Investment and Sustainable Development as one of two key topics. The event was intended to stimulate a debate and exchange of views between representatives of business, NGOs, academic and research bodies and Government Departments. The seminar discussion is feeding into the production of the International Co-operation and Development Section of the revised UK Sustainable Development Strategy due to be published early next year.

A transparent multilateral dialogue is an essential element for progress in the trade and environment field. We support strongly, therefore, the NGO consultation within the Joint Session on Trade and Environment, and we will be looking for opportunities in the future to continue this dialogue within the UK and abroad.

UK Ministers are committed to the goal of improved transparency both within the UK Government itself, and within the World Trade Organisation. As a result of this commitment, we are now beginning work on the development of a package of measures and modalities to encourage greater transparency and to better convince the public of the benefits of trade liberalisation. We see transparency as an approach rather than an absolute, but the issues likely to be incorporated would include: disclosure of information, accessibility and "user-friendliness" of information, education and reciprocal understanding through improved consultation with business, consumer stakeholders and civil society, and the role and status of observers within the WTO.

***Guideline B. Review of positions on trade and environment***

Governments need to consider the environmental impact of everything they do. To this end, the UK supports the incorporation of environmental concerns into economic policy, including trade. We share this objective with our EU partners, who reaffirmed at the Cardiff Council in June 1998 the need to better integrate environmental protection into all Community policies, endorsing the principle that major policy proposals by the Commission should be accompanied by appraisal of their environmental impact. Within the UK we are keenly aware of the need for further analysis around the issue of environmental assessments of trade liberalisation agreements, and we are currently in the process of initial scoping for a programme of work in this area.

Perhaps the most innovative of recent UK initiatives was taken with respect to investment policy, rather than trade per se, although of clear relevance in this context because of the increasing overlaps between these two fields -- this was the UK proposal for an environmental review of the Multilateral Agreement on Investment (MAI). A DETR official joined the UK's MAI negotiating team in the summer of 1997. The UK proposal for a review was tabled in September 1997 and work was agreed and taken forward by the MAI Negotiating Group from October 1997. This was a new step in international negotiations and inaugurated a steep learning curve for all our negotiating partners. The review made use of the large reservoir of expertise within DETR on regulatory frameworks and the negotiation and implementation of MEAs. We consulted comprehensively within Whitehall and took account of the views of NGOs. Although the ship of the MAI is now in dry dock, the experience gained with respect to mounting an environmental review of such an instrument was ground-breaking, and will help to inform our approach in future negotiations. The OECD Environment Directorate's expertise also played a key role in providing underpinning analysis for consideration by the MAI Negotiating Group.

On another front, the UK continues actively to support moves within the OECD Export Credit Group towards seeking a multilateral agreement that official export credit agencies should conduct an assessment of environmental factors when providing support. We regard it as essential that all action taken in this regard is on a multilateral basis. The UK's official export credit agency (ECGD) has, however, independently commissioned a consultancy study to examine the issue of environmental assessment. The results of this study will help us to continue to make a full input to the international debate, in particular on the question of how general principles can be most appropriately and beneficially implemented. ECGD is committed to developing risk assessment practices and the exchange of information on relevant projects with other ECAs.

***Guideline C. International environmental co-operation***

Officials are well aware of the need to maintain policy coherence with respect to statements made in international fora, and the need to consider possible negative trade impacts during the negotiation of MEAs. The approach adopted in such negotiations is to avoid or minimise negative trade impacts wherever possible, i.e. to incorporate trade measures into MEAs only when there is no appropriate alternative means to achieve the environmental objectives of the MEA in question. The UK plays its full part in the development of international environmental action to tackle the various transboundary and global environmental problems facing us and is a strong supporter of a multilateral approach to such problems.

*Guideline D. Dispute settlement*

We are well aware of the concerns in civil society, among environmental NGOs in particular, about the delicate interface between MEAs and WTO rules. The disquiet among interested parties that WTO rules may undermine the effectiveness of further development of environmental protection policies has to be addressed. Whilst there is no question of the WTO being used to set specific standards for environmental protection, we acknowledge the need for the multilateral trading system to accommodate MEAs and the principles underlying environmental protection. Whilst we believe that there is a need to clarify the interface between MEAs and the GATT, it is not yet clear how this may be best achieved. Recent cases law needs to be considered in this context. We will continue to work towards greater clarity in this area and towards the building of consensus among WTO partners.

## UNITED STATES

**Question 1. What steps, since the last review of their implementation, has your government taken to deepen the implementation of the four procedural guidelines on trade and environment? Please give examples of particular cases where the procedural guidelines were invoked, either by government agencies or non-governmental parties, to promote, e.g., consultation, reviews, a multilateral approach to environmental problems, access to relevant expertise in disputes, etc.**

The US continues to support the OECD guidelines and, in the period since the 1995 OECD review, has sought to act in a manner consistent with them.

### ***Guideline A. Transparency and consultation***

The United States has continued to be a strong proponent of facilitating transparency and consultation at both the domestic and international levels in the trade and environment area.

As reflected in the United States submission for the 1995 OECD review, the United States has well-established domestic procedures for interagency consultation, as well as for obtaining input from the non-governmental sector. The Administrative Procedure Act (APA), 5 U.S.C. 551-559, and other domestic laws generally require that agencies provide significant opportunities for any interested member of the public to comment on and participate in the rulemaking process, and that agencies consider these comments in reaching their final decisions. Notice of proposed rules are published in the *Federal Register*, with specified opportunities for comment by the public. The US Trade Act of 1974 established a private sector advisory committee system to help ensure that US trade policy and trade negotiations adequately reflect US interests. These two statutes, both of which were in place long before the OECD guidelines, continue to provide the primary statutory basis and context for our consultative process.

While not required by the APA, the United States has used its notice and comment procedures to solicit input on the negotiation and implementation of international agreements. Environmental and other concerns contained in responses to these Federal Register notices have then been considered in interagency negotiation preparations. For example, USTR often publishes notices in the *Federal Register* to solicit public comment in developing its negotiating position on trade agreements. Just this past year, USTR solicited comments on the World Trade Organisation 1999 Ministerial and the Free Trade Area of the Americas (FTAA), Transatlantic Economic Partnership (TEP) and the Asia Pacific Economic Co-operation (APEC) sectorial negotiations. The State Department also announces public meetings with interested stakeholders through the *Federal Register* both before and after major environmental agreement negotiations. Other agencies, such as the U.S. Fish and Wildlife Service (USFWS), routinely solicit public comment through the *Federal Register* prior to their participation in Conferences of the Parties, as they did to prepare for the Tenth Meeting of the Conference of the Parties for the Convention on International Trade in Endangered Species (CITES).

One of the formal advisory committees under the 1974 Trade Act, the Trade and Environment Policy Advisory Committee (TEPAC), is of particular relevance to trade and environment issues. It was established by the President in 1994 and continues to provide a balanced forum for NGOs to share views with the Office of the U.S. Trade Representative (USTR) and the Environmental Protection Agency (USEPA) on trade and environment. TEPAC, which convenes at least annually with staff-level meetings more frequently, has approximately 27 members representing a broad spectrum of NGOs, business firms, academics, and other stake holders.

In addition, certain domestic laws, in particular, the Federal Advisory Committee Act (FACA), 5 U.S.C App., require that where an Agency is seeking advice or recommendations from an advisory committee that it has established or utilised (“utilized” that the agency has substantial involvement in the management or control of the committee’s operations), the committee must include fairly balanced points of view and the meetings must be open to the public, including prior notice published in the *Federal Register*. The advice provided by such a committee may then be considered as one part of a larger agency rulemaking process, for example, as part of a proposed rule submitted for full public review and comment.

Less formal mechanisms are also utilised domestically to promote transparency and consultation. USTR, the Department of State and USEPA often hold briefings for interested nongovernmental entities on their negotiations leading to either trade agreements or multilateral environmental agreements. The Department of Agriculture’s Forest Service has convened a number of meetings across the country to involve the many stakeholders in thoughtful debate to guide the Agency’s effort in managing the nation’s forests and rangelands, and in providing policy and technical advice to our counterparts overseas to manage their own natural resources in a sustainable fashion.

In international fora, the United States has continued to support and promote transparency and consultation on trade and environment issues, and has taken a number of specific steps in this area. Among them are the following:

- During the UN Economic Commission for Europe negotiations on the establishment of global technical regulations for motor vehicles, the United States successfully pressed to open negotiating sessions to the public, and to include provisions for transparency (e.g., making documents publicly available) in the negotiated agreement.
- This past May, in his address to the World Trade Organisation (WTO)’s second Ministerial Conference, President Clinton called for the creation of a forum for stake holder input to the WTO, and for more transparency in the dispute settlement process as well as other aspects of the WTO. In the shrimp-turtle case, the United States was successful in getting reversed a WTO dispute settlement panel holding that it was not authorised to receive *amicus* briefs.
- The United States has also proposed that the WTO take concrete steps to make its documents more readily available to the public. Specifically, the United States has tabled a proposal in the WTO General Council that would (1) provide for the findings and conclusions of dispute settlement reports to be released to the parties to a dispute and the public as soon as they are available in the WTO’s three official languages; (2) require that agendas for meetings be public documents; (3) requires that documents submitted by governments as national contributions to the WTO work program be circulated as unrestricted documents unless the government in question specifically requests that the document be restricted; and (4) require that minutes of all meetings of WTO bodies be circulated as non-restricted as soon as they are prepared in final form by the Secretariat.

In the Western Hemisphere, the United States has also been a strong supporter of the principles of transparency and consultation embodied in the OECD guidelines. Among the specific actions taken in this regard are the following:

- The United States strongly supports the Committee of Government Representatives on Civil Society, which was established as part of the FTAA negotiations. This is the first time that an international trade negotiation process has included such a mechanism. The US will continue to press for a structure that will make this Committee an effective avenue for ensuring that the concerns of stakeholders, including environmental ones, will be brought to the attention of those negotiating the FTAA.
- The United States also established in late 1994 two advisory committees pursuant to the North American Agreement on Environmental Co-operation (NAAEC) to seek input on implementing this agreement: the National Advisory Committee, which serves as the vehicle for NGO input, and the Government Advisory Committee, which serves as the vehicle for state, local and Native American input. The USEPA is also examining avenues for establishing a point of contact for NGOs for input on environmental concerns related to the North American Free Trade Agreement (NAFTA).

Our efforts to promote transparency and consultation since 1995 at both the domestic and international level have been greatly enhanced by an increased use of the Internet to disseminate information to the public about agency programs, strategic plans and policies, and on-going international negotiations. Most federal agencies now have their own Web pages, as do many of the ongoing negotiations, such as the FTAA.

#### ***Guideline B. Trade and environment examinations, reviews, and follow-up***

The United States is committed to ensuring that trade and environment policies and agreements are examined early in their development so that significant effects of one policy area on the other can be identified and appropriate action taken. The US uses a variety of mechanism for examining and reviewing its policies and agreements from using checklists to remind policy makers to look for trade and environment implications of their actions to preparing formal reports on the trade or environment implications of a policy or agreement. The mechanisms used to identify effects of one policy area on the other and the actions taken in response depend on the nature of the policy or action under consideration. Examples of trade and environment examinations, reviews and follow-ups demonstrating the use of these different mechanism are set forth below.

##### *Trade examinations, reviews, and follow-up*

Since the 1995 OECD review, EPA has established a number of mechanisms, in addition to those already in place, for reviewing whether domestic regulations have implications for international trade rules. For example, the agency has a checklist of items that regulators are to consider in developing regulations, and recently added international trade obligations to that checklist, along with information on potentially relevant trade rules. EPA has also established a high-level trade and environment council within the agency, supported by an agency-wide staff-level working committee, in which trade and environment issues are regularly considered, including the potential trade implications of environmental regulations.

The mechanisms most commonly used by the Department of State in reviewing international environmental agreements for potential trade and other impacts are: 1) solicitation of comments in the *Federal Register*; 2) the holding of open meetings where all interested parties can provide and discuss their views on the negotiation in question; and 3) use of an active interagency consultation process. Through each of these processes trade and other issues are identified and taken into account, as appropriate, in developing US positions for the negotiations. Recent environmental agreements where important dimensions were recognised include the Agreement on Prior Informed Consent on Trade in Hazardous Chemicals, which was completed earlier this year, and the ongoing negotiation of a Biosafety Protocol to the Convention on Biological Diversity.

#### *Environment examinations, reviews, and follow-up*

The mechanisms most commonly used in examining trade agreements for environmental impacts are solicitation of comments through the *Federal Register*, use of the advisory committee process, particularly the Trade and Environment Policy Advisory Committee (both discussed earlier), and use of an interagency process that includes environment agencies. In some instances, such as for NAFTA and the Uruguay round, USTR has used the mechanism of formal environmental reviews.

Through the more commonly used mechanisms of solicitation of public comments and in discussions at both the advisory committee level and the interagency level, an effort is made to identify possible environmental impacts of trade agreements. Once environmental concerns are identified, the US government uses the interagency process to determine the appropriate response. For example, once environmental issues with the Multilateral Agreement on Investment (MAI) were identified, an interagency working group developed a package of proposals for addressing those issues and tabled it at the negotiations. This same process of identifying environmental impacts through use of the *Federal Register*, advisory groups and interagency working groups and developing an interagency response is currently underway in connection with the FTAA.

Another example of the working of this process can be seen in the APEC sectorial liberalisation initiatives. The U.S. government has held consultations with Congress, trade advisory committees and interested members of the public on the APEC agreements and requested advice from the International Trade Commission, which in turn published a Federal Register notice and held public hearings at which environmental and industry interest groups testified. USTR has also requested public comment on these initiatives, including specifically on their environmental and labour implications. As a result of the dialogue with environmental NGOs, a number of adjustments to the forestry initiative have already been made. In the proposal concerning the study of non-tariff barriers to trade in forest products, for example, the U.S. Government has sought and obtained agreement from APEC economies that the study will include an analysis of the policy goals underlying those measures/policies and the economic and environmental costs and benefits stemming from their application. USTR intends to submit a formal report to Congress regarding the environmental impacts of these agreements upon their completion.

The US has also pushed to have mechanisms set up in the trade negotiations themselves that will bring to light environmental considerations. In the case of the TEP initiative currently being negotiating with the EU, the United States has secured agreement EU to create an Environment Working Group that would be tasked, *inter alia*, with informing trade negotiators of the potential impact of other TEP negotiations on health, safety and environmental interests, including impacts on regulatory and enforcement issues. In the FTAA negotiations, the United States pressed hard for the creation of a mechanism that would help bring environment issues to light. Partially as a result of that effort, the FTAA has a Committee on Civil Society through which all stakeholders, including environmental stakeholders, can convey their views regarding FTAA matters to the negotiators.

The OECD Guidelines note that further work needs to be done to develop methodologies for examinations of trade and environment agreements. Our work with the Secretariat of the NAFTA Commission for Environmental Co-operation on a methodology to identify the environmental effects of trade liberalisation does just that. In the course of developing this methodology, we have worked with the Secretariat to consult experts in various fields, and the Secretariat has already published several reports describing its ongoing work.

In the WTO Committee on Trade and Environment, the United States has shared its positive experience with the NAFTA and the Uruguay Round reviews and pressed for agreement in the WTO Committee on Trade and Environment that governments should review the environmental implications of trade agreements.

### ***Guideline C. International environmental co-operation***

The United States continues to be a leading proponent of international environmental co-operation on global and regional environmental issues. This effort is evidenced by the number of agreements in which the US has participated and its efforts to insure successful implementation of many existing agreements.

Recent negotiations and agreements in which the United States has participated include the Kyoto Protocol to the Framework Convention on Climate Change; the Convention on Prior Informed Consent; the IMO Convention on Transportation of Hazardous and Noxious Substances; the 1996 Protocol to the London Convention, including provisions relating to the dumping of low-level radioactive wastes; the Convention on Straddling Stocks and Highly Migratory Species; the MARPOL Air Pollution Annex; the Protocol on land-based sources of pollution in the Caribbean pursuant to the Cartagena Convention; protocols on heavy metals and persistent organic pollutants pursuant to the Convention on Long-Range Transboundary Air Pollution; and the Agreement on the International Dolphin Conservation Program.

Negotiation of the Inter-American Convention for the Protection and Conservation of Sea Turtles is another example and was successfully concluded in September of 1996. The United States worked closely with other countries to negotiate a comprehensive agreement to protect sea turtles in the Western Hemisphere. Under this agreement, countries of the region will commit themselves to comprehensive sea turtle protection programs, including the continued use of turtle excluder devices (or "TEDs") in areas where there is a likelihood of incidental capture of sea turtles in shrimp trawl fisheries. The United States is also talking with countries in the Indian Ocean region about possible negotiations toward a comprehensive agreement to conserve sea turtles. In addition, during the past two years alone, the United States has spent almost half a million dollars funding training seminars around the world to educate foreign government officials and shrimp fishermen on the use of TEDs, which prevent sea turtles from drowning in shrimp nets.

The United States also is actively involved in international efforts to implement existing international agreements. For example, the US Fish and Wildlife Service (USFWS) meets regularly with its counterparts in Mexico and Canada to co-ordinate regional input on CITES issues and to discuss the status of wildlife populations on the North American continent, including the impact of NAFTA implementation on wildlife. Since 1995, the North American Commission on Environmental Co-operation (CEC) -- created to promote environmental co-operation among the NAFTA countries -- has sponsored three specialised seminars on the trade in furs, birds, and reptile skins. These seminars focused on CITES enforcement, especially identification of commonly traded specimens, and law enforcement techniques to detect and thwart smuggling attempts. CEC also held a seminar on wildlife forensics to assist enforcement

personnel from Canada, the United States, and Mexico in regulating and monitoring cross-border wildlife trade. The United States was an active participant in these seminars, and hosted the one on reptile skin trade.

Since 1995, USFWS, under the auspices of the US-Mexico Joint Program for Biodiversity Conservation, has funded three projects to both conserve natural resources and enable local communities to enter international markets as small entrepreneurs. In teaching local people sustainable management and harvest of endangered species such as palms and orchids, these projects counteract overharvesting by providing an economic incentive for conservation. One project taught over 100 small-scale entrepreneurs to collect, analyse and disseminate information on production and marketing practices for handicrafts and other traditional products made from natural resources. Participants were able to enter international markets via the Internet.

Later this year, USFWS will meet with SEMARNAP, its counterpart in Mexico to discuss proposed U.S. support for Mexico's efforts to initiate captive breeding programs for commercial production of wildlife species, such as crocodilians and game mammals.

The USFWS Office of Management Authority and Division of Law Enforcement are in regular communication with their counterparts in other countries to control illegal cross-border trade in wildlife goods. In March 1997, for example, USFWS exchanged information with the Peoples Republic of China on bear gallbladder smuggling by Chinese nationals into the United States. The US is a member of the Interpol Wildlife Trade Subgroup.

#### ***Guideline D. Dispute settlement***

The United States Government routinely engages in an interagency process in developing its positions in dispute settlement proceedings and engages in outreach to the interested public. During the proceedings of the WTO shrimp/turtle dispute (1997-98), for example, the United States developed its briefs and other submissions in the dispute through an interagency process. It also provided regular briefings to industry and environmental representatives to provide information on the progress of the dispute, to seek information. The United States is also required by law to consult with advisory groups on its plans for implementing an adverse panel decision.

In his address to the WTO's second Ministerial Conference, President Clinton called on the WTO to take every feasible step to bring openness and accountability to its operations. He specifically called upon the WTO to open all dispute settlement hearings to the public and to make all dispute settlement briefs publicly available. As a first step, he offered to open up every panel meeting in disputes to which the United States is a party and challenged every other nation to join us in making this happen. This invitation, if accepted, would greatly advance the principles underlying the OECD guidelines.

In addition, there has been a US effort to ensure that the rules and guidelines for disputes under NAFTA's NAAEC allow for transparency and public participation. The US is seeking to include in such rules provisions on transparency and public participation that would encompass the same kinds of items called for in President Clinton called for in his May 1998 address to the WTO.

**Question 2. Have the procedural guidelines on trade and environment resulted in any new government policies, procedures or publications (those representing new initiatives since the 1995 review)?**

As we have said, the United States has had in place since the early 1970s a well-defined structure that promotes transparency and consultation domestically. This structure has been expanded and strengthened over time, but remains fundamentally the same. While our efforts at the international level aimed at transparency and consultation are also not new, they have increased in intensity with our deepening understanding of trade and environment issues and our heightened efforts to, as our President recently said at a gathering of the International Monetary Fund, give all sectors of society a voice in building trade policies that will work for all people in the new century. Since 1995, we have continued our efforts to draw on relevant experts and interested stakeholders in developing our government's position in trade disputes and have increased efforts at international environmental co-operation. One new effort since 1995 has been EPA's formal inclusion of international trade obligations in its check list of items that regulators are to consider in developing regulations. Possibly as a result of this effort by EPA, USTR has been called upon more frequently by individuals at EPA for its advice on the trade aspects of actions EPA is considering.

**Question 3. What difficulties, if any, has your government encountered in implementing the procedural guidelines on trade and environment?**

One of the major difficulties the United States has encountered in implementing the OECD trade and environmental guidelines, particularly internationally, continues to be the lack of agreement that the environment is an issue that should be considered in a trade context. In a recent speech to the League of Conservation Voters, President Clinton put it this way:

[W]e have . . . a huge intellectual battle to fight . . . And one of the central ideas is that honest belief that you cannot . . . grow the economy and preserve the environment; you *can* actually grow the economy and preserve the environment.

The difficulty we face in reaching agreement on how to grow the economy and protect the environment at the same time is illustrated by the fact that TEPAC, the committee established to give advice to USTR and USEPA, is more often than not unable to reach consensus on how to advise these two agencies on trade and environment matters.

Another obstacle is the reluctance of other governments to move toward more transparency in international fora. For example, in furtherance of transparency and consultations in relation to WTO dispute settlement proceedings, the United States has made a practice of making its submissions publicly available as provided for in WTO rules. Similarly, we have made a practice of requesting other parties to disputes to make their submissions public or provide a public version of such submissions as required by WTO rules. Unfortunately, we have found that many delegations have not honoured the spirit of this requirement, failing to provide public versions of submissions for extended periods of time. We have also encountered this same reluctance to move toward transparency in the MAI and FTAA negotiations, among others.

As we have discovered in our work with the NAFTA CEC Secretariat in trying to develop a methodology for identifying the environmental effects of trade liberalisation, another obstacle is that it can be quite difficult to distinguish the environmental effects of changes in trade flows from those attributable to more general economic growth patterns, particularly among economies that already have complex and broad trade relationships. For example, in designing the NAFTA Environmental Effects Project, outside consultants broadened their analysis to cover trade and economic relations between the three countries, generally because of the great methodological difficulty of identifying economic effects attributable to NAFTA alone.