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THE RELATIONSHIP BETWEEN REGIONAL TRADE AGREEMENTS AND THE MULTILATERAL TRADING SYSTEM

ENVIRONMENT

This paper forms part of a broader study on the relationship between Regional Trade Agreements and the Multilateral Trading System. Together with other chapters and an overall assessment, it will be incorporated into a consolidated document to be submitted to the Trade Committee on 28-30 October.

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ENVIRONMENT

I. Key points emerging

- 1. This chapter provides an overview of how environmental considerations are addressed in regional trade agreements and partnerships (RTAs), and highlights similarities and differences between these agreements and relevant provisions in the WTO Agreements. For the purposes of this chapter, its scope includes not only provisions relating to protection of natural resources, but also protection of human, animal or plant life or health, and those relating to the promotion of sustainable development.
- 2. Protection of human health and of the natural environment has been recognised by the multilateral trading system as a legitimate objective of public policy since the original GATT treaty was signed in 1947, even though the word "environment" never actually appears in the text. The relationship between trade and environmental policies was made much more explicit in the Uruguay Round, as reflected in the Preamble to the Agreement Establishing The World Trade Organization and in the various separate Agreements. In general, measures related to the protection of the environment are considered to be compatible with the general disciplines of the multilateral trading system.
- 3. Provisions in RTAs relating to the environment to a large extent reflect the approach taken in the WTO Agreements. Many contain language in their preambles recognising the need for environmental protection and achievement of sustainable development objectives. Many contain general exception clauses similar to those found in Article XX of the GATT, and the trend is to include language (often borrowed from other RTAs) affirming that the measures referred to in Article XX(b) of the GATT 1994 include environmental measures necessary to protect human, animal or plant life or health.
- 4. One of the major differences between the way that the environment is treated under the WTO Agreements and in some RTAs and regional co-operation organisations is the institutional structure. Whereas, in the WTO, provisions for environmental measures are integrated into the various Agreements and addressed in Committees, in a number of RTAs, the environment is also the subject of separate agreements on environmental co-operation. Several RTAs that did not initially contain specific provisions on the environment have since created separate protocols or instruments to deal with the environment in general, or with specific environmental problems. This is the case of MERCOSUR² (Mercado Común del Sur), for example, for which a protocol on the environment is under preparation.
- 5. Although it is becoming more common to include side agreements that address environmental issues, wide divergences can be observed among RTAs in the institutions created to administer their agreements on environmental co-operation (AECs). The pioneering AEC, the North American Agreement on Environmental Co-operation (NAAEC, a side agreement to NAFTA) has its own Secretariat, with a

A history of the incorporation of environmental concerns in GATT negotiations can be found in WTO Secretariat (1999b).

A list of acronyms is annexed at the end of this paper.

mandate to document cases involving allegations of lax environmental enforcement.³ More common are the many environmental co-operation agreements associated with RTAs that have been created to facilitate exchange of information and technical co-operation on matters related to the environment. Canada's AEC with Costa Rica and the various "Partnership Agreements" between the EU and non-EU Mediterranean countries are prime examples. Indeed, technical co-operation on the environment — especially capacity building — would appear to be one of the areas in which RTAs have gone beyond what is provided for under the WTO Agreements. Generally, bilateral or multilateral working groups or committees, rather than full-fledged Secretariats, are established to administer these types of agreements.

- 6. The institutional structure of RTAs in the environmental area naturally reflects their underlying aspirations, especially with regard to improvement in the levels and enforcement of environmental regulations. The degree of harmonisation attempted in the area of environmental standards and regulations tends to vary according to whether the regional group's members aim at economic integration or simply trade facilitation. The EU, the most economically integrated RTA, has moved progressively to harmonising standards and setting binding norms for all its member States. Other regional organisations, such as Asia-Pacific Economic Co-operation (APEC) and the South African Development Community (SADC), have established collaborative programmes in specific fields, including the environment and natural resources management.
- An important objective of many environmental co-operation agreements associated with Free-Trade Agreements (FTAs), especially those involving OECD Member countries, is preventing the relaxation of domestic environmental laws and the enforcement of those laws, especially for the purpose of attracting trade or investment. These commitments, as well as helping to preserve environmental quality, could also serve to lessen the risk that distortions in trade or investment might arise as a result of a country lowering its environmental standards. The language in Article 3 of the Canada-Chile Agreement on Environmental Co-operation (CCAEC) is typical: "each Party shall ensure that its laws and regulations provide for high levels of environmental protection and shall strive to continue to improve those laws and regulations." The US-Jordan FTA remains unique, inasmuch as its language admonishing Parties against relaxing domestic environmental laws (which appears in the FTA itself, not in a side agreement) explicitly recognises such practices as an inappropriate way to encourage *trade*. In NAFTA and the Canada-Chile Free-Trade Agreement (CCFTA), by contrast, the Parties recognise the inappropriateness of using such means to encourage *investment*.
- 8. In two other areas a few RTAs have gone beyond the multilateral trading system in the sense of including provisions not found in WTO Agreements: defining the relationship between multilateral environmental agreements and the RTA, and requiring each Party to periodically prepare (and make publicly available) a report on the state of its environment. Several RTAs contain provisions which aim to ensure that, in case of conflict (and subject to certain conditions), Parties' obligations under certain multilateral environmental agreements prevail over those under the RTA. In this regard, provisions in earlier agreements (e.g., NAFTA) may have had a "cascade" effect, re-appearing, in more or less similar terms, in bilateral agreements between one of the Parties to the RTA and a third country, as appears to have been the case in the FTA between Chile and Mexico. The requirement to produce "State-of-the-Environment" reports (using identical language) was also extended to the CCAEC after it was first included in the NAAEC.⁴

Upon approval by the Council, which is composed of the three Parties' environment ministers.

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Since NAFTA, Canada's approach in signing regional or bilateral trade agreements has been to address the environment both in trade agreements as well as in parallel environmental cooperation agreements. The provisions in the trade agreements vary slightly, but generally they promote sustainable development, mutually supportive economic and environmental policies, and protection of a country's legitimate right to

II. Provisions in WTO Agreements

9. There are a multitude of provisions in WTO Agreements that are relevant to environmental measures, even though they may not explicitly mention environment. The ones highlighted in the paragraphs below constitute those most frequently referred to.

General objectives relating to the environment or sustainable development

- 10. The concept of sustainable development appears prominently in the Preamble to the WTO Agreement, which states that the WTO has the objective of "raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production of and trade in goods and services, while allowing for the optimal use of the world's resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment and to enhance them and for doing so in a manner consistent with their respective needs and concerns at different levels of economic development." In the Preamble to the Doha Ministerial declaration, WTO Ministers, among other affirmations, strongly reaffirmed their commitment to the objective of sustainable development, asserted that "the aims of upholding and safeguarding an open and non-discriminatory multilateral trading system, and acting for the protection of the environment and the promotion of sustainable development can and must be mutually supportive."
- 11. Protection of the environment also forms an integral part of the *Agreement on Agriculture*. In the preamble to that Agreement, Members acknowledged that commitments made under the reform programme should have regard for non-trade concerns, including food security and the need to protect the environment.⁶

Institutions for the environment

12. The Decision on Trade and Environment adopted in Marrakech in 1994 established a Committee on Trade and Environment (CTE) in the WTO, and suggested terms of reference and a work programme, together with a new institutional structure for its execution. In adopting this decision, Ministers considered that there should not be, or need not be, any policy contradiction between upholding an open, non-discriminatory and equitable multilateral trading system, and acting for the protection of the environment and the promotion of sustainable development. They also expressed their desire to co-ordinate policies in the field of trade and environment without exceeding the competence of the multilateral trading system, which is limited to trade policies and those trade-related aspects of environmental policies that could result in significant trade effects for WTO members. The CTE provides an important forum for Members to

regulate in the public interest. They also generally seek to discourage waiving or derogating from laws in order to encourage trade or investment. And they recognise that where conflicts with the trade agreement occur, the obligations provided for in certain multilateral environmental agreements shall prevail to the extent of the inconsistency.

- In its interpretation of Article XX of the GATT, and making reference to the objective of sustainable development in the preamble of the WTO Agreement, the Appellate Body has said that "this preambular language ... must add colour, texture and shading to our interpretation of the agreements annexed to the WTO Agreement, in this case, the GATT 1994. ... It is proper for us to take into account, as part of the context of the chapeau, the specific language of the preamble to the WTO Agreement." *US-Shrimp*, paragraphs 153 and 155 of the Appellate Body report.
- ⁶ See also Article 20, which refers to non-trade concerns mentioned in the Preamble

discuss issues at the interface between trade and the environment. A separate Decision on Trade in Services and the Environment likewise commits the CTE to address environmental issues related to trade in services.

13. Other Committees also deal with questions relating to certain aspects of the environment. The Committee on Technical Barriers to Trade, for example, receives notifications on a diverse range of environmental measures related to such matters as fuels, energy saving, genetically modified organisms, organic agriculture, pesticides, fertilisers, wastes, eco-taxes, ozone-depleting substances, and hazardous materials. Through its formal question-and-answer process, members may elicit information additional to that provided in the notifications. The Committee on Sanitary and Phytosanitary Measures performs a similar function, for example, with respect to measures applied to prevent or limit damage within the territory of the Member from the entry, establishment or spread of pests.

General exceptions relating to environmental protection or the conservation of natural resources

- 14. Article XX of the GATT provides flexibility for Members to take legitimate exceptions to WTO disciplines for measures that would otherwise be inconsistent with their obligations:
 - "... nothing in this Agreement shall be construed to prevent the adoption or enforcement by any contracting party of measures:
 - (b) necessary to protect human, animal or plant life or health;
 - (d) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement, including those relating to customs enforcement, the enforcement of monopolies operated under paragraph 4 of Article II and Article XVII, the protection of patents, trade marks and copyrights, and the prevention of deceptive practices;
 - (g) relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption;"
- 15. However, measures related to the protection of the environment shall not constitute an obstacle to legitimate trade, nor disguised protectionism. Accordingly, the "chapeau" of Article XX states that such measures shall not be applied "in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade … ." Compatibility of national and regional environmental regulations with the conditions set by Article XX has been subject to several key disputes in the GATT and WTO.⁸

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Fourth WTO Ministerial Conference, WTO Secretariat Background Note, Background paper No. 3 submitted by the WTO to the Commission on Sustainable Development acting as the preparatory committee for the World Summit on Sustainable Development; third preparatory session 25 March–5 April 2002.

Under the GATT, six panel proceedings involving an examination of environmental measures or health related measures under Article XX have been completed: *United States – Prohibition of Imports of Tuna and Tuna Products from Canada*, adopted on 22 February 1982, *Canada – Measures affecting Exports of Unprocessed Herring and Salmon*, adopted on 22 March 1988, *Thailand – Restrictions on Importation of and Internal Taxes on Cigarettes*, adopted on 7 November 1990, *United States-Restrictions on Imports of Tuna*, circulated on 3 September 1991, not adopted; *United States – Restrictions on Imports of Tuna*, circulated on 16 June 1991, not adopted; and *United States – Taxes on Automobiles*, circulated on 11 October 1994, not adopted. So far, under the WTO, three disputes led to the adoption of panel and Appellate Body reports: *United States – Standards for Reformulated and Conventional Gasoline* (hereafter

- 16. In explaining its reasoning on the first environment-related case heard under the WTO, the WTO Appellate Body stated that "WTO Members have a large measure of autonomy to determine their own policies on the environment (including its relationship with trade), their environmental objectives and the environmental legislation they enact and implement. So far as concerns the WTO, that autonomy is circumscribed only by the need to respect the requirements of the General Agreement and the other covered agreements."
- 17. The Appellate Body has also noted that "the words of Article XX(g) 'exhaustible natural resources' were actually crafted more than 50 years ago. They must be read by a treaty interpreter in the light of contemporary concerns of the community of nations about the protection and conservation of the environment. While Article XX was not modified in the Uruguay Round, the preamble attached to the WTO Agreement shows that the signatories to that Agreement were, in 1994, fully aware of the importance and legitimacy of environmental protection as a goal of national and international policy." ¹⁰
- 18. Less-extensive language appears in Article XIV of the *General Agreement on Trade in Services* (GATS), which provides that "subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail, or a disguised restriction on trade in services, nothing in this Agreement shall be construed to prevent the adoption or enforcement by any Member of measures: (...) (b) necessary to protect human, animal or plant life or health; (...)". Similar language appears in Article XXIII of the Agreement on Government Procurement, a plurilateral agreement annexed to the WTO Final Agreement.
- 19. Article 27:2 of the Agreement on *Trade-Related Aspects of Intellectual Property Rights* (TRIPS Agreement) allows Members to "exclude from patentability inventions, the prevention within their territory of the commercial exploitation of which is necessary to protect public order or morality, including to protect human, animal or plant life or health or to avoid serious prejudice to the environment, provided that such exclusion is not made merely because the exploitation is prohibited by their law." Article 27:3(b) authorises Members to exclude from patentability "plants and animals other than micro-organisms, and essentially biological processes for the production of plants or animals other than non-biological and microbiological processes."

Standards and regulations

20. Of relevance to most environmental measures are disciplines in the *Agreement on Technical Barriers to Trade* ("the TBT Agreement"), which addresses mandatory technical regulations, voluntary standards, and conformity assessment procedures. The TBT Agreement recognises in its Preamble that no country should be prevented from taking "measures necessary to ensure the quality of its exports, or for the protection of human, animal or plant life or health, of the environment ... at the levels it considers appropriate, subject to the requirement that they are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail or a disguised restriction on international trade"

US-Gasoline), Appellate Body Report and Panel Report, adopted on 20 May 1996,; United States – Import Prohibition of Certain Shrimp and Shrimp Products (hereafter US-Shrimp), Appellate Body Report and Panel Report adopted on 6 November 1998. and European Communities – Measures Affecting Asbestos and Asbestos-Containing Products, Appellate Body Report and Panel Report adopted on 5 April 2001. GATT/WTO dispute Settlement Practice related to GATT Article XX, Paragraphs (b), (d), and (g). WT/CTE/203, 8 March 2002. See also Rao (2001).

US-Gasoline, pages 29-30 of the Appellate Body report.

US-Shrimp, paragraph 129 of the Appellate Body report.

Agreement"), such as those regulating maximum residue limits for pesticides in food, or those relating to invasive species and health protection of wild fauna and flora, are closely associated with environmental policy. The SPS Agreement sets forth specific disciplines for such measures, among which are that such measures are "applied only to the extent necessary to protect human, animal or plant life or health", are "based on scientific principles" and are "not maintained without sufficient scientific evidence" (Article 2.2), "do not arbitrarily or unjustifiably discriminate between Members" and are "not applied in a manner which would constitute a disguised restriction on international trade" (Article 2.3).

Relationship with international environmental instruments

- 22. The WTO Agreements contain no specific reference to Multilateral Environmental Agreements (MEAs) or other international environmental instruments. However, the Decision on Trade and Environment refers to the Rio Declaration on Environment and Development and to Agenda 21. The relationship between the rules of the multilateral trading system and the trade measures contained in MEAs is part of the regular CTE's work programme. The relationship between existing WTO rules and specific trade obligations set out in MEAs has been included in the Doha Development Agenda among the issues for negotiation in the area of trade and environment. 12
- 23. In the *US-Shrimp* case the Appellate Body quoted, among others, the report of the CTE forming part of the Report of the General Council to Ministers on the occasion of the 1996 Singapore Ministerial Conference, which endorsed and supported "... multilateral solutions based on international co-operation and consensus as the most effective way for governments to tackle environmental problems of a transboundary or global nature. WTO Agreements and multilateral environmental agreements (MEAs) are representative of efforts of the international community to pursue shared goals, and in the development of a mutually supportive relationship between them, due respect must be afforded to both."¹³

Subsidies

24. The Agreement on Subsidies and Countervailing Measures (ASCM) originally set out that certain subsidies are prohibited (Articles 3 and 4), others actionable (Articles 5 to 7) and a final category non-actionable (Articles 8 and 9). The question of environmental subsidies was discussed by the negotiating group on subsidies and countervailing measures during the Uruguay Round. It was agreed that

Paragraph 31(i) of the Doha Development Agenda (DDA). The other issues for negotiation in the area of environment mentioned in paragraph 31 of the DDA are: (ii) procedures for regular information exchange between MEA Secretariats and the relevant WTO Committees, and the criteria for granting observership status; and (iii) the reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services.

Decision on Trade and Environment, preamble and paragraph 2 (b).

Report (1996) of the Committee on Trade and Environment, WT/CTE/1, 12 November 1996, para. 171, Section VII of the Report of the General Council to the 1996 Ministerial Conference, WT/MIN(96)2, 26 November 1996, quoted in paragraph 168 of the *US-Shrimp* Appellate Body Report.

A definition of a "subsidy" for the purposes of the ASCM is provided for in Article 1. It contains three basic elements. A "subsidy" only exists if: (a) a financial contribution is provided and (b) the contribution is made by a government or a public body within the territory of a WTO Member and (c) that contribution confers a benefit.

environmental subsidies would be placed in the non-actionable category along with subsidies for research activities and disadvantaged regions. ¹⁵

- 25. This status was maintained for a period of five years (until the end of 1999) and has not been renewed. If Under Article 31 of the ASCM, the Committee on Subsidies and Countervailing Measures was entitled to prolong or modify the provisions of Article 8.2. While there was disagreement whether to extend the provisions or not, ultimately they lapsed due to a failure to reach consensus in the Committee. At the November 2001 WTO Ministerial meeting in Doha, Qatar, agreement was reached to engage in negotiations aimed at clarifying and improving disciplines on Subsidies and Countervailing Measures; among other tasks, participants in these negotiations will "aim to clarify and improve WTO disciplines on fisheries subsidies, taking into account the importance of this sector to developing countries" (para. 28).
- 26. Annex 2 of the Agreement on Agriculture¹⁹, which lists the different types of subsidies that are not subject to reduction commitments, covers a number of different types of measures relevant to the environment. Conditional on meeting the general criteria for such exemptions, Members are allowed to claim exemptions from reduction commitments for expenditures (or revenue foregone) in relation to programmes that provide services or benefits to agriculture or the rural community. These include: research in connection with environmental programmes, infrastructural works associated with environmental programmes, and payments under environmental programmes.

Technical co-operation on the environment

27. The WTO Agreements do not contain specific provisions on technical co-operation in the field of trade and environment. However, in paragraph 33 of the Doha Development Agenda, Ministers recognised the importance of technical assistance and capacity building in the field of trade and the environment to developing countries, in particular the least-developed countries. Over the past years the WTO Secretariat has conducted Regional Training Seminars on Trade and Environment in Asia, the Caribbean, the Mediterranean, Latin America, Central and Eastern Europe and Africa. The objective of these seminars was to increase awareness of the linkages between trade, environment and sustainable development; to inform countries of on-going discussions in the WTO and of relevant GATT/WTO rules; and to prepare

Under Article 8.2(c) of the ASCM, environmental subsidies were allowed for "assistance to promote adaptation of existing facilities to new environmental requirements imposed by law and/or regulations which result in greater constraints and financial burden on firms, provided that the assistance: (i) is a one-time non-recurring measure; and (ii) is limited to 20 per cent of the cost of adaptation; and (iii) does not cover the cost of replacing and operating the assisted investment, which must be fully borne by firms; and (iv) is directly linked to and proportionate to a firm's planned reduction of nuisances and pollution, and does not cover any manufacturing cost savings which may be achieved; and (v) is available to all firms which can adopt the new equipment and/or production processes."

See Committee on Subsidies and Countervailing Measures, "Minutes of Special Meeting", 20 December 1999, WT/G/SCM/M/22; and Committee on Subsidies and Countervailing Measures, "Minutes of Regular Meeting", 1-2 November 1999, WT/G/SCM/M/24.

In their 14 November 2001 decision on "Implementation-related issues and concerns" (WTO (2001a)), however, WTO Ministers took note of the proposal to treat measures implemented by developing countries with a view to achieving legitimate development goals, "such as ... development and implementation of environmentally sound methods of production" as non-actionable subsidies, and agreed that this issue should be addressed during the course of the negotiations. Ministers also urged that, during the negotiations, members exercise due restraint with respect to challenging such measures.

Fisheries subsidies are also referred to in paragraph 31 of the Doha Development Agenda.

See also Article 20, which refers to non-trade concerns mentioned in the Preamble.

participants for future discussions in the WTO's Committee on Trade and Environment or elsewhere in the organisation.

III. Provisions in Regional Trade Agreements

- RTAs that aspire mainly to economic co-operation seem to contain relatively general language relating to the environment. APEC, for example, does not involve binding rules. However, central to its *modus operandi* is a strong form of peer pressure, including increasingly elaborate and rigouous peer review mechanisms, which provides strong encouragement to its members to comply with agreed commitments. APEC Members define broad regional goals of common interest, the specific aspects of which are implemented unilaterally at the national level. At the other end of the spectrum is the European Union an example of deep integration, involving supra-national authority where protection of the environment plays a prominent role. Article 2 of the Treaty establishing the European Community, last updated through the 1998 Amsterdam Treaty (hereafter the Consolidated EC Treaty) enshrines the principle of sustainable development and includes a high level of protection and improvement of the environment among the Community's tasks. Article 6 of the Consolidated EC Treaty states that environmental protection requirements must be integrated into the definition and implementation of Community policies and activities which include trade polices in particular with a view to promoting sustainable development.²⁰
- 29. Table 1 (appended to this chapter) shows in summary form the diversity of provisions relating to the environment in 15 representative RTAs, comparing them with the WTO Agreements. In such a table, nuances and differences in detail are inevitably sacrificed for the sake of readability. Nonetheless, several general points emerge from it. One is that the preponderance of RTAs mention protection of the environment or promotion of sustainable development as an explicit objective and include general exception clauses for environmental measures. Another is that institutions to deal with the environment have often been created in connection with RTAs. In some cases these institutions are created with reference to the RTA itself; in others they are created by an associated agreement on environmental cooperation. Where an FTA has emerged from within a regional body with broader economic and political objectives, such as ASEAN or SADC, some of the associated environmental institutions often set up to facilitate technical co-operation on transboundary natural resources may actually pre-date the FTA.

General objectives relating to the environment or sustainable development

30. A number of RTAs contain general language referring to the protection of the environment, the conservation of exhaustible or non-renewable natural resources, or the promotion of sustainable development. Often the language is included in a general exceptions clause. In three reports produced since 1999 (WTO, 1999a, 2000 and 2001b) the WTO Secretariat found environment-related provisions in over

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EU integration has also influenced environmental policies in EFTA. Most EFTA States have strengthened their environmental policies through either bilateral (EC-Switzerland Free Trade Agreement, 1972, and the seven bilateral agreements between Switzerland and the EU) or plurilateral agreements (EEA) with the European Union. In particular, the EEA basically makes EU legislation on the environment applicable to Iceland, Liechtenstein and Norway, in addition to Austria, Finland and Sweden, which have subsequently become EU Member States. An Agreement amending the original 1960 EFTA Convention (Stockholm Convention), signed in Vaduz in June 2001, reflects all provisions on the environment contained in WTO law. However, some provisions of the updated Convention and its annexes seem to be influenced more by the EU or local environmental legislation than WTO law. For instance, the updated Convention provides for an environmental safeguard, which does not exist in the WTO.

60 notifications of RTAs; virtually all of them contain general provisions or general exceptions to trade in relation to environmental protection.²¹

31. The preamble to NAFTA, which entered into force in January 1994, ensures that the goals of the agreement are attained in a manner consistent with environmental protection and conservation, and includes among the goals of the agreement "the promotion of sustainable development" and the strengthening of the development and enforcement of environmental laws and regulations. In addition, the preamble reaffirms the importance of the conservation, protection and enhancement of the environment in their territories. It also reaffirms the Stockholm Declaration on the Human Environment of 1972 and the Rio Declaration on Environment and Development of 1992. Almost identical language is used in the two separate Agreements on Environmental Co-operation between the Government of Canada and the Governments of Chile and of Costa Rica — both side agreements to the respective bilateral FTAs (CCFTA and CCRFTA).

Institutions for the environment

- 32. Several RTAs have established standing working parties or committees for addressing environmental issues. Since 1994, APEC has held meetings of Ministers responsible for the environment, and the environment has been regularly on the agenda of the Economic Leaders' meetings since the 1993 Blake Island meeting, where the "Sustainable Development Dialogue" was launched. 22 Several of APEC's working groups and committees deal with environmental matters. 23
- 33. There is only a minor reference to the environment in the Preamble of the MERCOSUR Agreement (Treaty of Asunción). However, several decisions of the Grupo Mercado Comun and the Consejo de Mercado Común relate to issues such as pesticides, energy polices and transport of hazardous products. Meetings of the Member countries' environment ministers laid a foundation for further cooperation in the region on these issues, as a result of which in 1992 an informal working group (Reunión especializada en Medio Ambiente) was established. This group issued basic guidelines on environmental policy, and over the years evolved into a Working Sub-Group on the Environment (SGT-6), which has discussed issues such as environment and competitiveness, non-tariff barriers to trade, and common systems of environmental information.²⁴
- 34. Perhaps the most elaborate and integrated institution dealing specifically with the environment, is the North American Commission for Environmental Co-operation (NACEC), created in 1994 under NAAEC. The NACEC consists of a Council, a Secretariat, and a Joint Public Advisory Committee. The main tasks of the Council are: to serve as a forum of discussion, to oversee the implementation of the Agreement, to develop recommendations, and to promote and facilitate co-operation on environmental matters (Article 10). Article 13 states that the Secretariat may prepare public reports on any environmental

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For example, the SADC calls upon signatories to "[a]chieve sustainable utilization of natural resources and effective protection of the environment"; the Preamble of the Vaduz Convention (the updated EFTA Convention, 2001, hereafter "the updated EFTA Convention") affirms that the Member States recognise "the need for mutually supportive trade and environment policies in order to achieve the objective of sustainable development"; the treaty establishing MERCOSUR mentions the achievement of economic development and social justice as primary aims, while noting that these objectives must be achieved by making optimum use of available resources and preserving the environment.

Already in 1991, the Seoul Declaration included a reference to the concept of sustainable growth.

Because it is considered a cross-cutting issue, APEC has no separate working group on the environment.

²⁴ UNEP/IISD (2000), and Leichner (2001).

matter, as long as they are not related to enforcement of laws. Under NAFTA, the latter's Free Trade Commission and NACEC co-operate in a number of trade-environment issues, including avoiding trade-environment disputes. ²⁵

35. The model provided by NAFTA, and its side agreement, NAAEC, has since been adapted in the environmental co-operation agreements between Canada and other countries in the Americas. However, while the Canada-Chile Agreement on Environmental Co-operation (CCAEC) created a Canada-Chile Commission for Environmental Co-operation (composed of a Council, a Joint Submissions Committee and a Joint Public Advisory Committee), unlike the NACEC, it is not a stand-alone organisation with its own secretariat. Rather, the Commission is supported by two national Secretariats, one established in each country. The more recent Agreement on Environmental Co-operation Between the Government of Canada and the Government of the Republic of Costa Rica (a side agreement to the CCRFTA) created neither a bilateral commission nor a dispute-settlement system. The main goal of the Agreement is to enhance bilateral co-operation. Official meetings will take place every other year, with ones on specific issues of technical co-operation much more frequent. The COMESA Treaty provides for the creation of a number of technical committees, which are responsible for the preparation and implementation of programmes in their respective sectors. One of them is the Technical Committee on Natural Resources and Environment.

General exceptions relating to environmental protection or the conservation of natural resources

- 36. As noted above, many RTAs contain general exceptions analogous to Article XX of the 1947 GATT. In some, such as ANZCERTA (which entered into force in 1983), the language is similar but not identical to that found in Article XX. Thus, providing that such measures are not used as a means of arbitrary or unjustified discrimination or as a disguised restriction on trade in the Area, nothing in ANZCERTA "shall preclude the adoption by either Member State of measures necessary ... (c) to protect human, animal or plant life or health, including the protection of indigenous or endangered animal or plant life;" or "(g) to conserve limited natural resources." The distinguishing features of these two paragraphs are the explicit references to indigenous or endangered species and the qualification introduced by the word "limited" in paragraph (g).
- 37. Article 13 of the updated EFTA Convention states that the prohibition of quantitative restrictions on imports and exports, and measures having equivalent effect, shall not preclude the adoption of measures necessary to protect the health and life of humans, animals or plants and of the environment. However, these measures shall not constitute a means of arbitrary discrimination or a disguised trade restriction. Articles 27 and 33 provide for similar exceptions, respectively in the fields of investment and trade in services. Article 40 authorises a Member State to unilaterally take appropriate measures "if serious economic, societal or environmental difficulties of a sectoral or regional nature liable to persist are arising." While this article bears some resemblance to Article XX of the GATT, its scope is more restricted since it applies only to quantitative restrictions.
- 38. Several RTAs or bilateral trade agreements involving Canada and the United States make explicit reference to Article XX. NAFTA, the US-Jordan FTA, the CCFTA, the CCRFTA and the CIFTA, for example, all contain identical language affirming that "the measures referred to in Article XX(b) of the GATT 1994 include environmental measures necessary to protect human, animal or plant life or health, and that Article XX(g) of the GATT 1994 applies to measures relating to the conservation of living and

See also paragraph [43] below.

non-living exhaustible resources."²⁶ In addition, NAFTA states that the exceptions of Article XX of the GATT are incorporated into and made part of the Agreement.

Standards and regulations

- Several RTAs contain provisions on standards similar to those contained in the SPS and TBT Agreements. Under Chapter 7(B) of NAFTA, for example, each Party may adopt, maintain or apply any sanitary or phytosanitary measure necessary for the protection of human, animal or plant life or health in its territory, including a measure more stringent than an international standard, guideline or recommendation. And each party may, in protecting human, animal or plant life or health, establish the level of protection it considers appropriate.²⁷ To avoid abuses, each Party must ensure that any sanitary or phytosanitary measure it adopts does not arbitrarily or unjustifiably discriminate among like goods. A measure must be based on scientific principles, not maintained where there is no longer scientific basis for it, be based on a risk assessment, as appropriate to the circumstances, be applied only to the extent necessary to achieve its appropriate level of protection and not represent a disguised restriction on trade. In conducting a risk assessment, Parties shall take into account a variety of factors, including relevant scientific evidence as well as relevant ecological and other environmental conditions. As a basis for their sanitary and phytosanitary measures, Parties are to use relevant international standards. However, the Agreement specifies that the latter shall not be construed to prevent a Party form adopting, maintaining or applying measures that are more stringent than the relevant international standards. The annex to the updated EFTA Convention on SPS measures requires that the Member States apply the WTO SPS Agreement and its provisions on the environment. Several references to environmental considerations are also made in the annex on mutual recognition in relation to conformity assessment (Art. 15 of the updated Convention).
- 40. Chapter 9 of NAFTA applies to standards-related measures other than those covered by Chapter 7. In it, the Parties affirm with respect to each other their existing rights and obligations relating to standards-related measures under the GATT Agreement on Technical Barriers to Trade and all other international agreements, including environmental and conservation agreements, to which those Parties are a member. As under Chapter 7, a Party may establish the levels of protection it considers appropriate in pursuing its legitimate objectives of safety or protection of human health, animal or plant life or health, the environment or consumers, subject to respecting obligations on non-discrimination and not creating unnecessary obstacles to trade. The provisions on international standards are similar to those in chapter 7. In an arbitration case brought by a Party under chapters 7 or 9, the Party challenging the law or regulation carries the burden of proof, whereas under the GATT, a Party must prove that its laws are consistent with the provisions of Article XX(b) or (g).
- 41. Maintenance or progressive improvement of environmental standards and regulations is an aim expressed in several RTAs or their associated environmental agreements. SADC's Protocol on Trade (Article 17(3)), for example, while encouraging its members to make their environmental and other standards compatible with those of other members of the RTA, and with relevant international standards, notes that this should be done "[w]ithout reducing the level of safety, or of protection of human, animal or plant life or health, of the environment or of consumers" The NAAEC, the Agreements on Environmental Co-operation between Canada and Chile and between Canada and Costa Rica, and the US-

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Respectively, Article 2101, Article 12(1), Article O-01(1), Article XIV.1 and Article 10.1.

Article 710 provides that the provisions of Article XX(b) of the GATT as incorporated into Article 2101(1) (General Exceptions) does not apply to any sanitary or phytosanitary measures.

²⁸ Hufbauer *et al.* (2000).

Jordan FTA, go beyond discouraging relaxation of standards and include language on the enforcement of domestic environmental laws.

- Obligations relating to environmental measures are set out in Article 3 of NAAEC, which recognises the right of each party to establish its own levels of domestic protection, and agrees that this level should be high. The parties commit themselves to publish their environmental regulations (Article 4), enforce them (Article 5), and ensure access of private parties to remedies (Article 6) respecting certain procedural guarantees (Article 7).²⁹ Under Article 14 of the NAAEC, the NACEC may consider a submission from any non-governmental organisation or person asserting that a Party is failing to effectively enforce its environmental law, to the extent that the submission meets specific criteria set out in the article. If the Secretariat of the NACEC considers that the submission, in the light of any response by the Party, warrants developing a factual record, the Council may authorise it to do so, and eventually to release it to the public (Article 15). No other sanction is available under this procedure.
- 43. A different procedure is the State-to-State dispute settlement procedure, applicable if a Party persistently fails to effectively enforce its environmental law. In such cases other Parties may request consultations and engage in a formal dispute settlement process (Article 22).³⁰ If Council mediation and conciliation fails, an arbitral panel may consider the matter (Articles 23 and 24). If the Party does not comply with the recommendations of the panel, the latter may impose monetary penalties (Article 34)³¹ and, ultimately, suspension of NAFTA benefits sufficient to collect the monetary enforcement (Article 36).³²
- 44. Provisions in the bilateral Environmental co-operation agreements between Canada and Chile and Canada and Costa Rica relating to enforcement differ in important ways from the NAAEC. Although both the CCAEC and the NAAEC establish "monetary enforcement assessments" (fines) for punishing a persistent pattern of failure to effectively enforce its environmental law only the NAAEC allows for trade sanctions (Suspension of Benefits, Article 36) in case a party fails to pay the fine. A second difference is that the CCAEC allowed Chile to decide an implementation schedule for its environmental laws. (Under the NAAEC, Mexico did not have this option.) The later environmental side-agreement to the CCRFTA has no provision for either sanctions or fines. Rather, enforcement is left as a purely national matter, and nothing in the Agreement empowers a Party's authorities to undertake environmental law-enforcement activities in the territory of the other Party.
- 45. The US-Jordan FTA contains language relating to the inappropriateness of relaxing domestic environmental laws (and their enforcement) in order to attract trade, but unlike in the case of NAFTA and the CCFTA, these provisions form an integral part of the FTA. (In these other FTAs, it is investment, not trade, that the Parties are admonished not to encourage through relaxing environmental measures.)

The NAAEC also sets out obligations relating to transparency of environmental information, research, and even the types of instruments to be used. Under it, each party commits, with respect to its own territory, to: "(a) periodically prepare and make publicly available reports on the state of [its] environment; (b) develop and review environmental emergency preparedness measures; (c) promote education in environmental matters, including environmental law; (d) further scientific research and technology development in respect of environmental matters; (e) assess, as appropriate, environmental impacts; and (f) promote the use of economic instruments for the efficient achievement of environmental goals."

The process described in Arts 22-36 of NAAEC is distinct from the dispute settlement procedure outlined in Chapter 20 of NAFTA.

Monetary enforcement assessments can be up to 0.007% of total trade in goods between the disputing parties during the most recent year for which data are available.

Trade sanctions cannot be imposed against Canada. Instead, Canada has agreed to make the panel's determination legally binding under the Canadian courts (Hufbauer *et al.*, 2000).

Moreover, while recognising the right of each Party to establish its own levels of domestic environmental protection and environmental development policies and priorities, the agreement requires that each Party strive to ensure that its laws provide for high levels of environmental protection, that it strive to continue to improve those laws, and that it enforces those laws effectively. A Party is deemed to be in compliance with the enforcement provision if an action or inaction appears reasonable, or results from a genuine decision regarding the allocation of resources. However, no actual remedies are specified in the case of noncompliance.

Relationship with international environmental instruments

Several recent RTAs, or environmental side agreements to RTAs, for example, the CCRAEC and the CCAEC, specifically address the relationship with environmental and conservation agreements NAFTA states that, in the event of inconsistency between its provisions and specific trade obligations under certain specified environmental and conservation agreements³³, the latter shall prevail to the extent that there is an inconsistency — provided that, where a Party has the choice among equally effective and reasonably available means of complying with such obligations, the Party chooses the alternative that is least inconsistent with the provisions in NAFTA. The Chile-Mexico agreement contains a very similar provision. Bilateral agreements between Georgia and various countries in the region³⁴ preserve the right of a Party to implement measures concerning the protection of human health, animals, plants and the environment that are necessary for the fulfilment of international agreements.

Subsidies

47. Article 704 of the NAFTA Agreement calls upon the signatory parties to ensure that their domestic support measures for agriculture: (a) have minimal or no trade-distorting or production effects; or (b) are exempt from any applicable domestic support reduction commitments that may be negotiated under the GATT. The latter criterion could be read as implicitly allowing for expenditures on certain types of environmental programmes, as set out in Annex 2 of the Agreement on Agriculture.

Technical co-operation on the environment

Many RTAs contain side agreements or statements of intent to facilitate technical co-operation in

the area of the environment. These have become particularly commonplace in bilateral free-trade agreements between OECD Member countries and non-member countries, and usually focus on capacity building in the less-developed of the two countries. The United States-Jordan Joint Statement on Environmental Technical Co-operation, for example, focuses on strengthening human and institutional capacity and improving management of Jordan's water and other natural resources upon which the country's development depends. In the agreements signed by Canada the commitment to environmental co-operation is spelled out in detail. While the framework of objectives and obligations provides a focus

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These are set out in Article 104: The Convention on International Trade in Endangered Species of Wild Fauna and Flora, 1973; the Montreal Protocol on Substances that Deplete the Ozone Layer, 1987; the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, 1989 (when it enters into force for all NAFTA parties); and the Canada-United States Agreement Concerning Transboundary Movement of Hazardous Waste, 1986; and the Mexico-US Agreement on Co-operation for the Protection and Improvement of the Environment in the Border Area, 1983.

³⁴ Ukraine, Turkmenistan, Azerbaijan, Kazakhstan. Information taken from the WTO Environmental Database for 2001.

for implementation of the agreements, the associated co-operation activities form a major focus of ongoing implementation. The side agreements create an ongoing environmental partnership which parallels the economic partnership created by the trade agreement and deepens the overall relationship. In the context of the CCFTA, there has been a considerable amount of support provided to Chile for capacity building and co-operation, focusing on such areas as compliance and enforcement of environmental regulations, environmental certification, and environmental assessment of trade negotiations. Even more of the same is envisioned under the CCRFTA.

- 49. A substantial part of NACEC's work is related to co-operation (e.g., management of chemicals, harmonisation of toxic release data, air pollutant inventories, labelling and certification, etc.). Technical co-operation relating to the environment is also a hallmark of several partnership agreements between the EU and other countries or regions. Under the ACP-EC Partnership Agreement (Cotonou Agreement), signed in 2000, sustainable management of natural resources and environment shall be applied and integrated at all levels of the partnership. A number of provisions focus specifically on the environment, and provide for co-operation in this field, including institutional development and capacity building.³⁵ The Short and Medium Term Priority Environmental Action Programme (SMAP) for the Mediterranean, adopted in 1997, provides a framework for environmental protection in the region. It aims to guide investments to a number of specific environmental priority areas (e.g., waste and water management, coastal zone management, desertification and biodiversity loss) and calls for the adoption and implementation of legislation and regulatory measures, in particular preventive measures and appropriate environmental standards, while discussions continue over a proposed Mediterranean Free Trade Zone.³⁶ In the framework of EU-MERCOSUR negotiations (which started in 2000 and are still underway), cooperation in the field of agriculture aims at promoting mutual trade in agricultural products, increasing the compatibility of legislation so as to prevent the creation of trade barriers. In this context, it looks to implement certain environmental measures and an agrarian reform, particularly in the poorest regions in order to enable them to engage in both sustainable and environmentally friendly agriculture.³⁷
- 50. Technical co-operation in APEC has involved not only governments but also local authorities and the business and private sector. A wide range of projects have been conducted by various APEC working groups. The Energy Working Group has, among other initiatives: sponsored a demonstration project in the People's Republic of China involving the use of coal-mine gas; organised technical training courses in clean-coal technologies; and conducted colloquiums on technical issues relating to the setting of minimum energy-performance standards.
- 51. The Japan-Singapore Economic Partnership Agreement contains a chapter on co-operation in the field of science and technology, including life sciences and environment. The forms of co-operative activities specified in the Agreement are: exchange of information and data; joint seminars; workshops and meetings; visits and exchange of scientists, technical personnel or other experts; and implementation of joint projects and programmes.
- 52. A few RTAs contain provisions relating to co-operation in the management of natural resources. Chapter 16 of the COMESA Treaty, for example, provides for co-operation in the development of natural resources, environment and wildlife. In the COMESA Treaty, Parties commit to accede to relevant international environmental and conservation agreements. In 1999 the Ministers of another African RTA, SADC (which contains several members that are also members of COMESA), similarly adopted a Wildlife

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Article 32 of the Cotonou Agreement. A Joint Declaration on Trade and Environment (Declaration IX) and an ACP Declaration on Trade and Environment (Declaration X) are annexed to the Agreement.

Insausti Muguruza (2001).

www.europa.eu.int/comm/trade/bilateral/mercosur/htm

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Conservation and Law Enforcement Protocol. These provisions aim at ensuring the conservation and sustainable use of wildlife resources in their respective regions. Both the COMESA Chapter and the SADC Protocol encourage co-operation at the national level and the development, as far as possible, of common approaches to the conservation and sustainable use of wildlife. They also make provision for collaboration between member states to achieve the objectives of international agreements applicable to the conservation and sustainable use of wildlife. In addition, SADC's Protocol requires that member states ensure that activities within their borders do not cause damage to the wildlife resources of other states or areas beyond the limits of national jurisdiction.³⁸

Work in progress

- 53. The current publicly available draft of the FTAA contains no specific chapter dealing with the environment. Negotiators are, however, working within the framework of the nine established FTAA negotiating groups (Agriculture, Market Access, Investment, Government Procurement, Services, Dispute Settlement, Intellectual Property, Competition Policy, and Subsidies, Anti-dumping, and Countervailing Duties), as well as within the Trade Negotiations Committee, to identify and incorporate relevant environmental considerations into the FTAA.
- 54. For the past several years, the MERCOSUR Working Sub-Group on the Environment has been involved in negotiations of an environmental Protocol to the MERCOSUR Agreement, a draft of which was finalised in June 2001. Its principles and norms are expected to have a considerable influence on the entire regional regime set up under the Agreement.³⁹ The draft Protocol provides for upward harmonisation of environmental management systems and increased co-operation on shared eco-systems; it includes provisions on instruments for environmental management, including quality standards, environmental impact assessment methods; environmental monitoring and costing; environmental information systems and certification processes; and provisions on protected areas and on conservation and sustainable use of natural resources.⁴⁰
- 55. In connection with on-going negotiations on an FTA between the United States and Chile, the governments of the two countries are considering a range of elements that could form the basis of an environmental co-operation agreement.⁴¹ The discussions between the Parties regarding environmental co-operation have not been exhaustive or conducted with the intention of prejudging how environmental issues will be addressed in the context of the proposed FTA. Any environmental co-operation work program would be agreed to by both Parties, reviewed on a periodic basis, and amended as appropriate.

Taken from SADC web page.

³⁹ Ryan (2000); Onestini (1999).

⁴⁰ UNEP/IISD (2000).

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Over the years the Governments of the two countries have co-operated in many areas, including air quality, solid-waste management, forestry, fisheries, mining, agriculture, national parks, and scientific research.

Discussions in respect of a separate agreement on environmental co-operation are taking place between Canada and Singapore in connection with a possible FTA between the two countries and between Canada and four Central American countries (excluding Costa Rica and Panama). In the latter, the environment will be dealt with through parallel agreements (International Trade Daily, 2001). It will likely follow the model of the CCRFT agreement on environmental co-operation (Araya, 2001). New Zealand and Hong Kong have agreed, in their initial exploratory discussions on the principles and objectives for negotiating a closer economic partnership agreement, that trade and environment would be an element to be included in negotiations.

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Table 1. Linkages with the environment in the WTO Agreements and selected RTAs

Name of agreement (associated environmental agreement)	Environmental protection or promotion of sustainable development specified as an objective	Includes general exception clause for environmental measures ¹	RTA (or associated agreement) establishes institution(s) to deal with environmental issues	Relationship between RTA and international environmental obligations specified	RTA (or associated agreement) provides for technical co-operation on environment	RTA (or associated agreement) aims to prevent lowering of environmental standards and regulations
WTO Agreements	YES	YES	YES	no	YES	no
AFTA	YES^2	YES	YES^3	no	YES ³	no
APEC	YES	no	YES^4	no	YES	no
CCFTA (CCAEC)	YES	YES	(YES)	(YES)	(YES)	(YES) ^{5, 6}
CCRFTA (CCRAEC)	YES	YES	no	(YES)	(YES)	(YES) ⁵
CIFTA	no	YES	no	no	no	no
COMESA	YES	no	YES	no	YES	no
EEA	YES	YES ⁷	YES	no	YES	YES
EU-Mexico FTA ⁸	YES	YES	(YES) ⁹	no	(YES) ⁹	no
EFTA	YES	YES	no	no	no	no
JSEPA	no	YES	no	no	YES	no
MERCOSUR	YES	no	YES	no	YES	no
NAFTA (NAAEC)	YES	YES	(YES)	(YES)	(YES)	(YES) ^{5, 6}
NZ-Singapore CEP	no	no	no	no	no	no
SADC, Protocol on Trade	YES ¹⁰	YES	(YES)	no	(YES)	YES
US-Jordan FTA	YES	YES	YES ¹¹	no	YES ¹¹	YES

Endnotes to Table 1:

(YES) = contained in associated environmental agreement.

- 1. More specifically, measures necessary to protect human, animal or plant life or health, and measures relating to the conservation of exhaustible natural resources.
- 2. As affirmed by ASEAN Ministers in the Manila Declaration on the ASEAN Environment (30 April 1981) and subsequent Agreements on the Environment.
- 3. Specific activities are administered by ASEAN.
- 4. Various working groups deal with environmental matters, such as those on energy, fisheries and marine resources conservation.
- 5. Contains language relating to the enforcement of environmental regulations.
- 6. Establishes a dispute-settlement procedure, sanctions in environment-related matters, or both.
- 7. Article 75 of the Agreement on the European Economic Area states that "The protective measures referred to in Article 74 shall not prevent any Contracting Party from maintaining or introducing more stringent protective measures compatible with this Agreement."
- 8. Technically, Decision 2/2000 of the EU-Mexico Joint Council.
- 9. As anticipated under Article 21 (Co-operation in agriculture and the rural sector), Article 23 (Co-operation on Energy), Article 24 (Co-operation on the environment and natural resources) and Article 27 (Regional Co-operation) of the Economic Partnership, Political coordination and Cooperation Agreement (usually named the Global Agreement) between the European Community and its Member States and Mexico.
- 10. Referred to in the Declaration and Treaty of SADC.
- 11. Through the United States Jordan Joint Statement on Technical Environmental Co-operation and through selected technical environmental co-operation programmes.

LIST OF ACRONYMS AND RTA MEMBERSHIP

AFTA — ASEAN Free Trade Area: Brunei Darussalam, Indonesia, Malaysia, Philippines, Singapore and Thailand.

ANZCERTA — Australia-New Zealand Closer Economic Relations Trade Agreement.

APEC — Asia Pacific Economic Co-operation Forum: Australia; Brunei Darussalam; Canada; Chile; China; Hong Kong; Indonesia; Japan; Korea; Malaysia; Mexico; New Zealand; Papua New Guinea; Peru; Philippines; Russia; Singapore; Chinese Taipei; Thailand; United States and Vietnam.

ASEAN — Association of Southeast Asian Nations: Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam.

CCAEC — Canada-Chile Agreement on Environmental Co-operation.

CCRFTA — Canada-Costa Rica Free Trade Agreement.

CCFTA — Canada-Chile Free Trade Agreement.

CEP — Closer Economic Partnership (New Zealand and Singapore).

CIFTA — Canada-Israel Free Trade Agreement.

COMESA — Common Market for Eastern and Southern Africa: Angola, Burundi, Comoros, D.R. of the Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Madagascar, Malawi, Mauritius, Namibia, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia and Zimbabwe.

CUSFTA — Canada-US Free Trade Agreement.

EAA — Agreement on the European Economic Area: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Netherlands, Norway, Portugal, United Kingdom, Spain and Sweden.

EFTA — European Free Trade Association: Iceland, Liechtenstein, Norway and Switzerland.

EU — European Union: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden and United Kingdom

Europe Agreements — The EU has concluded these with Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovak Republic and Slovenia.

FTA — free-trade agreement (generic term).

FTAA — Free Trade Area of the Americas: Antigua and Barbuda, Argentina, Bahamas, Barbados, Belize, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, St Lucia, St Kitts and Nevis, St Vincent and Grenadines, Suriname, Trinidad and Tobago, Uruguay, United States and Venezuela.

JSEPA — Japan-Singapore Economic Agreement for a New Age Partnership.

MERCOSUR — Mercado Común del Sur (*Southern Common Market Agreement*): Argentina, Brazil, Paraguay and Uruguay.

NAAEC — North American Agreement on Environmental Co-operation.

NACEC — the North American Commission for Environmental Co-operation.

NAFTA — North American Free Trade Agreement: Canada, Mexico and the United States.

SADC — South African Development Community: Angola, Botswana, Democratic Republic of Congo, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Tanzania, Zambia, Zimbabwe and Swaziland.